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STATUTORY INSTRUMENTS

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**2009 No. 3157**

**The INSPIRE Regulations 2009**

**Public access to spatial data sets and spatial data services**

9.—(1) Subject to paragraph (6), access by the public to a spatial data set or spatial data service by means of a service specified in regulation 7(2) may be limited only if—

- (a) a limitation is permitted or required under paragraph (2), (3) or (4); and
- (b) except in the case of a limitation under paragraph (2)(a), the public interest in limiting or placing conditions on public access outweighs the public interest in providing full access, in all the circumstances of the case.

(2) A public authority or a third party must not provide public access to personal data included in a spatial data set for which that authority or third party is responsible, if the provision of public access to that personal data otherwise than under these Regulations would contravene—

- (a) any of the data protection principles; or
- (b) section 10 of the Data Protection Act 1998<sup>(1)</sup> (right to prevent processing likely to cause damage or distress),

and in this paragraph “personal data” and “the data protection principles” have the same meanings as in the Data Protection Act 1998.

(3) A public authority or a third party may, in relation to a spatial data set or spatial data service for which that authority or third party is responsible, limit public access to that data set or data service through a discovery service if such access would adversely affect international relations, public security or national defence.

(4) A public authority or a third party may, in relation to a spatial data set or spatial data service for which that authority or third party is responsible—

- (a) limit public access to that data set or data service through a service described in regulation 7(2)(b), (c), (d) or (e); or
- (b) limit public access to the e-commerce services referred to in regulation 10(4) which relate to that data set or data service,

if such access would adversely affect any matter specified in paragraph (5).

(5) The matters are—

- (a) international relations, defence, national security or public safety;
- (b) the course of justice, the ability of a person to receive a fair trial or the ability of a public authority to conduct an inquiry of a criminal or disciplinary nature;
- (c) intellectual property rights;
- (d) the confidentiality of the proceedings of that or any other public authority or third party where such confidentiality is provided by law;
- (e) the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest;

- (f) the interests or protection of the person who provided the spatial data in question where that person—
  - (i) was not under, and could not have been put under, any legal obligation to supply that data to that or any other public authority or third party,
  - (ii) did not provide that data in circumstances such that that or any other public authority or third party is entitled apart from these Regulations to provide public access to that data, and
  - (iii) has not consented to the public being provided with access to that data; and
- (g) the protection of the environment to which the spatial data set or spatial data service in question relates.

(6) A public authority or a third party may not limit public access to a spatial data set or spatial data service which contains information on emissions into the environment, on a ground specified in paragraph (5)(d), (e), (f) or (g).

(7) For the purposes of paragraph (5)(b), (d) and (f), “public authority” includes a Scottish public authority, and for the purposes of paragraph (5)(d) and (f), “third party” includes a Scottish third party.