

Subsidiary Legislation made under s.18.

Environment (Infrastructure for Spatial Information) Regulations 2010

LN.2010/013

	<i>Commencement</i>	18.1.2010
Amending enactments	Relevant current provisions	Commencement date
LN. 2014/131	r. 17(6), (9)	24.7.2014

EU Legislation/International Agreements involved:
Directive 2007/2/EC

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In exercise of the powers conferred on me by section 18 of the Environment Act 2005 and in order to transpose into the law of Gibraltar Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE), and matters connected thereto, I have made the following Regulations—

Title.

1. These Regulations may be cited as the Environment (Infrastructure for Spatial Information) Regulations 2010.

**PART I
PRELIMINARY AND INTERPRETATION**

Scope.

2.(1) These Regulations lay down general rules aimed at the establishment of the Infrastructure for Spatial Information in the European Union (hereinafter referred to as “INSPIRE”), for the purposes of European Union environmental policies and policies or activities which may have an impact on the environment.

(2) INSPIRE is intended to build upon infrastructure for spatial information established and operated under Gibraltar law.

(3) These Regulations are without prejudice to the provisions of the Freedom of Access to Information on the Environment Regulations 2005 and the Re-use of Public Sector Information Act 2005.

(4) These Regulations do not affect the existence or ownership of public authorities' intellectual property rights.

Interpretation.

3. In these Regulations and unless the context otherwise requires—

“Directive” means Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE);

“infrastructure for spatial information” means—

(a) metadata, spatial data sets and spatial data services;

- (b) network services and technologies;
- (c) agreements on sharing, access and use; and
- (d) coordination and monitoring mechanisms, processes and procedures,
established, operated or made available in accordance with these Regulations;

“Inspire geo-portal” means an Internet site, or equivalent, providing access to the services referred to in regulation 11;

“interoperability” means the possibility for spatial data sets to be combined, and for services to interact, without repetitive manual intervention, in such a way that the result is coherent and the added value of the data sets and services is enhanced;

“metadata” means information describing spatial data sets and spatial data services and making it possible to discover, inventory and use them;

“Minister” means Minister responsible for the environment;

“public authority” means—

- (a) the Government, including public advisory bodies;
- (b) any natural or legal person performing public administrative functions, including specific duties, activities or services in relation to the environment; and
- (c) any natural or legal person having public responsibilities or functions, or providing public services relating to the environment under the control of a body or person falling within (a) or (b),

and should the Minister wish to provide that bodies or institutions acting in a judicial or legislative capacity are not to be regarded as a public authority for the purposes of these Regulations, the Minister shall do so by regulations adopted pursuant to section 18;

“spatial data” means any data with a direct or indirect reference to a specific location or geographical area;

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“spatial data services” means the operations which may be performed, by invoking a computer application, on the spatial data contained in spatial data sets or on the related metadata;

“spatial data set” means an identifiable collection of spatial data;

“spatial object” means an abstract representation of a real-world phenomenon related to a specific location or geographical area; and

“third party” means any natural or legal person other than a public authority.

Spatial data sets.

4.(1) These Regulations cover spatial data sets which fulfil the following conditions–

- (a) they relate to an area where the Government has and/or exercises jurisdictional rights;
- (b) they are in electronic format;
- (c) they are held by or on behalf of any of the following–
 - (i) a public authority, having been produced or received by a public authority, or being managed or updated by that authority and falling within the scope of its public tasks;
 - (ii) a third party to whom the network has been made available in accordance with regulation 12;
- (d) they relate to one or more of the themes listed in Schedules 1, 2 or 3.

(2) Where multiple identical copies of the same spatial data set are held by or on behalf of various public authorities, these Regulations apply only to the reference version from which the various copies are derived.

(3) These Regulations apply to the spatial data services relating to the data contained in the spatial data sets referred to in sub-regulation (1).

(4) Nothing in these Regulations shall require the collection of new spatial data.

(5) Where spatial data sets comply with the condition set out in sub-regulation (1)(c) but in respect of which a third party holds intellectual property rights, the public authority concerned may take action under these Regulations only with the consent of that third party.

(6) Notwithstanding sub-regulation (1), these Regulations apply to spatial data sets held by or on behalf of any public authority only where Gibraltar law requires their collection or dissemination.

PART II METADATA

Metadata for spatial data sets.

5.(1) The Minister shall ensure that there is created and kept up to date metadata for the spatial data sets and services corresponding to the themes listed in Schedules 1, 2 and 3.

