



Sir Lindsay Hoyle
Speaker of the House of Commons
Palace of Westminster
SW1A 0AA

22nd April 2023 - by email

Mr Speaker,

I am, regretfully, contacting you with regard to the conduct of Alister Jack MP, Secretary of State for Scotland, specifically his misleading the House of Commons.

Yesterday morning Mr Jack sent a letter to the Presiding Officer of the Scottish Parliament wrongly claiming that I had misled our Parliament in a contribution made on Tuesday 18th April. In writing to you today, I would like to raise my concern that not only has Mr Jack falsely accused me of misleading the Parliament in which I sit, but has himself evidently misled the House of Commons. In contacting you I wish to explore what action you will take to address these concerns.

As Mr Jack rightly pointed out in his letter, the Scottish Parliament's Official Report guidance stresses the responsibility of members in being "accurate and truthful in their contributions during parliamentary proceedings". At the invitation of Mr Jack, I would like to provide you with an accurate and truthful account of the engagement and processes undertaken by Scottish and UK Governments in regards to Scotland's proposed bottle and can Deposit Return Scheme. Whilst the accuracy of my contributions to the Scottish Parliament are of course not a matter for your office, Mr Jack's own misleading statements to the Commons are.

The record of correspondence and engagements between the UK and Scottish Governments makes it clear that - as I stated in my contribution to Parliament on Tuesday 18th April - Mr Jack has sought to deliberately mislead the House of Commons and the public on the subject of the introduction of Scotland's bottle deposit return scheme (DRS).

In July 2021, the Scottish Government proposed a broad exclusion from the Internal Market

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Act (IMA) for both Scotland's single-use plastics ban and the proposed Deposit Return Scheme. Official level discussions took place in October 2021 and it was discussed between Scottish and UK ministers at the December 2021 Inter-Ministerial Group meeting (IMG).

In January 2022, the Department for Environment, Food and Rural Affairs (DEFRA) began their processes for considering an exclusion, and following that, in March 2022, they confirmed at an IMG meeting that a narrow exclusion had been granted for the single use plastic ban only.

In a letter from Lorna Slater, Scottish Government Minister for Green Skills, Circular Economy and Biodiversity to George Eustice, then UK Secretary of State for DEFRA, she acknowledged this decision by saying:

"We must ensure that the future application of the process is informed by lessons drawn from this case. One example is in relation to work on deposit return schemes and I would be pleased to discuss our shared ambition for such schemes with you at the bilateral."

Following this rejection of a broad exclusion that would have covered DRS, the Scottish Government began to pursue a specific exclusion with the UK Government in October 2022. This was discussed at the November 2022 IMG, and then by officials in the subsequent months. Another ministerial meeting took place in January 2023.

Concerned by the length of time being taken to reach an exclusion, the then Deputy First Minister of Scotland, John Swinney, wrote to the Chancellor of the Exchequer and the Secretary of State for Levelling Up on both the need for a UK Government decision on the application of VAT to deposits and an IMA exclusion. His letter included the following line: *"I am seeking your assurance now that UK Ministers will expedite a rapid solution, including an exclusion to the IMA"*

In response, the Financial Secretary to the Treasury wrote that:

"DEFRA has assured me that its officials are working closely with counterparts in the Scottish Government and BEIS to scope and understand any implications associated with the UKIMA for the delivery of Scotland's DRS and welcome the constructive working relationships between officials as they go through these details."

On the 13th February, the Scottish Government presented a [detailed final paper](#) for the UK and devolved governments. This paper proposed an exclusion from the IMA for Scotland's DRS. This was the culmination of years of engagement between Scottish and UK Governments at official and ministerial level over the issue of DRS and was in line with the

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common frameworks, which are mutually agreed processes for engagement over IMA issues between the devolved governments.

However, on the 22nd of February, [Mr Jack said to the House of Commons:](#)

“we have not been asked for an exemption for this under the rules of the UK Internal Market Act 2020 by the Scottish Government - no request for an exemption has come”

This statement to the House is clearly and demonstrably misleading.

At the next session of Scottish Questions, Mr Jack changed his story and argued that:

“The official request was on 6th March”, referring to an Inter-Ministerial Group Meeting.

Later, he changed this claim to *“formal request”*, but there is no requirement for either a formal or an official request for an exclusion to the IMA. Mr Jack has effectively invented a process that doesn’t exist, simply to claim that the Scottish Government had not followed it.

The timeline outlined above (which was already in the public domain) shows clearly that the Scottish Government has sought an exclusion from the IMA since 2021, shortly after the Act was passed by Westminster without the Scottish Parliament’s consent. It is extremely alarming that the Secretary of State for Scotland is not only misleading Parliament consistently but he has invented a new form of request which sits outside of agreed processes.

It is abundantly clear that Mr Jack’s attempts to convince the House of Commons that the Scottish Government had not sought an IMA exemption until March of this year is simply and categorically untrue.

It is my firm belief that Mr Jack and his government have used the Brexit process to give themselves a new power of veto over the decisions of Scotland’s elected Parliament via the Internal Market Act. This is a direct attack on Scotland’s democracy.

Whilst the wider political points are of course not a matter for the Speaker, I would urge you to urgently investigate the situation I have described and outline and ask what action you will take in response to Mr Jack misleading the House of Commons.

Best wishes,



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CC:

Alister Jack MP

Alison Johnstone MSP, Presiding Officer of the Scottish Parliament

Humza Yousaf MSP, First Minister of Scotland

Lorna Slater MSP, Scottish Government Minister for the Circular Economy

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