

# A POLICE OFFICER IN DALWHINNIE



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In the spring of 2026, a man in Scotland reported a crime. A company in Guernsey, which owns the Ben Alder 11,086-hectare Highland estate, had failed to enter its controllers in a public register, as Scots law has required of such entities since April 2024.<sup>1</sup> Police Scotland raised a crime report, considered it, and decided to take no further action, on the grounds that the information “appears to be available through other public sources or realms” and that the circumstances were therefore “unlikely to constitute a criminal offence”. The matter, the man was told, had been passed to a police officer in Dalwhinnie.<sup>2</sup>

Dalwhinnie is a village of about eighty people just off the A9, best known for a distillery and for being one of the coldest inhabited places in Britain.<sup>3</sup> The offending entity is in Guernsey. Somewhere between the two sits a national transparency law, a register kept in Edinburgh, and a criminal sanction that has, so far, sanctioned no one. The man, Andy Wightman, who has spent the better part of two decades documenting who owns Scotland, has a list of more than two hundred landowning entities he believes are in the same position. If every one were prosecuted, he reckons it would raise something over £1.3 million in fines.<sup>4</sup> None of them has been.

The register Wightman reported a breach of was built with nobody to enforce it, and the gap was there in the design from the start, signed and published. Almost nobody noticed.

The register is the Register of Persons Holding a Controlled Interest in Land, the RCI, established under Part 3 of the Land Reform (Scotland) Act 2016 and brought to life by regulations in 2022. Its purpose is good. Scotland has among the most concentrated patterns of land ownership in the developed world: fewer than five hundred owners hold half the privately owned rural land,<sup>5</sup> much of it through estates whose ultimate controllers are invisible behind trusts, partnerships and offshore shells. The RCI was meant to look behind those structures. When it launched, the land reform minister of the day, Mairi McAllan, said it would make Scotland “a frontrunner in Europe” and ensure “there can no longer be categories of landowner or tenant where ... control of decision-making is obscured, including in or via overseas trusts or entities”.<sup>6</sup> The ambition was to make the question “who really decides what happens to this ground?” answerable, for the first time, for every kind of owner.

The Ferret answered a narrower version of the question by hand. In June 2026 it reconciled Registers of Scotland’s own dataset of overseas-owned property against the RCI, and found that

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<sup>1</sup>The Land Reform (Scotland) Act 2016 (Register of Persons Holding a Controlled Interest in Land) Regulations 2021 (SSI 2021/85); offence provisions in force 1 April 2024.

<sup>2</sup>Andy Wightman, “No Police or COPFS action over transparency offences”, Land Matters (3 June 2026), which reproduces the Police Scotland and COPFS responses.

<sup>3</sup>Dalwhinnie has a resident population of around 80; Met Office climate normals (1991–2020) make it one of the coldest inhabited places in Britain, the coldest UK location below 500 m.

<sup>4</sup>Andy Wightman, “Further Reporting of Offences to Police Scotland”, Land Matters (14 April 2026).

<sup>5</sup>Scottish Land Commission, Scale and Concentration of Land Ownership, and Who Owns Scotland (Andy Wightman): fewer than five hundred owners hold half of privately-owned rural Scotland, the precise count varying by source and year within roughly the 400–500 band and falling over time (around 440 in 2012). The characterisation as among the most concentrated patterns of private land ownership in the developed world is the Land Commission’s and Wightman’s longstanding one.

<sup>6</sup>Scottish Government news release, “More transparency on land ownership” (27 March 2022), quoting Mairi McAllan.

around two-thirds of the overseas firms it checked were missing from the RCI: 956 of 1,447. On a property basis, the controllers of sixty per cent of the offshore-owned titles it examined were undisclosed. Among the missing were castles, sporting estates, and the State of Qatar's unrecorded salmon-fishing rights on a river near Kingussie.<sup>7</sup> The shape of the finding is not in doubt: a register built to reveal control was, four years in, mostly empty of the people it was built to reveal.

The interesting question is not whether the RCI has failed. It plainly has. The interesting question is why, and the answer is that it was built without the homework. It is hard to see how anyone who had studied how comparable registers work would have drafted it this way. A register that asks people to disclose their own secrets needs someone whose job is to check that they have; a criminal penalty no one is tasked to detect is a sanction in name only. The Scottish Government had working examples to hand, and the design shows no sign of having learned from them.

