FIRST DIVISION, INNER HOUSE, COURT OF SESSION

[2026] CSIH 17
P196/24

Lord President
Lady Wise
Lord Clark

OPINION OF THE COURT

delivered by LORD PENTLAND, the LORD PRESIDENT

in the reclaiming motion

in the cause

LEO BRUCE HUISMAN

Petitioner and Reclaimer

against

UNIVERSITY OF THE HIGHLANDS AND ISLANDS

Respondent

and

SCOTTISH MINISTERS

Interested Parties

Petitioner and Reclaimer: Whyte; Lindsays LLP
Respondent: Reid KC; Thorntons Law LLP
Interested Party: D Welsh; Scottish Government Legal Directorate

1 April 2026

Introduction

[1] With effect from September 2012 the United Kingdom Government decided to raise the cap on tuition fees. Universities and colleges were to be entitled to charge domestic students up to £9,000 per year, increased from £3,250. The Scottish Government was

concerned that the significantly lower fee cap for admission to Scottish universities and colleges (at the time £1,820 under an order made under Article 3 of the Student Fees (Specification) (Scotland) Order 2006) could give rise to an influx of students from the rest of the United Kingdom. It took the view that such a development could lead to a reduction in opportunities for students ordinarily resident in Scotland. With the aim of protecting opportunities for Scottish-based students, the Scottish Government made regulations removing the fee cap in respect of non-Scottish resident students, leaving Scottish universities and colleges free to charge such students higher levels of fees. Students from England, Wales and Northern Ireland would benefit from the statutory fee cap of £9,000. However, international students with no relevant connection to Scotland would be subject to a higher rate of fees.

[2] In these proceedings for judicial review the reclaimer (appellant), who is a British citizen and also a citizen of the Republic of South Africa, challenges the respondent's decision to charge him tuition fees at a higher level than would be permissible if he were a student who had lived in the United Kingdom continuously for three years and was ordinarily resident in Scotland. The reclaimer accepts that he does not meet those requirements. Instead, he claims that he should be treated as analogous to either someone holding refugee status or someone who has been refused refugee status but granted leave to remain in the United Kingdom. He and his mother left South Africa in 2021 and came to Scotland due to threats to their safety. The regulations require refugees and those who have been granted leave to remain in the United Kingdom despite not attaining refugee status to be treated in the same manner as Scottish students in that they cannot be charged higher fees. The issue that arises is whether the reclaimer is entitled to be treated as akin to these categories for the purposes of student funding even though as a British citizen he has an

absolute right to live in the United Kingdom and will never require to apply for refugee status or leave to remain in the United Kingdom.

[3] The Lord Ordinary refused the petition for judicial review. The reclaimer now appeals (reclaims) against that decision. The Scottish Ministers have entered the proceedings as interested parties.

Statutory framework

[4] The relevant rules are set out in the Education (Fees) (Scotland) Regulations 2011 made by the Scottish Ministers in exercise of the powers conferred by section 1 of the Education (Fees and Awards) Act 1983. The 2011 Regulations have been repealed and replaced by the Education (Fees) (Scotland) Regulations 2022, which came into force on 1 August 2022; they do not apply in the reclaimer's case because he began his course in August 2021.

[5] Regulation 2 of the 2011 Regulations defines "refugee" as follows:

> "… a person who is recognised by Her Majesty's Government as a refugee within the meaning of the United Nations Convention relating to the Status of Refugees done at Geneva on 28th July 1951 as extended by the Protocol thereto which entered into force on 4th October 1967."

[6] Regulation 3 provides that a post 2011/12 student (such as the reclaimer) has a "relevant connection" with Scotland if certain specified criteria are satisfied. For present purposes two of these are relevant. First, the student must be ordinarily resident in Scotland on the relevant date. The relevant date in the reclaimer's case was 1 August 2021. He was ordinarily resident in Scotland on that date.

[7] In this case it is the second criterion that has given rise to difficulty for the reclaimer. This requires the student to have been ordinarily resident in the United Kingdom and Islands throughout the period of three years immediately preceding the relevant date.

[8] The reclaimer had not been ordinarily resident in the United Kingdom and Islands throughout the period of three years immediately preceding the relevant date. It follows that he did not have a relevant connection with Scotland within the meaning of the 2011 Regulations.

