

Act on Access to Digital Spatial Data (Spatial Data Access Act) (*Gesetz über den Zugang zu digitalen Geodaten – Geo- datenzugangsgesetz – GeoZG*)

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Full citation:

“Spatial Data Access Act of 10 February 2009 (Federal Law Gazette [*BGBI.*] Part I p. 278), amended by Article 1 of the Act of 7 November 2012”

Version: Amended by Art. 1 of the Act of 7 November 2012

- *) This Act serves to transpose 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 Directive) (OJ L 108 of 25 April 2007, p 1) into German law.

Part 1 Objective and scope

Section 1 Objective of the Act

This Act serves to establish a national infrastructure for spatial information. It creates the legal framework for

1. access to spatial data, spatial data services and metadata by agencies holding spatial data, as well as
2. the use of these data and services, in particular for activities which may have an impact on the environment.

Section 2 Scope

(1) This Act shall apply to agencies holding spatial data of the Federation and of the legal persons under public law that are directly accountable to the Federation.

(2) Natural and legal persons under private law may provide spatial data and metadata via the geo-portal in accordance with section 9 subs. 2 if they undertake to provide such data in accordance with the provisions of this Act and to create the technical prerequisites herefor.

(3) This Act shall also apply to spatial data services relating to data contained in the spatial data to which this Act applies.

(4) This Act shall apply in accordance with the United Nations Convention on the Law of the Sea of 10 December 1982 (Federal Law Gazette 1994 Part II p. 1798; 1995 Part II p. 602), including in the Exclusive Economic Zone and on the continental shelf.

Part 2 Definitions

Section 3 General definitions

(1) Spatial data are any data with a direct or indirect reference to a specific location or geographical area.

(2) Metadata is information describing spatial data sets or services and making it possible to discover, inventory and use spatial data sets and services.

(3) Spatial data services are networkable applications making it possible to access spatial data and metadata in a structured form. These are in detail:

1. discovery services making it possible to search for spatial data sets and services on the basis of the content of corresponding metadata and to display the content of the metadata,
2. view services at least making it possible to display, navigate, zoom in/out, pan, or overlay viewable spatial data and to display legend information and other relevant content of metadata,
3. services enabling copies of spatial data to be downloaded and, where practicable, accessed directly (download services),
4. transformation services for geodetic transformation of spatial data.

(4) Interoperability is the possibility for data to be combined or for different systems and technologies to be combined and to interact whilst complying with common standards.

(5) Infrastructure for spatial information is an infrastructure consisting of spatial data sets, metadata and spatial data services, network services and technologies, agreements on sharing, access and use, as well as coordination and monitoring mechanisms, processes and procedures aiming to make spatial data of differing origins available on an interoperable basis.

(6) A geo-portal is an electronic communication, transaction and interaction platform providing access to the spatial data via spatial data services and further network services.

(7) Network services are network-based applications for communication, transaction and interaction.

(8) Agencies holding spatial data within the meaning of this Act are the authorities which are required to provide information within the meaning of section 2 subs. 1 of the Environment Information Act (*Umweltinformationsgesetz*) of 22 December 2004 (Federal Law Gazette Part I p. 3704).

Section 4 Spatial data sets and services concerned

(1) This Act shall apply to spatial data still being used and meeting the following preconditions:

1. They relate to the territory of the Federal Republic of Germany or to the Exclusive Economic Zone of the Federal Republic of Germany in accordance with the United Nations Convention on the Law of the Sea;
2. They are in electronic format;
3. They are held
 - a) by an agency holding spatial data, are within the scope of its public tasks, and
 - aa) were produced by an agency holding spatial data, or

- bb) have been received by such an agency, or
 - cc) are managed or updated by this agency holding spatial data,
- b) by third parties to whom a connection to the national infrastructure for spatial information is granted in accordance with section 2 subs. 2,
or are made ready on behalf of these agencies or parties;
4. They relate to one or more of the following topics:
- a) coordinate reference systems (systems for uniquely referencing spatial information in space as a set of coordinates (x, y, z) and/or latitude and longitude and elevation, based on a geodetic horizontal and vertical datum),
 - b) geographical grid systems (harmonised multi-resolution grid with a common point of origin and standardised location and size of grid cells),
 - c) geographical names (names of areas, regions, localities, cities, suburbs, towns or settlements, or any geographical or topographical feature of public or historical interest),
 - d) administrative units (units of administration, dividing areas where the Federal Republic of Germany has and/or exercises jurisdictional rights, for local, regional and national governance, separated by administrative boundaries),
 - e) addresses (location of properties based on address identifiers, usually by road name, house number, postal code),
 - f) cadastral parcels (areas defined by cadastral registers or equivalent registers),
 - g) transport networks (road, rail, air and water transport networks and related infrastructure; this shall include links between different networks and 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 (OJ L 228 of 9 September 1996, p. 1), most recently amended by Council Regulation (EC) No. 1791/2006 (OJ L 363 of 20 December 2006, p. 1), and future revisions of that Decision),
 - h) hydrography (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 (OJ L 327 of 22 December 2000, p. 1), most recently amended by Directive 2009/31/EC (OJ L 140 of 5 June 2009, p. 114), and in the form of networks),
 - i) protected sites (areas designated or managed within a framework of international, Community and Member States' legislation to achieve specific conservation objectives),
 - j) elevation (digital elevation models for land, ice and ocean surface; includes terrestrial elevation, bathymetry and shoreline; (terrain models)),
 - k) land cover (physical and biological cover of the earth's surface, including artificial surfaces, agricultural areas, forests, (semi-)natural areas, wetlands, water bodies),
 - l) orthoimagery (geo-referenced image data of the Earth's surface, from either satellite or airborne sensors),