The failure was not even hypothetical. British Columbia had built the nearest equivalent anywhere, a public register of who really owns land, and it had already been judged "broken on arrival", for want of any check on who filed and any sanction worth the name.<sup>8</sup> The lesson was on the shelf, and nobody took it down.

And the failure has an address. A minister launches a register and signs the assessment beneath it, but the comparative work, how registers like this function elsewhere and what makes them bite, belongs to the officials who advise her. That work was not done. McAllan was sent out to call the register a frontrunner in Europe by officials who had not worked out what a frontrunner would need.

In December 2020, before the regulations were laid, the Scottish Government published a Business and Regulatory Impact Assessment, signed by the responsible cabinet secretary. Impact assessments are dull by design and read by almost no one. This one contains the confession. Under the heading "Enforcement, sanctions and monitoring", it explains that the Keeper of the Registers of Scotland will keep and maintain the register and guard it against interference, and that "the police and the courts are responsible for identifying where offences may have been committed and referring them for subsequent prosecution".<sup>9</sup>

Read that again, because it is the entire problem in a single sentence. The detection of offences, the act of noticing that a concealed controller has stayed concealed, was assigned to the police. Not to the Keeper, who merely files what arrives. Not to a regulator with the power to look. To the police, who, as Wightman discovered, conduct no routine monitoring of the register, because nobody asked them to and nobody resourced them to. The Government built a register that depends on people volunteering information about their own secrecy, attached a criminal penalty to not volunteering it, and then handed the job of catching the non-volunteers to a

<sup>7</sup>Jamie Mann and Petra Matijevic, "Hundreds of offshore landowners are illegally flouting Scotland's land control register", *The Ferret* (14 June 2026). A residual share of the 956 may be Schedule-2 exempt or carry no qualifying controlling interest rather than be non-compliant, so the precise proportion is indicative.

<sup>8</sup>Ken Comeau, "BC's Public Registry to Combat Money Laundering: Broken on Arrival" (2020), on British Columbia's public register of beneficial ownership of land.

<sup>9</sup>Scottish Government, "Register of Persons Holding a Controlled Interest in Land: Business and Regulatory Impact Assessment" (17 December 2020), under "Enforcement, sanctions and monitoring".

body that does not look. The whole arrangement is the shape of an enforcement model drawn around an empty space.

It gets worse when you read the rest of the document. The assessment weighed exactly two options: create the register as drafted, or do nothing. A version with a monitoring body, or with the civil penalties that comparable registers use, was never on the table; that framing quietly foreclosed the design the evidence now demands. The penalty, a fine of up to £5,000,<sup>10</sup> was intended, the document says, to apply “to persons who deliberately seek to evade the duties placed upon them and not persons who make honest mistakes”.<sup>11</sup> So the sanction was aimed at wilful concealers, the oligarchs and trustees with most to hide, and paired with no machinery to detect them. And in costing the register, the Government leaned on the impact assessment for the UK’s People with Significant Control register, run by Companies House: a register with an enforcing registrar, the very thing that makes such a register work. It took the cost template and not the teeth.

What happens next is exactly what the design predicts. The 2020 document makes eerie reading after the 2026 events. Wightman and a colleague submitted complaints. Police, after being “schooled”, in his word, on the regulations, did eventually send two cases to the Crown Office, which considered them and concluded there should be “no criminal proceedings”, giving no reasons, as is its right. One case may have fallen foul of the six-month time limit. The other estate, once exposed, registered, after which a prosecutor could reasonably decide there was no public interest in pursuing an offence the offender had now, belatedly, cured. Of the next ten complaints, the first to be resolved produced the Dalwhinnie letter. Wightman’s own summary is the one that should worry anyone who voted for the law: “If this is to be the pattern, then the Regulations are essentially voluntary.”<sup>12</sup>

So the question becomes practical. If you wanted to fix this, what would you do? The obvious answer, raise the fine, is wrong, for reasons that go deeper than the number.

The deepest reason is structural, and it runs opposite to the one you would expect. The defendant is not a ghost. The duty to register falls on the recorded person, the owner or tenant already entered in the Land Register, and discharging it means handing the Keeper your name and the title number of your land.<sup>13</sup> The offender is named on a public register before he offends; reading those names off the titles is exactly how Wightman and the Ferret built their lists. What stays hidden is not the offender but the controller he declines to name.