[9] Regulation 4(1) provides that it is lawful to charge higher fees to post 2011/12 students who do not have a relevant connection with Scotland than in the case of students having such a connection. It is notable that this is in part a permissive provision. It allows higher fees to be charged to students who do not have a relevant connection with Scotland. It does not oblige universities and colleges to charge higher fees to such students; the matter is one for their discretion. The provision also has a mandatory effect in that higher fees cannot lawfully be charged to students who do have a relevant connection with Scotland.

[10] Sub-paragraph (2) of regulation 4 extends the categories of those students to whom a higher fee cannot lawfully be charged. It provides that it is not lawful to charge higher fees in the case of a post 2011/12 student who is an "excepted student" within the meaning of Schedule 1.

[11] The categories of "excepted student" set out in the provisions of Schedule 1 are extensive. It is not necessary to set them out fully. They include post 2011/12 students who are refugees if they have been ordinarily resident in the United Kingdom and Islands at all times since being first recognised as such and if they are ordinarily resident in Scotland on the relevant date. Another category of excepted students is defined by paragraph 5 of Schedule 1 as being post 2011/12 students who have applied for refugee status and who

have been granted leave to enter or remain in the United Kingdom. They too must have been ordinarily resident in the United Kingdom and Islands at all times since they were first granted such leave to enter or remain. They must also be ordinarily resident in Scotland on the relevant date.

[12] Other provisions in Schedule 1 confer excepted student status on defined categories of post 2011/12 students. It is not necessary to list them all, but they include nationals of Iraq, Syria and Afghanistan who have been granted leave to enter the United Kingdom under Home Office schemes; stateless persons or victims of modern slavery or domestic violence granted leave or permitted to enter or remain in the UK; child migrants subject to a special immigration regime; and persons granted temporary protection.

[13] There are residence requirements for all excepted students. Usually, the excepted student must have been ordinarily resident in the United Kingdom and Islands since being granted leave to enter or remain and must be ordinarily resident in Scotland at the relevant date. There are slight differences in the residence requirements applying to children of asylum seekers and young asylum seekers, but nothing turns on this.

[14] It is not disputed that the reclaimer does not fall into any of the categories of an "excepted student" as defined in Schedule 1.

[15] Since they were referred to by the reclaimer's counsel in his submissions, we should briefly mention the 2022 Regulations. Contained within schedule 1 of the 2022 Regulations, which are now in force, are similar provisions for categories of excepted students. A number of further categories have been added. In particular, specific provision is made for evacuated or assisted British nationals from Afghanistan and British nationals who left Ukraine in connection with the Russian invasion on 24 February 2022. Students in these categories are excepted if they have been ordinarily resident in the United Kingdom since

their departure from Afghanistan and Ukraine respectively. They do not require to meet the three-year residence requirement despite their status as a British citizen.

Factual background

[16] The reclaimer, who is 23 years old, was born and brought up in South Africa, where he lived until February 2021. His mother was born in Scotland before she moved to South Africa as a child in 1974. The petition avers that she was a journalist and later a communications advisor in the public sector. She discovered and reported on allegations of corruption involving prominent people in South Africa. The reports resulted in threats and intimidation against her family (including the reclaimer). In view of this she and the reclaimer relocated to the United Kingdom in February 2021. The reclaimer has South African citizenship by birth, and British citizenship by virtue of his mother. He is accordingly entitled, as a matter of law, to live in any part of the United Kingdom.

[17] In her affidavit the reclaimer's mother explains that in May 2021 she and the reclaimer contacted the Home Office to apply for humanitarian protection or refugee status. They took this step because she believed that it would enable the reclaimer to be exempt from the three-year residency rule that was necessary for him to be classified as a home student and to benefit from home fee rates. The Home Office explained that it was not possible for the reclaimer or his mother to be registered as asylum seekers and that they did not qualify for humanitarian protection. This was because they were British citizens.

[18] The reclaimer was given a place on the respondent's BSc Optometry course for the academic year 2021-2022. At that time the respondent considered the reclaimer was an international student and as such he would have to pay higher fees.

