

The exception applied in this instance is:

Some of the information has been withheld under regulations 10(4)(d) (material in the course of completion, unfinished documents, or incomplete data). 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 releasing the information as part of an open, transparent and accountable government. However, this is outweighed by the greater public interest in withholding information that is unfinished to ensure that only accurate and factual information is released into the public domain for consumers, retailers and producers.

In addition, information has been redacted under Regulation 11 (Personal Data) as it contains personal information and disclosing it would contravene the data protection principles in Article 5(1) of the General Data Protection Regulations (GDPR) and in Section 34(1) of the Data Protection Act 2018. This exception is not subject to the 'public interest test'.

Copies of all correspondence between the Scottish Government and UK Government regarding the Deposit Return Scheme between the agreed date range:

From: Director of Environment & Forestry <director.enfor@gov.scot>
Sent: 10 February 2023 12:24
To: Phillips, Lynne <Redacted@defra.gov.uk>; Redacted <Redacted@defra.gov.uk>; Redacted <Redacted@defra.gov.uk>; Redacted <Redacted@defra.gov.uk>
Cc: DG Net Zero <DGNetZero@gov.scot>; Rogers D (David) (Constitution and Cabinet Director) <Redacted@gov.scot>; Redacted (Constitution and UKR) <Redacted@gov.scot>; Redacted <Redacted@gov.scot>; Redacted <Redacted@gov.scot>; Redacted <Redacted@defra.gov.uk>; Redacted <Redacted@gov.scot>; Carmichael K (Katriona) <Redacted@gov.scot>
Subject: RE: IMA exemption

Lynne – Many thanks for your helpful response. I am back in office Monday and would be great for Katriona and/or Redacted to have a chat with you then. Grateful if Redacted can liaise with Redacted (cc'd).

Kevin

Kevin Quinlan - Director of Environment & Forestry, Scottish Government (tel: Redacted)

From: Phillips, Lynne <Redacted@defra.gov.uk>
Sent: 09 February 2023 12:58
To: Director of Environment & Forestry <director.enfor@gov.scot>; Redacted <Redacted@defra.gov.uk>; Redacted <Redacted@defra.gov.uk>; Redacted <Redacted@defra.gov.uk>
Cc: DG Net Zero <DGNetZero@gov.scot>; Rogers D (David) (Constitution and Cabinet Director) <Redacted@gov.scot>; Redacted (Constitution and UKR) <Redacted@gov.scot>; Redacted <Redacted@gov.scot>; Redacted <Redacted@gov.scot>; Redacted <Redacted@defra.gov.uk>
Subject: RE: IMA exemption

Kevin

Cc as before

Thanks for your email. As you note our teams have been working closely on this issue – I really appreciate the depth and quality of this engagement.

As you will be aware the work is following 'The Process for considering UKIM Act exclusions in Common Framework areas', which was developed between UKG and the Devolved Governments.

My understanding of the current position is that your team will table a paper at the Resources and Waste Common Framework Working Group Monday 13th February

and that we, Defra and Welsh Government colleagues have had good opportunity to understand and feed into this paper. Thanks again.

We understand your case and its criticality. Assuming this group agrees to proceed with a request for a UK IMA exemption this would then be presented at the EFRA Senior Officials Programme Board on 22 February. As you will be aware, it is ultimately a Ministerial decision on whether to grant a UK IMA exemption.

Please be assured we are in parallel engaging our ministers and taking advice on appropriate UKG internal processes to maintain pace on this issue. We won't hesitate to get in touch if we need further information to support this engagement. I understand your concerns regarding timings and will do all I can to expedite a resolution.

I would be happy to have a follow up conversation if it would help – Redacted (cc) can help find a time

Regards

Lynne

Lynne Phillips | Director of Programme Delivery Environment Group | Department for Environment, Food and Rural Affairs | Office Hub is Foss House, Kingspool, 1-2 Peasholme Green, York, YO1 7PX

Direct line: Redacted | Email: Redacted@defra.gov.uk

Diary Manager: Redacted | Telephone: Redacted / Redacted | Email: Redacted@defra.gov.uk

Say My Name: Lin Fil-lips

Pronouns: she/her (why have I put this?)

