

REASONS FOR NOT PROVIDING INFORMATION

Regulation 10(4)(d)

An exception under regulation 10(4)(d) of the EIRs (unfinished or incomplete information) applies to some of the information you have requested because it represents material which is still in the course of completion.

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 as part of open, transparent and accountable government. However, this is outweighed by the public interest in ensuring that unfinished or incomplete information which is still in being worked on or is under active consideration is not disclosed when it might misinform the public or give a misleading impression of the Government's view or position on the matter to which the information relates.

Regulation 10(4)(e) - in relation to general policy and decision-making

An exception under regulation 10(4)(e) of the EIRs (internal communications) applies to some of the information you have requested because it is internal communication between Scottish Government Ministers and/or officials about the formation of official policies and decisions.

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 as part of open, transparent and accountable government, and to inform public debate. However, there is a greater public interest in high quality policy and decision-making, and in the properly considered implementation and development of policies and decisions. This means that Ministers and officials need to be able to consider all available options and to debate those rigorously, to fully understand their possible implications. Their candour in doing so will be affected by their assessment of whether the discussions on the Genetic Technology (Precision Breeding) Bill will be disclosed in the near future, when it may undermine or constrain the Government's view on that issue while it is still under discussion and development.

Regulation 10(4)(e) – in relation to legal advice

Furthermore, another exception under regulation 10(4)(e) of the EIRs (internal communications) applies to some of the information you have requested because it is internal legal advice and disclosure would breach legal professional privilege.

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 a public interest in disclosing information as part of open, transparent and accountable government, and to inform public debate. **However**, this is outweighed by the strong public interest in maintaining the right to confidentiality of communications between legal advisers and clients, to ensure that Ministers and officials are able to receive legal advice in confidence, like any other public or private organisation.