[19] Due to administrative errors the reclaimer was, however, charged only fees at the level paid by Scottish students in his first two years of study. In his third year the respondent discovered the mistake and sought to charge higher fees and recover the underpayments for the previous years. The reclaimer has completed his course and passed the examinations. He has not been allowed to graduate. He is not eligible to enrol in the appropriate post-degree course to qualify him to practise as an optometrist.

Outline of the reclaimer's case

[20] The reclaimer's position is that his circumstances are analogous to those students classified by the 2011 Regulations as "excepted students" who, due to humanitarian reasons, have required to flee their country and are living in Scotland as refugees. He contends that there is an anomaly in his case resulting from the fact that he has British citizenship by virtue of his mother and is thereby precluded from claiming refugee status. He says that it is unjustifiably discriminatory that his British citizenship counts against him in the context of eligibility for home tuition fees.

[21] The reclaimer contends that his right to education under Article 2 of the First Protocol to the European Convention on Human Rights has been unlawfully interfered with and that he has been subject to discriminatory treatment contrary to his Article 14 (rights to be secured without discrimination) rights under the Convention. He alleges that he has been treated differently, for no justifiable reason, from an excepted student. The main contention is that his British citizenship was not a relevant factor for the purpose of drawing an analogy between his circumstances and those of an excepted student.

[22] The reclaimer advances the argument that a reading of the excepted categories in the 2011 Regulations that is compliant with the Convention is required under section 3 of the

Human Rights Act 1998. Such a reading, the reclaimer proposes, would cure any discriminatory effects towards British nationals who would otherwise be considered as refugees.

The Lord Ordinary

[23] The reclaimer's case hinged on him being in a position analogous to that of an excepted student. The relevant issue was whether he should have been treated as being in the same position as the persons covered by the exceptions and, if so, whether the differences in treatment could be justified (*R (Stott)* v *Justice Secretary* [2018] UKSC 59; [2020] AC 51).

[24] While it was correct that the categories of excepted student covered people who had fled their country of residence for humanitarian reasons, that was not the only factor binding the categories together. It was important to note that none of the categories involved those, such as the reclaimer, who enjoyed an automatic right to live in Scotland or the United Kingdom. The categories concerning foreign nationals all included some requirement for leave or permission having to be given for them to take up residence in the United Kingdom. The reclaimer, on the other hand, had an unconditional right to live anywhere he chose in the United Kingdom.

[25] The Scottish Government exercised a deliberate choice as to who would be a beneficiary of funding for further education. The reclaimer had more in common with students from the rest of the United Kingdom than with foreign nationals with no right to reside in any part of the United Kingdom. He was in a position to qualify for Scottish funding had he chosen to as he had an unconditional right to remain in Scotland. This was the basis on which the Scottish Government determined that funding should be allocated

and it could not be said that the reclaimer was in the same category as foreign nationals who have no right to enter the UK save for falling into one of the excepted categories.

[26] There was no breach of the reclaimer's rights under Article 14. Even if there was a breach, the 2011 Regulations could not legitimately be read so as to include the reclaimer. This would go beyond reading the provisions in line with section 3 of the 1998 Act and would change the substance of the provision (*Ghaidan* v *Godin-Mendoza* [2004] UKHL 30; [2004] 2 AC 557).

[27] The 2011 Regulations intended to identify those who should be beneficiaries of government subsidy of further education costs. While the petitioner did have some similarities to the classes referred to in the regulations, this did not change the fundamental fact that the changes which the reclaimer sought would have had the effect of altering the class of people to whom public resources were directed. That was a matter particularly suited to a democratically elected government and not the court.

Summary of the reclaimer's submissions

[28] It was lawful for a state to regulate education. However, where the state has provided funding for education on a particular basis, that must be done in a non-discriminatory manner (*Ponomaryov* v *Bulgaria (5335/05)* (2014) 59 EHRR 20).

[29] The reclaimer was not an excepted student under the 2011 regulations, but they required to be read in such a way that they did not discriminate against him on the basis of his British nationality.

[30] The underlying policy rationale of the humanitarian excepted categories was clear. The excepted categories offered university education to those who were involuntarily displaced. Those finding themselves forcibly displaced may have had to abandon their

property or have otherwise been deprived of it in fleeing from their ordinary place of residence. Absent any provision, a person would have had to wait for three or more years to have access to the lower fees. This delay was likely to produce profound difficulties and financial hardship, particularly for young people (*R (Tigere)* v *Business, Innovation & Skills Secretary* [2015] UKSC 57; [2015] 1 WLR 3820). These were the pertinent characteristics which were key to understanding the concepts of excepted students.