From: Director of Environment & Forestry <director.enfor@gov.scot>

Sent: 08 February 2023 15:56

To: Redacted <Redacted@defra.gov.uk>; Lynne Phillips <Redacted@defra.gov.uk>; Redacted@defra.gov.uk; Redacted <Redacted@defra.gov.uk>

Cc: DG Net Zero <DGNetZero@gov.scot>; Redacted <Redacted@gov.scot>; Redacted <Redacted@gov.scot>; Redacted <Redacted@gov.scot>; Redacted <Redacted@gov.scot>

Subject: IMA exemption

Importance: High

Lynne / Redacted

The BBC has run this story on IMA wrt to DRS for Scotland. <https://www.bbc.co.uk/news/uk-scotland-64563015> The story appears to have been sourced from Aidan O'Neill KC representing distillers.

As you know we have been having productive discussions with DEFRA and UKG on an IMA exemption. Furthermore our DFM wrote to Mr Gove and Mr Hunt on this last week. However, this new BBC story comes at a time of ever heightened industry nervousness and at a critical moment for maintaining momentum on producer and retailer registrations with CSL.

Can we please meet urgently to work what can be done to fast-track a commitment to an IMA exemption within the next week. If it lingers beyond then we run a very serious risk of compromising our 16 Aug go live date.

I am copying in my DG Roy Brannen and David Hill and I think it is likely that our PS will raise with Redacted.

Can your office please liaise with Katriona's EA Redacted to fix a time asap.

Many thanks

Kevin

Kevin Quinlan - Director of Environment & Forestry, Scottish Government (tel: Redacted)

From: Redacted (Deposit Return Scheme) <Redacted@gov.scot>

Sent: 23 January 2023 14:36

To: Redacted <Redacted@defra.gov.uk>; Redacted <Redacted@gov.scot>; Redacted <Redacted@gov.scot>; Redacted <Redacted@gov.scot>; Carmichael K (Katriona) <Redacted@gov.scot>; Redacted <Redacted@gov.scot>; Redacted <Redacted@gov.scot>; Redacted <Redacted@gov.scot>; Redacted <Redacted@gov.scot>; Redacted <Redacted@gov.scot>; Redacted <Redacted@gov.scot>; Redacted <Redacted@gov.scot>; Redacted <Redacted@gov.scot>; Redacted <Redacted@defra.gov.uk>; Redacted <Redacted@defra.gov.uk>; Redacted <Redacted@defra.gov.uk>; Redacted <Redacted@defra.gov.uk>; Redacted <Redacted@defra.gov.uk>; Redacted <Redacted@gov.scot>; Redacted <Redacted@gov.scot>; Redacted <Redacted@sepa.org.uk>; Redacted <Redacted@sepa.org.uk>

Subject: DRS IMA Meeting Agenda

Dear All,

Please find attached the proposed agenda for this Wednesday's meeting. If you have any comments or suggestions, please pass them to me and Redacted as soon as you can.

I've also copied the joining instructions for the meeting into this email for your convenience.

Join on your computer, mobile app or room device

[MS Teams Link]

Redacted (he/him) | Deposit Return Scheme (DRS) Unit | Circular Economy Division | Environment and Forestry Directorate | Scottish Government | Tel: Redacted / Redacted

Deposit return scheme - Managing waste - gov.scot (www.gov.scot)

Deposit Return Scheme: UK Internal Market Act implications at launch of Scottish Scheme

Suggested Agenda

1. Welcome and introductions (5 mins)
2. Purpose and outcomes (5 mins)
 - Work completed to date
 - Interaction between Scotland DRS and UKIMA (unmanaged divergence, IMA exclusion, alternative approaches)
 - Outcomes of workshop
3. IMA exclusion: implications and evidence (40 mins)
 - Implications of no exclusion
 - Implications of exclusion

SG to provide discussion paper

4. Potential alternative mechanisms for managing divergence (30 mins)

Defra to provide discussion points

5. Timeline and next steps (10 mins)

From: Rogers D (David) (Constitution and Cabinet Director) <Redacted@gov.scot>

Sent: 28 February 2023 18:37

To: Sue Gray <Redacted@cabinetoffice.gov.uk>

Cc: DG Strategy and External Affairs <DGSEA@gov.scot>; Thomson KAL (Ken) (Director-General) <Redacted@gov.scot>

Subject: RE: Deposit Return Scheme

And here is a letter that has gone to Mr Gove, plus a link to the published material to which it refers.

