

ANNEX A – EXEMPTIONS APPLIED

Exemptions under Section 38(1)(b) (personal data of a third party) of FOISA applies to some of the information requested. This exemption applies to the names of third parties referenced throughout the documents that have been requested. The Scottish Government has a policy of not disclosing the names of officials who are not Senior Civil Servants, therefore the names of some Scottish Government officials have been redacted. Personal Petroineos employees who are board members have also been redacted to protect their privacy.

An exemption under section 33(1)(b) (commercial interests) of FOISA applies to some of the information requested. This exemption applies because disclosure of this particular information would, or would be likely to, prejudice substantially the commercial interests of the parties to which the information relates. Disclosing this information would likely prejudice substantially the commercial interests of these organisations, by sharing commercially sensitive information which could confer an advantage to competitors, or otherwise harm their commercial business.

This exemption is subject to the ‘public interest test’. Therefore, taking account of all the circumstances of this case, we have considered if the public interest in disclosing the information outweighs the public interest in applying the exemption. We have found that, on balance, the public interest lies in favour of upholding the exemption. We recognise that there is a public interest in disclosing information as part of open and transparent government, and to help account for the expenditure of public money. However, in this instance, there is a greater public interest in protecting the commercial interests of companies by withholding the information concerned from their competitors.

Section 29(1)(a) exempts information from disclosure if it relates to the formulation or development of government policy. We acknowledge that the Scottish Government regularly communicates with Petroineos, as the sole fuel refinery in Scotland, for the purpose of gathering information that would allow the formulation of government policy.