So the state’s difficulty is not knowing whom to prosecute. It is that it has built nothing to make a prosecution bite once it does. The sanction is a single summary offence, which under section 136 of the Criminal Procedure (Scotland) Act 1995 must be begun within six months of the contravention.<sup>14</sup> Against a default nobody monitors, that window usually shuts before anyone notices it opened; and even held open, a £5,000 fine against a Guernsey shell is a sum it will never feel and a debt the Crown may never recover. Better still, from the concealer’s side, the

<sup>10</sup>SSI 2021/85, reg 10(8); the maximum fine is level 5 on the standard scale (£5,000).

<sup>11</sup>Scottish Government BRIA (2020).

<sup>12</sup>Wightman, Land Matters (3 June 2026).

<sup>13</sup>SSI 2021/85, reg 10: the duty to notify the Keeper falls on the “recorded person” (the owner or tenant recorded in the Land Register); the required information includes the title number of the land; and failing to comply without reasonable excuse is the offence (reg 10(8), (10)).

<sup>14</sup>Criminal Procedure (Scotland) Act 1995, s.136 (six-month time-bar on summary proceedings).

offence evaporates the moment he registers late, with no charge for the years of dark. The criminal route is the wrong tool by construction, but not because the quarry is invisible. His name is on the register the state itself keeps. It is the wrong tool because a one-shot, time-barred, trivially-priced, freely-cured penalty is no answer to a knowing and well-advised concealer who can see, from the first day, that none of it will ever reach him.

The number makes it worse. £5,000 is a rounding error against a Highland estate or a £94 million Edinburgh office block.<sup>15</sup> Gneezy and Rustichini's famous study of Israeli day-care centres found that introducing a fine for late pickup made lateness worse, because parents reframed the penalty as a price they were entitled to pay.<sup>16</sup> The temptation is to reach for it here, and I will resist most of the reach. The literature is contested, and its mechanism, the crowding-out of social conscience, does not obviously transfer to a Jersey trustee who never had the conscience in question. The point that does survive is the older and duller one, the Beckerian point: a flat penalty set far below the value at stake is simply a cost of doing business, and a trivial one. You do not need a clever theory of moral crowding-out to predict that a £5,000 cap will not move someone hiding tens of millions. You need only arithmetic.

The quietest defect is the most corrosive. Under the present regime, late registration cures the offence for free. Get caught, register, and you pay nothing for the years of darkness. The register is a ratchet with no cost of concealment: every incentive runs one way, towards staying hidden until exposed and then quietly complying. The whole apparatus rewards exactly the behaviour it was built to stop.

Here the argument risks turning utopian, so be concrete. The fix already exists, next door, applied to the very same offshore entities, by Westminster. The Register of Overseas Entities, created by the Economic Crime (Transparency and Enforcement) Act 2022 in the panic after the invasion of Ukraine, does almost everything the RCI does not. It is run by a registrar with powers. It imposes civil financial penalties, decided by that registrar without needing a criminal prosecution, and it scales them to the value of the property using a crude but workable proxy, the Council Tax band, so that a more valuable property attracts a larger penalty without anyone commissioning a bespoke valuation. It charges daily default penalties for continued non-compliance. And it freezes dealings: an overseas entity that has not complied cannot sell, lease or charge its land, and cannot buy more. If a penalty goes unpaid, the registrar can pursue the debt through the courts, which "may result in a charge being placed on the entity's property".<sup>17</sup>

That is the entire toolkit the RCI lacks, operating today, on the same castles and shell companies, a few hundred miles south in the same legal family. It demolishes the objection that any of this is exotic or untested. The catch is that the Register of Overseas Entities is reserved to Westminster; Holyrood cannot simply extend it. A Scottish fix has to mirror the mechanism in devolved form, running it through Registers of Scotland, the Scottish Land Register, and Scots law's own machinery of debt enforcement. So the question is whether Scotland can build its own version, and whether that version would survive contact with the courts.

<sup>15</sup>The Ferret (14 June 2026); the building is Standard Life House, Edinburgh, bought for £94m in 2015.