[31] The reclaimer fled his former country of residence for humanitarian reasons. There were severe risks to his life and to the lives of his family. His family had suffered financially as a result. The lack of choice behind his displacement distinguished him from students from the rest of the United Kingdom choosing to study in Scotland. Unlike those students he could not claim relief from tuition fees. He was in an analogous position to those in the humanitarian classes of excepted students but due to his British citizenship he could not benefit from refugee status.

[32] The 2011 Regulations sought to secure student funding for those connected to Scotland. Separately, the scheme provided student funding for those who had a humanitarian cause. These were legitimate aims. No justification was provided for the differentiation in treatment between the reclaimer and those who were excepted students for humanitarian reasons.

[33] It was not legitimate to exclude British citizens from humanitarian funding for higher education when they shared core characteristics with those persons whom the exceptions otherwise recognised and protected. There was a *lacuna* in the regulations because they were premised on the misconceived basis that humanitarian protection would never be required for those holding British citizenship.

[34] There was no rational connection between the exclusion of the reclaimer from the excepted student categories and either to the overall policy objectives of the 2011 Regulations, or the creation of the exceptions to the ordinary residence rule. It was not proportionate to draw a distinction that excluded the reclaimer simply on the basis of nationality. The 2022 Regulations recognised that, while this would be rare, British citizens may be required to flee their foreign place of ordinary residence in order to resettle in the United Kingdom.

[35] The obligation to read legislation in a manner compatible with the Convention rights could extend to include significant insertions into legislation such as to give it a compliant meaning (*Ghaidan* v *Godin-Mendoza*, paragraph 32).

[36] The reclaimer's difficulties could have been avoided if the 2011 Regulations were read in a manner that recognised the similarities of the reclaimer to a refugee despite his immigration status. This could have been done by inserting words to the effect of "or any person who would qualify for such humanitarian protection but for their having British nationality" into paragraph 4 of Schedule 1 to the 2011 Regulations. Such an inclusion would have a minor effect and would not dramatically expand the excepted category.

[37] Such a reading fell within the bounds of what was possible for the purposes of section 3 of the 1998 Act. It would have extended the protections offered to certain excepted students to those who, through quirk of nationality, did not pass the screening processes of immigration law. This would cure the gap left by the 2011 Regulations.

Respondent and interested parties: summary of submissions

[38] It was not unlawful to charge the reclaimer higher tuition fees. On the application of the three stage approach in *S* v *L* [2012] UKSC 30; 2013 SC (UKSC) 20), the court must

consider (i) the ordinary construction of the legislation; (ii) whether the ordinary construction led to an incompatible outcome with a Convention right; and (iii) if such incompatibility was established, whether it could be cured by the use of section 3 of the 1998 Act. The first stage of the test was not contentious. It was agreed that on an ordinary construction of the 2011 Regulations the reclaimer was not an excepted student.

[39] The second stage required incompatibility with the reclaimer's Article 14 rights. To establish such a breach, he required to show, *inter alia,* that he had been treated differently in an analogous situation to a comparator group and that there was no objective justification for the difference in treatment (*R (Stott)* v *Justice Secretary)*.

[40] The reclaimer had only been present in the United Kingdom for a period of six months before the relevant date (1 August 2021) for the purpose of the 2011 Regulations. He did not have a relevant connection with Scotland. He was not analogous to an individual who had been given leave or permission to remain in the United Kingdom for humanitarian reasons. There was a difference between a British national and a non-British national who had fled countries because of a similar threat.

[41] There was a wide margin of appreciation afforded to the State in respect of the right to education. The decision to treat some non-British nationals differently from British nationals fell within the range of reasonable options open to the legislature. Funding of higher education was a matter for regulation by the national authorities and where to draw the line was a matter for the judgement of the legislature (*Belgian Linguistic Case (No 2)* (1979-80) 1 EHRR 252).