- m) geology (geology characterised according to composition and structure of the subsoil; this shall include bedrock and sedimentary rocks, loose sediments, aquifers and aquicludes, anomalies, geomorphology and other aspects),
- n) statistical units (units for dissemination or use of statistical information),
- o) buildings (geographical location of buildings),
- p) 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),
- q) land use (territory characterised according to its current and future planned functional dimension or socio-economic purpose, such as residential, industrial, commercial, agricultural, forestry, recreational),
- r) human health and safety (geographical distribution of dominance of pathologies (such as allergies, cancers, respiratory diseases), information indicating the effect on the health (such as biomarkers, decline of fertility, epidemics) or well-being of humans (such as fatigue, stress) linked directly (such as air pollution, chemicals, depletion of the ozone layer, noise) or indirectly (such as food, genetically modified organisms) to the quality of the environment),
- s) utility and governmental services (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),
- t) environmental monitoring facilities (location and operation of environmental monitoring facilities includes observation and measurement of pollutants, of the state of environmental media and of other ecosystem parameters (biodiversity, ecological conditions of vegetation, etc.) by or on behalf of public authorities),
- u) production and industrial facilities (industrial production sites, including installations covered by Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) (revised version) (OJ L 334 of 17 December 2010, p. 17) and water abstraction facilities, mining, storage sites),
- v) agricultural and aquaculture facilities (farming equipment and production facilities (including irrigation systems, greenhouses and stables)),
- w) population distribution – demography (geographical distribution of people, including population characteristics and activity levels, aggregated by grid, region, administrative unit or other analytical units),
- x) area management/restriction/regulation zones and reporting units (areas managed, regulated or used for reporting at international, European, national, regional and local levels, including 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),
- y) 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),

- z) atmospheric conditions (physical conditions in the atmosphere, including spatial data sets based on measurements, on models or on a combination thereof and includes measurement locations),
- z1) meteorological geographical features (weather conditions and their measurements: precipitation, temperature, evapotranspiration, wind speed and direction),
- z2) oceanographic geographical features (physical conditions of oceans, such as currents, salinity, wave heights),
- z3) sea regions (physical conditions of seas and saline water bodies divided into regions and sub-regions with common characteristics),
- z4) bio-geographical regions (areas of relatively homogeneous ecological conditions with common characteristics),
- z5) habitats and biotopes (geographical areas characterised by specific ecological conditions, processes, structures, and (life support) functions that physically support the organisms that live there; this shall include terrestrial and aquatic areas distinguished by geographical, abiotic and biotic features, whether entirely natural or semi-natural),
- z6) species distribution (geographical distribution of occurrence of animal and plant species aggregated by grid, region, administrative unit or other analytical unit),
- z7) energy resources (energy resources including hydrocarbons, hydropower, bio-energy, solar, wind, etc., where relevant including depth/elevation information on the extent of the resource),
- z8) mineral resources (mineral resources including metal ores, industrial minerals, etc., where relevant including depth/height information on the extent of the resource).

(2) Details regarding the specification of the spatial data attributed to the topics shall be governed by a legal ordinance in accordance with section 14.

(3) If, in addition to a reference version, multiple identical copies of the same spatial data set are held by or on behalf of different agencies holding spatial data, this Act shall apply only to the reference version from which the copies are derived.

(4) If the agency holding spatial data with regard to spatial data sets and services does not itself have intellectual property rights, these rights shall remain unaffected by the provisions of this Act.

Part 3 Requirements

Section 5 Provision of spatial data

(1) The official data of the property register, of geotopography and of geodetic referencing shall be the subject area-neutral core components of the national infrastructure for spatial information. They shall be provided for the purposes of this Act by the agencies of the Federation and of the *Länder* that are competent therefor.

(2) The spatial data in accordance with section 4 subs. 1 number 4 shall constitute an element of the data basis of the national infrastructure for spatial information. They shall be provided by the respective agencies originally responsible therefor.

(3) The agencies holding spatial data shall collect and manage their spatial data on the basis of the data in accordance with subs. 1.

(4) Where spatial data relate to a location or to a geographical territory the location of which covers the territory of several Member States of the European Community, the competent agencies holding spatial data shall coordinate with the respective competent agencies in the Member State or in the Member States on the depiction and the position of the location or of the geographical territory.

Section 6 Provision of spatial data services and network services

(1) The agencies holding spatial data shall ensure that at least the following services are provided for the spatial data and metadata which they collect, operate or provide:

1. discovery services,
2. view services,
3. download services,
4. transformation services,
5. services for operating electronic legal transactions.