<sup>16</sup>Gneezy and Rustichini, "A Fine is a Price", *Journal of Legal Studies* (2000); the finding is contested, see e.g. Metcalf et al. (2020).

<sup>17</sup>Economic Crime (Transparency and Enforcement) Act 2022, Part 1; Companies House, "Register of Overseas Entities: approach to enforcement" (updated 2 January 2026).

The mechanism I find myself arriving at has three parts: the meter, the wall, and the backstop.

The meter is a recurring charge on the non-compliant title, accruing for every day the controlling interest stays unregistered. It is scaled to the property's value through banding rather than bespoke valuation, so it presses hardest on the most valuable land and needs no fresh valuation to set.

The wall is a freeze on dealing. An owner who has not registered cannot sell, lease, grant security over the land, or draw public subsidy, until the register entry is made. This is the part that makes the meter work, because paying the charge must buy nothing. A charge you can simply pay while carrying on as before is just a subscription to secrecy, a tariff on opacity for those who can afford it. Only registration lifts the wall, and that is what stops “pays, never registers” from becoming a stable and comfortable equilibrium.

The backstop is realisation through debt. The accruing charge becomes a debt on the title, and once that debt passes a material proportion of the property's value, the asset can be realised to satisfy it, with any surplus returned to the owner. At every moment the owner holds the off-switch: registering stops the meter.

A warning rides alongside, from the same body of land-reform law. The last time Scotland built a mechanism to prise land from an unwilling holder, the crofting community right to buy, it was defeated not by hiding but by structuring: the owner of the Pairc estate in Lewis interposed a seventy-five-year lease to a subsidiary, and the Scottish Land Court held the manoeuvre lawful, putting the value beyond the community's reach.<sup>18</sup> It took a fresh Act of Parliament to close that gap, and years of litigation besides. The people a charge-and-freeze scheme targets are precisely those with the advisers to do the same to it, to fragment a holding beneath the banding, to interpose a lease or a nominee between the charge and the value, to manufacture the “reasonable excuse” the regulations already offer. Anti-avoidance should not be bolted on after the first clever workaround, the way it was at Pairc; it has to be drafted in from the start, because the workaround comes first.

This is not my invention. The structure has a direct ancestor in Sao Paulo's progressive-in-time property charge, which doubles each year an owner fails to meet an obligation, and whose own evaluators concluded that its effectiveness rises and falls on one thing: consistency of enforcement.<sup>19</sup> The economics of recurring land charges, the long Georgist literature, says reliably that such charges change holding behaviour, and says just as reliably that the binding constraint is always the valuation and the administration.<sup>20</sup> Which is precisely why the Register of Overseas Entities reaches for the Council Tax band instead of the valuer, and why a Scottish scheme should reach for a banding of its own, graded finely at the top where the values run, and bite hardest there rather than fall as a flat charge on the modest and the immense alike.

Now the hard part, the part that decides whether any of this is law or merely a wish. The Scotland Act 1998 makes an Act of the Scottish Parliament “not law so far as any provision is outside

<sup>18</sup>Scottish Ministers v Pairc Trust Ltd 2007 SLCR 166 (Scottish Land Court), holding the interposed lease lawful; the gap was closed by the right to buy an interposed tenant's interest inserted as s.69A of the Land Reform (Scotland) Act 2003 by the Crofting Reform etc. Act 2007. The owner's later A1P1 challenge to the regime failed: *Pairc Crofters Ltd v Scottish Ministers* [2012] CSIH 96.

<sup>19</sup>Dyca, “Land value taxation and land speculation” (2018), on Sao Paulo's IPTU progressivo no tempo.

<sup>20</sup>Hughes et al., “Implementing a land value tax”, *Land Use Policy* (2020); the behavioural case traces to Brown (1927) and the Georgist tradition.

the legislative competence”,<sup>21</sup> and puts incompatibility with the European Convention rights squarely inside that bar. Unlike Westminster, which can pass a disproportionate measure and dare the courts to issue a declaration that changes nothing, Holyrood cannot: an incompatible Act is void from the start. The relevant right is Article 1 of the First Protocol (A1P1), the protection of property, and it is the reason the blunt instrument, simple forfeiture of the land for a registration default, is dead on arrival. To strip an owner of a multi-million-pound estate because a trustee did not file a form is a textbook disproportion, a deprivation of possessions wildly out of scale with the wrong, and the courts would say so.

