Commission Regulation (EU) No 268/2010 of 29 March 2010 implementing Directive 2007/2/EC of the European Parliament and of the Council as regards the access to spatial data sets and services of the Member States by Community institutions and bodies under harmonised conditions

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to 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)[(1)], and in particular Article 17(8) thereof,

Whereas:

(1) Directive 2007/2/EC requires Member States to provide the institutions and bodies of the Community with access to spatial data sets and services in accordance with harmonised conditions.

(2) In order to ensure a coherent approach to the provision of access to spatial data sets and services this Regulation should define a minimum set of conditions to be respected.

(3) Directive 2007/2/EC allows for exceptions from data sharing according to Article 17(7). However, even where Member States apply those exceptions, they should be free to state measures, such as security measures, that the Community institutions and bodies have to take in order to still be allowed to get access to these data sets and services.

(4) Any agreement, including licence agreements, contracts and exchanges of e-mails or any other arrangement on access by the Community institutions and bodies to spatial data sets and services of the Member States and their public authorities under this Regulation, should use the terminology defined in Article 3 of the Directive 2007/2/EC.

(5) In order to fulfil their public tasks and contribute to the implementation of the European policies related to the environment the Community institutions and bodies should be able to make spatial data sets and services available to contractors working on their behalf.

(6) As a general requirement arrangements should comply with this Regulation from eighteen months after its entry into force. However, since previously established arrangements may still be in force a transitional provision is needed. Therefore arrangements in place at the entry into force of this Regulation have to be brought in

Changes to legislation: *There are outstanding changes not yet made to Commission Regulation (EU) No 268/2010. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

compliance with this Regulation as from renewal or expiry of those arrangements, but not later than three years after the entry into force of this Regulation.

(7) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 22 of Directive 2007/2/EC,

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter

This Regulation establishes harmonised conditions of access to spatial data sets and services in accordance with Article 17 of Directive 2007/2/EC.

Article 2

Restrictions on access

Upon request by the Community institution or body, Member States shall give reasons for any limitation of sharing pursuant to Article 17(7) of Directive 2007/2/EC.

Member States may state under which conditions access restricted in accordance with Article 17(7) can be allowed.

Article 3

Arrangements

1 Any arrangements concerning access to spatial data sets and services shall be fully compatible with the requirements of this Regulation.

2 The definitions laid down in Article 3 of Directive 2007/2/EC shall be used in any arrangements concerning access to spatial data sets and services.

Article 4

Use of spatial data sets and services

1 Institutions or bodies of the Community may make spatial data sets or services available to contractors acting on their behalf.

2 Where spatial data sets and services are made available in accordance with paragraph 1, Community institutions and bodies shall make every possible effort to avoid unauthorised use of spatial data sets and services.

3 Where a spatial data set or service has been made available pursuant to paragraph 1, the party who received it may not make the spatial data set or service available to any other party without the written consent of the original data or service provider.

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Article 5

Metadata

Conditions applicable to the Community institutions and bodies in compliance with this Regulation shall be expressed in metadata element 8.1, referred to in Part B of the Annex to Commission Regulation (EC) No 1205/2008[(2)].

Article 6

Transparency

1 Where an institution or body of the Community requests the provision of access to a spatial data set or service, the Member States shall also make available, upon request, information for evaluation and use, on the mechanisms for collecting, processing, producing, quality control and obtaining access to the spatial data sets and services, where that additional information is available and it is reasonable to extract and deliver it.

2 Where requested, offers for the provision of access to spatial data sets and services to the Community institutions and bodies made by Member States shall include the basis for charges and the factors taken into account.

Article 7

Response Times

Member States shall provide access to spatial data sets and services without delay and at the latest within 20 days after receipt of a written request, unless otherwise agreed by mutual agreement between the Member State and the institution or body of the Community.

Article 8

Transitional provisions

Member States shall ensure that arrangements comply with this Regulation from eighteen months after its entry into force.

Where arrangements for the provision of spatial data sets and services are in place on the date of entry into force of this Regulation, Member States shall ensure that those arrangements comply with this Regulation as from renewal or expiry of those arrangements, but not later than three years after the entry into force of this Regulation.

Article 9

Entry into force

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.