



Simon Case
Cabinet Office
70 Whitehall
SW1A 2AS

21st April 2023, by email

Dear Simon,

I am, regretfully, contacting you with regard to the conduct of Alister Jack MP, Secretary of State for Scotland. Whilst Mr Jack's conduct and specifically his misleading the House of Commons is of course not a matter for the Cabinet Secretary, I would appreciate if you could provide some factual clarity on engagement between the Scottish and UK Governments on the matter of Scotland's bottle and can Deposit Return Scheme and on Mr Jack's apparent unilateral rewriting of the common frameworks for the operation of the Internal Market Act. 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, I believe, to an Inter-Ministerial Group Meeting. Later, he changed this claim to *"formal request"*, but there is no requirement under the common frameworks 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.

In the first instance, I would appreciate it if you could confirm with some urgency that Mr Jack and the UK Government have not unilaterally altered the common frameworks agreed with the Scottish Government.

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Given Mr Jack's claim that 'no request for an exemption' was received until 6th March 2023, I would also appreciate if you could confirm the accuracy of the following timeline of engagement by the Scottish Government in pursuit of exactly such an exemption over the course of the last two years:

- In July 2021, the Scottish Government proposed a broad exclusion from the Internal Market Act (IMA) for both Scotland's single-use plastics ban and the proposed Deposit Return Scheme.
- Official level discussions took place in October 2021.
- The matter 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
- In March 2022, DEFRA confirmed at an IMG meeting that a narrow exclusion had been granted for the single-use plastic ban only.
- Responding to this decision via letter, 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 on the matter 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

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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.

The above timeline is of course already in the public domain but I would appreciate it if (i) you could confirm on a purely factual basis that the UK Government acknowledges that each of the above meetings and exchanges of correspondence took place; (ii) that this is incompatible with Mr Jack's claims in the Commons on the 22 February;; and (iii) that the common frameworks agreed by the UK and devolved governments stand and require neither a formal nor an official request for an exclusion from the IMA

Best wishes,



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