[42] The 2011 Regulations were put in place because of the diverging policies on tuition fees between Scotland and the rest of the United Kingdom. To protect opportunities for Scottish students, the 2011 Regulations removed the fee cap in relation to non-Scottish

resident students, leaving universities free to charge such students a higher level of fees set by them. This was a legitimate policy aim of the Scottish Ministers to provide access to higher education for students who normally lived and studied in Scotland. This required a spending commitment by the interested parties in relation to which the courts should be slow to interfere (*Fanning* v *Secretary of State for Work and Pensions* [2025] CSOH 50; 2025 SLT 787).

[43] Article 14 was not engaged as the reclaimer did not demonstrate that he had been treated differently from those in an analogous situation. Nor was he able to establish that there was no justification for any difference in treatment (*R (Stott)* v *Justice Secretary*).

[44] The 2011 Regulations when read with the 1998 Act produced no incompatibility under the normal rules of statutory construction (*S* v *L*). The proposed reading sought to use section 3 of the 1998 Act to change the policy expressed in the 2011 Regulations. This crossed the line from interpretation to amendment.

[45] Although the Lord Ordinary had referred to a declaration of incompatibility, this was not an available disposal. Such a declaration could only be made in respect of primary legislation under section 4 of the 1998 Act. If it was considered that the 2011 Regulations were not compatible with the Convention they would be considered *ultra vires* under the Scotland Act 1998. That would raise a devolution issue. There would have to be intimation to the United Kingdom law officers.

Decision

[46] Article 2 of the First Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms provides as follows:

> "No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions."

[47] In *Tarantino* v *Italy* (2013) 57 EHRR 26 the European Court of Human Rights explained that, in spite of its importance, the right under A2P1 was not absolute, but might be subject to limitations; these were permitted by implication since the right of access by its very nature called for regulation by the state (see *Belgian Linguistic Case (No 2)* (1979-80) 1 EHRR 252). The regulation of educational institutions might vary in time and place *inter alia* according to the needs and resources of the community and the distinctive features of different levels of education. Consequently, the contracting states enjoyed a reasonably wide margin of appreciation in this sphere. In order to ensure that any restrictions that were imposed did not curtail the right in question to such an extent as to impair its very essence and deprive it of its effectiveness, the restrictions would have to be foreseeable for those concerned and pursue a legitimate aim. However, unlike the position with respect to Articles 8 to 11 of the Convention, there was no exhaustive list of legitimate aims under A2P1. Furthermore, a limitation would only be compatible with A2P1 if there was a reasonable relationship of proportionality between the means employed and the aim sought to be achieved (paras 44 and 45).

[48] Article 14 of the Convention provides as follows:

> "The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status."

[49] In *R (Stott)* v *Justice Secretary* [2018] UKSC 59; [2020] AC 51 Lady Black (at paragraph 8) summarised the approach to an Article 14 claim as follows:

> "In order to establish that different treatment amounts to a violation of article 14, it is necessary to establish four elements. First, the circumstances must fall within the ambit of a Convention right. Secondly, the difference in treatment must have been on the ground of one of the characteristics listed in article 14 or 'other status'. Thirdly, the claimant and the person who has been treated differently must be in analogous situations. Fourthly, objective justification for the different treatment will be lacking. It is not always easy to keep the third and the fourth elements entirely separate, and it is not uncommon to see judgments concentrate upon the question of justification, rather than upon whether the people in question are in analogous situations. Lord Nicholls of Birkenhead captured the point at para 3 of *R (Carson) v Secretary of State for Work and Pensions* [2006] 1 AC 173 [[2005] UKHL 37]. He observed that once the first two elements are satisfied:
>
> > 'the essential question for the court is whether the alleged discrimination, that is, the difference in treatment of which complaint is made, can withstand scrutiny. Sometimes the answer to this question will be plain. There may be such an obvious, relevant difference between the claimant and those with whom he seeks to compare himself that their situations cannot be regarded as analogous. Sometimes, where the position is not so clear, a different approach is called for. Then the court's scrutiny may best be directed at considering whether the differentiation has a legitimate aim and whether the means chosen to achieve the aim is appropriate and not disproportionate in its adverse impact.'"

[50] The reclaimer does not seek to attack the legitimacy of the policy adopted by the Scottish Government on the subsidisation of tuition fees for Scottish students. He accepts that it is open to the Scottish Government to pay the fees for such students but not for those based in other parts of the United Kingdom. The reclaimer's complaint is narrower. Essentially, he claims that he has been unfairly discriminated against in comparison with students who have fled to Scotland for humanitarian reasons and been allowed to remain here. He says that this is what he had to do and that he should therefore be treated no differently.