But A1P1 is a subtler provision than its reputation, and the subtlety is the escape route. After the sentence protecting possessions, it adds that nothing shall impair the State’s right to enforce such laws as it deems necessary “to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties”.<sup>22</sup> There are, in effect, two doors. One, deprivation, is narrow and heavily guarded. The other, the control of use and the securing of penalties, is wide, and the courts give legislatures a broad margin inside it.

A recurring charge framed as a penalty or contribution walks through the second door. A freeze on dealing is the textbook example of controlling the use of property. The objection writes itself, that an indefinite freeze on a valuable asset is deprivation in all but name; the answer is that the owner holds the key. These are entities that know perfectly well who controls them and have chosen not to say; a restriction that lifts the moment its target discloses what it is hiding is the kind of control the second paragraph seems to permit. The Register of Overseas Entities already freezes dealings on this basis, and has not been struck down. Realising a debt and returning the surplus enforces a penalty; the owner keeps everything beyond the debt. The same end point, an estate eventually sold, is a different legal animal depending on which door you came through, and the design decides the door.

This is the seam in the argument, the place a good advocate would push. The claim that a recurring charge escapes the deprivation door and lives comfortably in the penalties door is my reading of the text, not a question a court has decided on these facts. It is defensible, I think strongly so, but it is an argument to be won.

The Scottish case law cuts both ways, which makes it useful rather than merely reassuring. In *Salvesen v Riddell*, in 2013, the Supreme Court struck down a provision of an actual land-reform Act of the Scottish Parliament as incompatible with A1P1 and therefore outside competence.<sup>23</sup> That is the warning: the ceiling is real, and it has fallen on land reform before. But the defect was specific and narrow: the provision treated landlords differently by an accident of dates, which the Court found had “no logical justification”. And the Court suspended its own ruling to let Parliament fix the defect, which is itself a useful precedent for building a correction window into a scheme.

Set *Salvesen* beside *AXA General Insurance*, two years earlier, where the same court upheld a different Act of the Scottish Parliament and confirmed that on social and economic policy

<sup>21</sup>Scotland Act 1998, s.29(1) and (2)(d).

<sup>22</sup>European Convention on Human Rights, First Protocol, Article 1, given effect by the Human Rights Act 1998, Schedule 1.

<sup>23</sup>*Salvesen v Riddell* [2013] UKSC 22.

the legislature enjoys a wide margin, its judgment of the public interest to be respected unless “manifestly without reasonable foundation”,<sup>24</sup> and the safe zone comes into focus. A scheme with a legitimate aim, and transparency over who controls Scotland’s land, with the operability of Scotland’s own land law, is about as legitimate as aims come, will be given room on its means. The aim is devolved through and through; that it also frustrates money laundering is a consequence, not the purpose. What it must not be is arbitrary, retrospective, or disproportionate. The rate value-linked rather than flat, a threshold before any forced sale, the surplus returned, a permanent cure by registration, the scheme prospective and uniform. Design to clear both cases, and the competence objection that frightened me at the outset becomes a question of careful drafting.

There is one more reason this matters now, and I have seen nobody else make it, so I hold it with appropriate caution. The Land Reform (Scotland) Act 2025, the flagship of this parliamentary session, did not touch RCI enforcement; I read the Act looking for it, and it is not there. But the 2025 Act did something sharper than ignore the register. It made the register load-bearing. Its new regime for large landholdings, the thousand-hectare threshold that triggers community rights, depends on aggregating the holdings of “connected persons”, and the definition of connection turns, in part, on who “requires to be registered” in the RCI.<sup>25</sup> With the register two-thirds empty and unenforced, that is a question the public record cannot answer. And the same Act disposes of the excuse that an enforcer was beyond Holyrood’s competence: it builds a Land and Communities Commissioner, with real powers, for the large-holding regime. The enforcer the RCI lacks was within competence all along, and was simply never built for this register. The rot is no longer confined to transparency. It is now part of the new settlement’s load-bearing structure.