(2) Metadata referred to in sub-regulation (1) shall include information on the following—

- (a) the conformity of spatial data sets with the provisions of regulation 7;
- (b) conditions applying to access to, and use of, spatial data sets and services and, where applicable, corresponding fees;
- (c) the quality and validity of spatial data sets;
- (d) the public authorities responsible for the establishment, management, maintenance and distribution of spatial data sets and services;
- (e) limitations on public access and the reasons for such limitations, in accordance with regulation 13.

(3) The Minister shall take the necessary measures to ensure that metadata are complete and of a quality sufficient to describe spatial data sets and spatial data services and making it possible to discover, inventory and use them.

Timetable for metadata.

6.(1) The Minister shall ensure that there is created the metadata referred to in regulation 5 in accordance with the following timetable—

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- (a) not later than two years after the date of adoption of implementing rules by the European Commission in accordance with Article 5(4) of the Directive in the case of the spatial data sets corresponding to the themes listed in Schedules 1 and 2;
- (b) not later than five years after the date of adoption of implementing rules by the European Commission in accordance with Article 5(4) of the Directive in the case of the spatial data sets corresponding to the themes listed in Schedule 3.

**PART III
INTEROPERABILITY OF SPATIAL DATA SETS AND SERVICES**

Duty to ensure interoperability of spatial data sets and services.

7. The Minister shall ensure that—

- (a) all newly collected and extensively restructured spatial data sets and the corresponding spatial data services are available in conformity with the implementing rules referred to in Article 7 of the Directive within two years of their adoption by the European Commission, and that other spatial data sets and services still in use are available in conformity with the said implementing rules within seven years of their adoption;
- (b) spatial data sets are made available in conformity with the said implementing rules either through the adaptation of existing spatial data sets or through the transformation services referred to in regulation 11(1)(d).

Release of information.

8. The Minister shall ensure that any information, including data, codes and technical classifications, needed for compliance with the implementing rules referred to in regulation 7 is made available to public authorities or third parties.

Conditions of release.

9. Any information, including data, codes and technical classification made available to the public under regulation 8 shall be in accordance with conditions that do not restrict its use for that purpose.

Common features along a frontier.

10. In order to ensure that spatial data relating to a geographical feature, the location of which spans the frontier between Gibraltar and a Member State, are coherent, the Minister shall,

where appropriate, ensure that the depiction and position of such common features is decided by mutual consent with the relevant person in that Member State.

PART IV NETWORK SERVICES

Operation of networks.

11.(1) The Minister shall ensure that there is established and operated a network of the following services for the spatial data sets and services for which metadata have been created in accordance with these Regulations—

- (a) discovery services making it possible to search for spatial data sets and services on the basis of the content of the corresponding metadata and to display the content of the metadata;
- (b) view services making it possible, as a minimum, to display, navigate, zoom in/out, pan, or overlay viewable spatial data sets and to display legend information and any relevant content of metadata;
- (c) download services, enabling copies of spatial data sets, or parts of such sets, to be downloaded and, where practicable, accessed directly;
- (d) transformation services, enabling spatial data sets to be transformed with a view to achieving interoperability;
- (e) services allowing spatial data services to be invoked,

taking into account relevant user requirements and ease of use, availability to the public and accessibility via the Internet or any other appropriate means of telecommunication.

(2) For the purposes of the services referred to in sub-regulation (1)(a), the following combination of search criteria shall be implemented as a minimum—

- (a) keywords;
- (b) classification of spatial data and services;
- (c) the quality and validity of spatial data sets;
- (d) degree of conformity with the implementing rules referred to in regulation 7;

- (e) geographical location;
- (f) conditions applying to the access to and use of spatial data sets and services;
- (g) the public authorities responsible for the establishment, management, maintenance and distribution of spatial data sets and services.

(3) The transformation services referred to in sub-regulation (1)(d) shall be combined with the other services referred to in that sub-regulation in such a way as to enable all those services to be operated in conformity with the implementing rules referred to in regulation 7.

Data links.

12.(1) The Minister shall ensure that public authorities are given the technical possibility to link their spatial data sets and services to the network referred to in regulation 11(1).

(2) The ability to link the spatial data sets and services to the network referred to in regulation 11(1) shall also be made available upon request to third parties whose spatial data sets and services comply with the requirements of implementing rules laying down obligations with regard, in particular, to metadata, network services and interoperability.

