

ANNEX

REASONS FOR NOT PROVIDING INFORMATION

The Scottish Government does not have the information

Under the terms of the exception at regulation 10(4)(a) of the EIRs (information not held), the Scottish Government is not required to provide information which it does not have. The Scottish Government does not have the information you have requested because we do not hold any information on seals killed illegally or unreported from 1 January 2020 to 2 December 2020 inclusive.

This exception 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 exception. We have found that, on balance, the public interest lies in favour of upholding the exception. While we recognise that there may be some public interest in information about seals killed illegally or unreported, clearly we cannot provide information which we do not hold.

Exceptions apply

An exception under regulation 10(5)(b) (the course of justice, etc) of the EIRs applies to some of the information you have requested.

This exception applies as release of this information would, or would be likely to, cause substantial prejudice to our operational and law enforcement capabilities.

This exception 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 exception. We have found that, on balance, the public interest lies in favour of upholding the exception.

We recognise that there is some public interest in release because there may be some public interest in Wildlife Crime intelligence held by the Scottish Government. However, this is outweighed by the public interest in not releasing such information which could potentially allow people to examine and analyse our methods and mechanisms of operating and try and identify ways to circumvent them or otherwise thwart our activity.

An exception under regulation 11(2) (personal information of a third party) of the EIRs applies to some of the information you have requested.

Regulation 11(2) – To the extent that environmental information requested includes personal data of which the applicant is not the data subject and in relation to which either the first or second condition set out in paragraphs (3) and (4) is satisfied, a Scottish public authority shall not make the personal data available.

An exception under regulation 11(2) of the EIRs (personal information of a third party) applies to some of the information requested because it is personal data of a third party and disclosing it would contravene the data protection principles in Article 5(1) of the General Data Protection Regulation and in section 34(1) of the Data Protection Act 2018.

This exception is not subject to the 'public interest test', so we are not required to consider if the public interest in disclosing the information outweighs the public interest in applying the exception.