Which brings me, finally, to the chorus, and to what is missing from it. The people who ought to have a fix have called, repeatedly, for the direction of one. Transparency International UK, having found £3.2 billion of Scottish property held in opaque structures, got as far as urging the Government to “consider if re-imagining the Register of Controlled Interests in Land as an anti-corruption tool might help”.<sup>26</sup> Spotlight on Corruption named the absence of “a compliance monitoring mechanism”. Community Land Scotland asked for “a comprehensive system to collect data”.<sup>27</sup> Every one of them is right about the direction, and not one specifies the machine: who enforces, how non-compliance is detected, what sanction actually bites, and how the whole thing survives section 29.

The Government’s own posture, meanwhile, is an unenforced criminal statute on one side and, on the other, the Scottish Land Commission offering a voluntary protocol on transparency,<sup>28</sup> good practice with no edge to it. There is no official fix to collide with. That is not a comfortable place for a country to be, and it is exactly the gap a specified mechanism is built to fill.

<sup>24</sup>AXA General Insurance Ltd v Lord Advocate [2011] UKSC 46.

<sup>25</sup>Land Reform (Scotland) Act 2025, Schedule 1 (meaning of connected person); see Law Society of Scotland, “In focus: Land Reform (Scotland) Act 2025” (2026).

<sup>26</sup>Transparency International UK, “Research reveals GBP 3.2 billion worth of property in Scotland held by opaque offshore trusts” (27 October 2025).

<sup>27</sup>Bolton-Jones (Spotlight on Corruption) and Doble (Community Land Scotland), quoted in The Ferret (14 June 2026).

<sup>28</sup>Scottish Land Commission, “Protocol on transparency of ownership and decision-making”.

The design has a property the present regime lacks: both branches terminate in daylight. Confronted with a meter that runs and a wall that will not lift, the rational concealer registers, the one act that lifts the freeze, and pays the accrued charge as the price of having hidden. The irreconcilable one, the sanctioned oligarch who will never pay and can never be paid the surplus because his proceeds are frozen elsewhere, eventually has the asset realised out from under the shell, and the land changes hands to a buyer who must register on acquisition. You can outlast a fixed fine; you pay it once and carry on hiding. You cannot outlast a meter bolted to a frozen asset. Opacity stops being a one-off toll and becomes a wasting asset. That is what deterrence looks like.

One fantasy, then, since the sober version is on the table and you have read this far. Picture the far end of it. Glendarroch, ten thousand hectares that a Panamanian company would not admit to owning. The charge runs against the title day after day, unpaid, until the debt has eaten a material share of the value and the estate comes under the hammer. The conditions of the sale are the state's, because the sale is the state's: show your face, show your money is clean, or you do not bid. The shell companies and the carbon speculators discover urgent business elsewhere. The room thins to those willing to be named, and the price, shorn of a premium that was only ever the cost of hiding, sinks toward what the land is worth as working forest. Set the reserve there, at forestry value, and the community body that has watched the estate from the wrong side of the march fence for a century can finally raise the money. The hammer falls. The land nobody would own in daylight is owned, in daylight, by the people who live on it, for the price of the trees. Somewhere a very expensive advocate starts drafting the petition that says you cannot do this, and he might be right, because this is the part we would manage only if the court let us. But for one paragraph, before the law catches up with the wish, let it stand.

None of this is beyond Scotland's legal ingenuity. The tools are drafted or precedented or both: the diligence of inhibition is live and freezes dealings today; the seizure power, land attachment, was drafted in 2007 and has sat un-commenced for nearly twenty years,<sup>29</sup> parked over precisely the fear, people losing valuable property over modest debts, that a value-threshold answers. The Register of Overseas Entities shows the civil-penalty model already runs on these very entities. The competence path is narrow but real.

What has been missing was first the homework and then the will to use it. The homework: a civil service that, in 2020, wrote the enforcement vacuum into an impact assessment its ministers signed and published, trusting that a register depending on the honesty of the people it was built to expose would somehow expose them. The will: a Parliament that drafted the seizure tool in 2007 and will not, two decades on, switch it on, with the working model now in plain view across the border. It was all theoretical, right up until a man started filing complaints, and the system answered with a police officer in Dalwhinnie.

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<sup>29</sup>Bankruptcy and Diligence etc. (Scotland) Act 2007, Part 4; the land-attachment provisions remain un-commenced as of February 2026. Inhibition, the personal diligence barring an owner from dealing with heritable property, is in force.