Limitation of public access.

13.(1) Notwithstanding regulation 11, the Minister may limit public access to spatial data sets and services—

- (a) through the services referred to in regulation 11(1)(a) where such access would adversely affect international relations, public security or Gibraltar's defence;
- (b) through the services referred to in regulation 11(1)(b) to (e), or to the e-commerce services referred to in regulation 14(4), where such access would adversely affect any of the following—
 - (i) the confidentiality of the proceedings of public authorities, where such confidentiality is provided for by law;
 - (ii) international relations, public security or Gibraltar's defence;
 - (iii) the course of justice, the ability of any person to receive a fair trial or the ability of a public authority to conduct an enquiry of a criminal or disciplinary nature;

- (iv) the confidentiality of commercial or industrial information, where such confidentiality is provided for by law in order to protect a legitimate economic interest, including the public interest in maintaining statistical confidentiality and tax secrecy;
- (v) intellectual property rights;
- (vi) the confidentiality of personal data and/or files relating to a natural person where that person has not consented to the disclosure of the information to the public, where such confidentiality is provided for by law;
- (vii) the interests or protection of any person who supplied the information requested on a voluntary basis without being under, or capable of being put under, a legal obligation to do so, unless that person has consented to the release of the information concerned;
- (viii) the protection of the environment to which such information relates, such as the location of rare species.

(2) The following provisions apply—

- (a) the grounds for limiting access under sub-regulation (1) shall be interpreted in a restrictive way, taking into account for the particular case the public interest served by providing access;
- (b) in every particular case, the public interest served by disclosure shall be weighed against the interest served by limiting or conditioning the access: and
- (c) the Minister may not, by virtue of sub-regulation (1)(b) (i), (iv), (vi), (vii) and (viii) limit access to information on emissions into the environment.

(3) Within the context of these Regulations, and for the purposes of the application of sub-regulation (1)(b)(vi), the Minister shall ensure that the requirements of the Data Protection Act 2004 are complied with.

Charge for services.

14.(1) The services referred to in regulation 11(1)(a) and (b) shall be available to the public free of charge.

(2) Notwithstanding sub-regulation (1), a public authority supplying a service referred to in regulation 11(1)(b) may impose a reasonable charge where such charges secure the

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maintenance of spatial data sets and corresponding data services, especially in cases involving very large volumes of frequently updated data.

(3) Data made available through the view services referred to in regulation 11(1)(b) may be in a form preventing their re-use for commercial purposes.

(4) Where public authorities impose charges for the services referred to in regulation 11(1)(b), (c) or (e), they shall ensure that e-commerce services are available and such services may be covered by disclaimers, click-licences or, where necessary, licences.

INSPIRE Geo-portal.

15. The Minister shall ensure that there is provided access to the services referred to in regulation 11(1) through the INSPIRE geo-portal established and operated by the European Commission in accordance with Article 15(1) of the Directive. The Minister may also provide access to those services through another access point of his choice.

PART V DATA-SHARING

Sharing of spatial data sets.

16.(1) The Minister shall ensure that the public authorities referred to under points (a) and (b) of that term as defined in regulation 3, can share spatial data sets and services so as to enable them to—

- (a) gain access to spatial data sets and services; and
- (b) exchange and use those sets and services, for the purposes of public tasks that may have an impact on the environment.

(2) The Minister shall ensure the absence of restrictions likely to create practical obstacles, occurring at the point of use, to the sharing of spatial data sets and services in accordance with sub-regulation (1).

Licensing of Spatial data sets and services.

17.(1) Public authorities that supply spatial data sets and services may license them to, or require payment from, the public authorities or institutions and bodies of the European Union that use these spatial data sets and services.

(2) Any charges and licences pursuant to sub-regulation (1) must be fully compatible with the general aim of facilitating the sharing of spatial data sets and services between public authorities.

(3) Where charges are made pursuant to sub-regulation (1), these shall be kept to the minimum required to ensure the necessary quality and supply of spatial data sets and services together with a reasonable return on investment, while respecting the self-financing requirements of public authorities supplying spatial data sets and services, where applicable.

(4) Spatial data sets and services provided by the Minister to European Union institutions and bodies in order to fulfil reporting obligations under the Directive relating to the environment shall not be subject to any charging.