(2) The services in accordance with subs. 1 should take user requirements into account, and must be publicly available via electronic networks.

(3) Transformation services shall be combined with the other services in accordance with subs. 1 in such a way that the spatial data services and network services can be operated in compliance with this Act.

(4) At least the following search criteria shall be guaranteed for discovery services:

1. keywords,
2. classification of spatial data sets and services,
3. geographical location,
4. quality criteria,
5. conditions applying to access to and use of spatial data sets and services,
6. the agency holding spatial data responsible for the establishment, management and provision of spatial data sets and services.

(5) Details on the specification of spatial data services and network services shall be governed by a legal ordinance in accordance with section 14.

Section 7 Provision of metadata

(1) The agencies holding spatial data which provide spatial data sets and services as a reference version within the meaning of section 4 subs. 3 shall draw up, manage and provide the appropriate metadata, as well as holding them in concordance with the spatial data sets and services.

(2) At least the following content or information on the following aspects shall be held as metadata on spatial data:

1. keywords,
2. classification,
3. geographical location,
4. quality criteria,

5. existing restrictions of public access in accordance with section 12, as well as the reasons for such restrictions,
6. prerequisites for access and use, as well as any corresponding monetary payments,
7. agency responsible for collecting, managing and providing spatial data.

(3) At least information on the following aspects shall be kept as metadata on spatial data and network services:

1. quality criteria,
2. prerequisites for access and use, as well as any corresponding monetary payments,
3. agency responsible for collecting, managing and providing spatial data sets.

(4) Details regarding the specification of the metadata shall be governed by a legal ordinance in accordance with section 14.

Section 8 Interoperability

- (1) Spatial data sets and services and metadata shall be provided on an interoperable basis.
- (2) Details shall be governed by a legal ordinance in accordance with section 14.

Part 4 Electronic network

Section 9 Infrastructure for spatial information and geo-portal

- (1) Metadata, spatial data, as well as spatial data and network services, shall be linked as components of the national infrastructure for spatial information via an electronic network.
- (2) Access to the electronic network in accordance with subs. 1 shall be provided at the level of the Federation by a geo-portal.

Section 10 National contact point

- (1) The organisation of the national infrastructure for spatial information shall be effected within the responsibility of a national steering body of the Federation and of the *Länder*.
- (2) The national steering body shall perform the tasks of the national contact point within the meaning of Article 19 § 2 of Directive 2007/2/EC.
- (3) The details shall be regulated by the Federation and the *Länder* in an administrative agreement.

Part 5 Use of spatial data

Section 11 General use

- (1) Classification of spatial data sets and services, including the appropriate metadata, shall be made publicly available on proviso of the provision contained in section 12 subs. 1 and 2.
- (2) Spatial data and metadata shall be made available via spatial data services free of charge for commercial and non-commercial use unless a special legal provision provides otherwise or third-party contractual or statutory rights stand in the way of such arrangement. Agencies of the Federation holding spatial data shall provide to one another their spatial data sets and services, including the appropriate metadata, free of charge where their use is effected to carry out public tasks.

(3) The details on the use of spatial data sets and services, including the appropriate metadata, shall be governed by a legal ordinance in accordance with section 14.

Section 12 Protection of public interests and other interests

(1) Public access to spatial data sets and services through discovery services within the meaning of section 6 subs. 1 number 1 can be restricted if it could adversely affect international relations, significant public security or national defence assets.

(2) The restrictions on access in accordance with section 8 subs. 1 as well as section 9 of the Environmental Information Act of 22 December 2004 (Federal Law Gazette Part I p. 3704), shall apply mutatis mutandis to public access to spatial data sets and services through services within the meaning of section 6 subs. 1 numbers 2 to 5.

(3) Vis-à-vis agencies holding spatial data, with the exception of agencies within the meaning of section 2 subs. 1 number 2 of the Environmental Information Act of 22 December 2004, as well as towards the corresponding agencies of the *Länder*, the local authorities and other Member States of the European Community, and towards bodies and institutions of the European Community, and on the basis of reciprocity and equivalence also towards institutions created by international agreements, where the European Community and its Member States are among their contracting parties, access to spatial data sets and services, as well as the exchange and use of spatial data, may be restricted if

1. the implementation of pending court proceedings,
 2. the right of an individual to receive a fair trial,
 3. the implementation of an enquiry of a criminal, regulatory or disciplinary nature,
 4. significant public security assets,
 5. national defence, or
 6. international relations
- may be endangered thereby.

Section 13 (repealed)

Part 6

Final provisions

Section 14 Empowerment to enact an ordinance

The Federal Government is herewith empowered by means of a legal ordinance which shall not require the consent of the Federal Council

1. to comply with the obligations resulting from the rules for implementation within the meaning of Article 5 § 4, Article 7 § 1, Articles 16 and 17 § 8, as well as Article 21 § 4 of Directive 2007/2/EC where these concern the scope of this Act, and
2. to stipulate the preconditions for use in accordance with section 11 subs. 3, in particular on the rights of use, on warrantees and on the exclusion of liability.

Section 15 Coming into force

This Act shall come into force on the day after its promulgation.