[Internal Market Act: correspondence - gov.scot \(www.gov.scot\)](#)

Regards

David

David Rogers

Constitution Director | The Scottish Government | 4 N.04, St Andrew's House, Edinburgh, EH1 3DG | T: Redacted | E: Redacted@gov.scot

From: Thomson KAL (Ken) (Director-General) <Redacted@gov.scot>
Sent: 28 February 2023 15:32
To: Sue Gray <Redacted@cabinetoffice.gov.uk>
Cc: Rogers D (David) (Constitution and Cabinet Director) <Redacted@gov.scot>;
DG Strategy and External Affairs <DGSEA@gov.scot>
Subject: Deposit Return Scheme

Sue –

We spoke briefly earlier this afternoon, and touched on DRS. My First Minister has now written to the Prime Minister on this: letter attached.

K

Ken Thomson | Director General, Constitution & External Affairs, Scottish Government | (Redacted | È Redacted | 8 dgcea@gov.scot | + 1N.04A St Andrew's House, Regent Road, Edinburgh EH1 3DG

From: Director of Environment & Forestry <director.enfor@gov.scot>
Sent: 21 February 2023 11:32
To: Phillips, Lynne <Redacted@defra.gov.uk>
Cc: Redacted <Redacted@defra.gov.uk>; Redacted <Redacted@defra.gov.uk>;
Carmichael K (Katriona) <Redacted@gov.scot>; Redacted <Redacted@gov.scot>;
Redacted <Redacted@gov.scot>; Redacted <Redacted@gov.scot>
Subject: Redacted support for IMA exemption for Scotland's DRS

Lynne

Redacted

As mentioned to Redacted please also see CSL's announcement this a.m. which we hope will take the heat out of the concerns from small producers: [Circularity Scotland announces significant support package for drinks producers | Circularity Scotland Ltd](#)

Happy to discuss if helpful.

Kevin

Kevin Quinlan - Director of Environment & Forestry, Scottish Government (tel: Redacted)

Notes of meetings between UKG and SG officials:

Inter-ministerial meeting on extended producer responsibility

18 January 15:30-16:30

By MS Teams

Ministerial attendees

Rebecca Pow, Defra Minister

Julie James, Minister for Climate Change, Welsh Government

Katrina Godfrey, Permanent Secretary, DAERA, Northern Ireland Executive

Lorna Slater, Minister for Green Skills, Circular Economy and Biodiversity, Scottish Government

Other attendees

Defra – [Redacted], [Redacted], [Redacted], [Redacted]

Welsh Government – [Redacted], [Redacted], [Redacted]

NIE – [Redacted]

Scottish Government – Katriona Carmichael, [Redacted], [Redacted]

Meeting notes

1. [Redacted – Out of Scope]

2. Deposit return schemes

Lorna Slater (LS) provided a brief update on progress on the Scottish scheme, stating that many issues are for industry to agree. There were a number of areas where we are engaging closely at official level – including on VAT, consumer pricing and on the IMA – to address issues. She made the point that this forum would be useful to discuss issues with interoperability. She was asked about support for small retailers.

KG asked for clarity about VAT and how the proposals linked to the EU proposals on single use packaging.

JJ stated that Welsh Government was supportive of the Scottish position on VAT. DRS is a crucial step to recirculating materials in the country as part of low carbon transition.

[Redacted] confirmed that VAT issues are being discussed. [Redacted]. Close working is going on with Scotland to see what can be resolved. [Redacted] stated that a very high bar would be set on an IMA exemption. He also understood that price marking is also a critical issue.

LS reiterated that if a broad exemption had been agreed previously, the current requirement to agree a new exemption could have been avoided. It is a drain on the resources of all administrations.

Welsh Government officials stated that one way to look at the ‘bar’ was in relation to the market, but another way to look at it was in relation to environmental protection.

**SOPB Summary Note
Wednesday 22 February, 0900 - 1030**

[Redacted – Out of Scope]

[Redacted – Out of Scope]

DRS (SG ask)

- **SG** outlined the need for an exclusion while recognising that it is not solely in the gift of Defra SofS
- **Defra** confirmed the following:
 - Confirmation that they need nothing more from SG at this time on the case for an exclusion
 - [Redacted]
 - At pains to emphasise that an exclusion is not solely in Defra’s gift but for wider UKG (cited Scotland Office)
 - [Redacted]
- Agreement that the issue should go to IMG and for the Defra SofS to outline her support in principle and her endeavours to speed this along, which would help with wider relationships

[Redacted – Out of Scope]

AOB -

- **[Redacted – Out of Scope]**
- **IMG agenda** – REUL and DRS

- Ends -