

Annex A – Exceptions Applied

Regulation 10(4)d – material in the course of completion, unfinished documents, or incomplete data

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 is an unfinished document.

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 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) – internal communications

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 policy development.

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 will be disclosed in the near future, when it may undermine or constrain the Government’s view on that policy/issue while it is still under discussion and development.

An exception under regulation 10(4)(e) of the EIRs (internal communications) also 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.

Regulation (11) 2 personal data of third parties

An exception under regulation 11(2) of the EIRs (personal information) 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.

Regulation 6(1)b Information Publicly Available

Some of the information you have requested is available publicly as part of the Labour Party announcement on 19 June 2023 and in Labour's Mission Climate. Under regulation 6(1)(b) of the EIRs, we do not have to give you information which is already publicly available and easily accessible to you in another form or format. This information can be found in the links below:

[Keir Starmer speech unveiling Labour's mission to cut bills, create jobs and provide energy security for Britain – The Labour Party](#)

[Mission-Climate.pdf \(labour.org.uk\)](#)

If, however, you do not have internet access to obtain this information from the website(s) listed, then please contact me again and I will send you a paper copy.