(5) The arrangements for the sharing of spatial data sets and services provided for in regulation 16 and in subregulations (1) to (4) above, shall be open to the public authorities, defined in point 9(a) and (b) of Article 3 of the Directive, of the Member States and to the institutions and bodies of the European Union, for the purposes of public tasks that may have an impact on the environment.

(6) The arrangements for the sharing of spatial data sets and services provided for in regulation 16 and in subregulations (1) to (4) above, shall be open, on a reciprocal and equivalent basis, to bodies established by international agreements to which the European Union and Member States are parties and which have been extended to Gibraltar, for the purposes of tasks that may have an impact on the environment.

(7) Where the arrangements for the sharing of spatial data sets and services provided for in regulation 16 and subregulations (1) to (4) above, are made available in accordance with subregulations (5) and (6) above, these arrangements may be accompanied by requirements under Gibraltar law conditioning their use.

(8) Notwithstanding anything in this regulation, the Minister may instruct in writing that sharing be limited when he is of the opinion that this would compromise the course of justice, public security, Gibraltar's defence or international relations.

(9) The Minister shall ensure that the institutions and bodies of the European Union are provided with access to spatial data sets and services in accordance with harmonised conditions and implementing rules adopted under Article 17(8) of the Directive.

PART VI COORDINATION AND COMPLEMENTARY MEASURES

Coordination of contributions.

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18.(1) The Minister shall ensure that the contributions of all those across the different levels of Government with an interest in the infrastructure for spatial information are appropriately coordinated.

(2) The Minister shall coordinate the contributions of, inter alia, users, producers, added-value service providers and coordinating bodies, concerning the identification of relevant data sets, user needs, the provision of information on existing practices and the provision of feedback on the implementation of these Regulations.

**PART VII
FINAL PROVISIONS**

Duty to monitor.

19. The Minister shall ensure that there is monitored the implementation and use of infrastructure available in Gibraltar for spatial information, and shall make the results of this monitoring accessible to the European Commission and to the public on a permanent basis.

Reports to the European Commission.

20.(1) By no later than 15 May 2010 the Minister shall ensure that there is sent to the European Commission a report including summary descriptions of–

- (a) how public sector providers and users of spatial data sets and services and intermediary bodies are coordinated, and of the relationship with the third parties and of the organisation of quality assurance;
- (b) the contribution made by public authorities or third parties to the functioning and coordination of the infrastructure for spatial information;
- (c) information on the use of the infrastructure for spatial information;
- (d) data-sharing agreements between public authorities;
- (e) the costs and benefits of implementing these Regulations.

(2) Every three years, and starting no later than 15 May 2013, the Minister shall ensure that there is sent to the European Commission a report providing updated information in relation to the items referred to in sub-regulation (1).

Governor's constitutional responsibilities.

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21.(1) Nothing in these Regulations shall derogate from the responsibility of the Governor under the Constitution for defence, internal security or any other matter for which the Governor may have responsibility under the Constitution.

(2) Where, pursuant to these Regulations, the Minister is required to take action in relation to any matter for which the Governor is responsible under section 47(1) of the Constitution, the Minister shall only take such action after consultation with the Governor.

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SCHEDULE 1

Regulations 6, 8 and 9

SPATIAL DATA THEMES

1. Coordinate reference systems.

Systems for uniquely referencing spatial information in space as a set of coordinates (x, y, z) or latitude and longitude and height, based on a geodetic horizontal and vertical datum.

2. Geographical grid systems.

Harmonised multi-resolution grid with a common point of origin and standardised location and size of grid cells.

3. Geographical names.

Names of areas, regions, localities, cities, suburbs, towns or settlements, or any geographical or topographical feature of public or historical interest.

4. Administrative unit.

Areas where the Government exercises jurisdictional rights.

5. Addresses.

Location of properties based on address identifiers, usually by road name, house number, postal code.

6. Cadastral or land parcels

Areas defined by cadastral or land registers or equivalent.

7. Transport networks.

Road, rail, air and water transport networks and related infrastructure. Includes links between different networks. Also includes the trans-European transport network as defined in Decision No 1692/96/EC of the European Parliament and of the Council of 23 July 1996 on Community Guidelines for the development of the trans-European transport network and future revisions of that Decision.

8. Hydrography.

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Hydrographic elements, including marine areas and all other water bodies and items related to them, including river basins and sub-basins. Where appropriate, according to the definitions set out in Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy and in the form of networks.

9. Protected sites.

Area designated or managed within a framework of International, Community and Gibraltar legislation to achieve specific conservation objectives.