[51] The difficulty with this argument is that the reclaimer does not seek to compare like with like. He is not in an analogous position to the "excepted students". His situation is fundamentally different to theirs. This is because, unlike them, he does not require leave or permission to enter or remain in the United Kingdom. On the contrary, he has an absolute

legal right to live in this country by virtue of his British citizenship. So long as the reclaimer satisfied the residence requirements laid down in the Education (Fees) (Scotland) Regulations 2011, he would have the same rights as any other British citizen to subsidised fees for higher education in Scotland. The reclaimer is in an analogous situation to any other British citizen who does not have an established residence in the United Kingdom. The circumstances in which such a citizen has returned to the United Kingdom is not the determining factor. The reclaimer's position is not analogous to those in the excepted student category. A British citizen who elects to exercise his or her right of residence in the United Kingdom because of a threat to his or her safety in another country cannot sensibly be equiparated with a citizen of another country who seeks humanitarian protection in the United Kingdom.

[52] For this reason, the reclaimer's Article 14 case must be rejected.

[53] Even if there could be said to be a relevant difference of treatment for the purposes of Article 14, any discrimination would be objectively justifiable. It is quintessentially a matter for the Scottish Government to set the criteria for entitlement to subsidised higher education in Scotland. In this area they enjoy a wide margin of appreciation. The reclaimer sought to argue that there had been no attempt to justify on policy grounds the ineligibility of a person in his position for subsidised fees. This criticism is unfounded. The policy is based on the principle that those entitled to subsidised higher education in Scotland must demonstrate a sufficient connection with Scotland. That represents a legitimate aim of the scheme set out in the 2011 Regulations. How to define what is considered to be a sufficient connection raises questions of public policy and political judgement; these are for the legislature and not the courts. The decision to treat British nationals as a group involved a legitimate policy choice by the Scottish Government in devising the scheme contained in the 2011

Regulations. The details of the residence requirements for different categories of students are matters falling within the wide margin of appreciation extended to the relevant authority, the Scottish Government. It is notable that the requirements imposed in the case of excepted students are strict. Essentially, they must have been ordinarily resident in the United Kingdom at all times since being granted permission to enter or remain and be ordinarily resident in Scotland at the time of commencing their course. The policy is concerned with the exercise of lawful rights to live in the United Kingdom in the case of both British citizens and the excepted students.

[54] Since the reclaimer has failed to show that he has been unlawfully discriminated against, the question of the application of section 3 of the Human Rights Act 1998 does not arise.

[55] Even if that were not the case, we do not consider that section 3 of the 1998 Act could properly be invoked in the way the reclaimer proposes. The additional words that the reclaimer proposes should be inserted into paragraph 4 of Schedule 1 to the 2011 Regulations would fundamentally transform the effect of the provision so that it no longer covered non-British citizens only; it would now extend also to British citizens. It is not legitimate for the courts to use section 3 to reshape the provision in this radical way. In the famous words of Lord Rodger of Earlsferry, such a reconstruction would not "go with the grain of the legislation" (*Ghaidan v Godin-Mendoza* [2004] UKHL 30; [2004] 2 AC 557 at paragraph 121). The proposed expansion of the provision would be inconsistent with the scheme of the legislation and with its central principles. In effect, the court would be altering the policy choice made by the Scottish Government. The proposed alteration to the terms of paragraph 4 of Schedule 1 clearly crosses the line from interpretation to amendment.

[56] It is also relevant to note that on a practical level the reclaimer's proposed new formulation would create substantial difficulties and be liable to generate confusion and uncertainty for university and college admission officers. They would be put in the near impossible position of having to adjudicate on a hypothetical and impenetrable question: whether a British citizen who *ex hypothesi* does not qualify for refugee status would but for such citizenship have been entitled to humanitarian protection. Such a reframing of the words of paragraph 4 would extend well beyond what is permissible under section 3 of the 1998 Act.

[57] We refuse the reclaiming motion and adhere to the Lord Ordinary's interlocutor of 24 June 2025 refusing the petition for judicial review.