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SCHEDULE 2

Regulations 6, 8 and 9

SPATIAL DATA THEMES

1. Elevation

Digital elevation models for land, ice and ocean surface. Includes terrestrial elevation, bathymetry and shoreline.

2. Land cover.

Physical and biological cover of the earth's surface including artificial surfaces, agricultural areas, forests, (semi-)natural areas, wetlands, water bodies.

3. Ortho-imagery.

Geo-referenced image data of the Earth's surface, from either satellite or airborne sensors.

4. Geology

Geology characterised according to composition and structure. Includes bedrock, aquifers and geomorphology.

SCHEDULE 3

Regulations 6 and 9

SPATIAL DATA THEMES

1. Statistical units.

Units for dissemination or use of statistical information.

2. Buildings.

Geographical location of buildings.

3. Soil.

Soils and subsoil characterised according to depth, texture, structure and content of particles and organic material, stoniness, erosion, where appropriate mean slope and anticipated water storage capacity.

4. Land use.

Territory characterised according to its current and future planned functional dimension or socio-economic purpose (e.g. residential, industrial, commercial, agricultural, forestry, recreational).

5. Human health and safety.

Geographical distribution of dominance of pathologies (allergies, cancers, respiratory diseases, etc.), information indicating the effect on health (biomarkers, decline of fertility, epidemics) or well-being of humans (fatigue, stress, etc.) linked directly (air pollution, chemicals, depletion of the ozone layer, noise, etc.) or indirectly (food, genetically modified organisms, etc.) to the quality of the environment.

6. Utility and governmental services.

Includes utility facilities such as sewage, waste management, energy supply and water supply, administrative and social governmental services such as public administrations, civil protection sites, schools and hospitals.

7. Environmental monitoring facilities.

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Location and operation of environmental monitoring facilities includes observation and measurement of emissions, of the state of environmental media and of other ecosystem parameters (biodiversity, ecological conditions of vegetation, etc.) by or on behalf of public authorities.

8. Production and industrial facilities.

Industrial production sites, including installations covered by Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control and water abstraction facilities, mining, storage sites.

9. Agricultural and aquaculture facilities.

Farming equipment and production facilities (including irrigation systems, greenhouses and stables).

10. Population distribution — demography.

Geographical distribution of people, including population characteristics and activity levels, aggregated, if applicable, by grid, region, administrative unit or other analytical unit.

11. Area management/restriction/regulation zones and reporting units.

Areas managed, regulated or used for reporting at international, European, national, regional and local levels. Includes dumping sites, restricted areas around drinking water sources, nitrate-vulnerable zones, regulated fairways at sea or large inland waters, areas for the dumping of waste, noise restriction zones, prospecting and mining permit areas, river basin districts, relevant reporting units and coastal zone management areas.

12. Natural risk zones.

Vulnerable areas characterised according to natural hazards (all atmospheric, hydrologic, seismic, volcanic and wildfire phenomena that, because of their location, severity, and frequency, have the potential to seriously affect society), e.g. floods, landslides and subsidence, avalanches, forest fires, earthquakes, volcanic eruptions.

13. Atmospheric conditions.

Physical conditions in the atmosphere. Includes spatial data based on measurements, on models or on a combination thereof and includes measurement locations.

14. Meteorological geographical features.

Weather conditions and their measurements; precipitation, temperature, evapotranspiration, wind speed and direction.

15. Oceanographic geographical features.

Physical conditions of oceans (currents, salinity, wave heights, etc.).

16. Sea regions.

Physical conditions of seas and saline water bodies divided into regions and sub-regions with common characteristics.

17. Bio-geographical regions.

Areas of relatively homogeneous ecological conditions with common characteristics.

18. Habitats and biotopes.

Geographical areas characterised by specific ecological conditions, processes, structure, and (life support) functions that physically support the organisms that live there. Includes terrestrial and aquatic areas distinguished by geographical, abiotic and biotic features, whether entirely natural or semi-natural.

19. Species distribution.

Geographical distribution of occurrence of animal and plant species aggregated by grid, region, administrative unit or other analytical unit.

20. Energy resources.

Energy resources including hydrocarbons, hydropower, bio-energy, solar, wind, etc., where relevant including depth/height information on the extent of the resource.

21. Mineral resources.

Mineral resources including metal ores, industrial minerals, etc., where relevant including depth/height information on the extent of the resource.