

The Property (Digital Assets etc) Act 2025: Digital asset ownership

Overview:

The Property (Digital Assets etc) Act 2025 entered into law in the UK in December 2025. The Act creates a third category of personal property, explicitly recognising digital assets like cryptocurrencies and NFTs as legal property. This principles-based legislation strengthens protections for digital asset owners and provides both clarity and flexibility.

Full article:

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In brief

- The Property (Digital Assets etc) Act creates a third category of personal property beyond "things in possession" and "things in action", allowing digital assets like cryptocurrencies and non-fungible tokens (NFTs) to be recognised as legal property.
- Digital assets share the key characteristics that English law has traditionally used to identify property, including being definable, identifiable, transferable, subject to exclusive control, and possessing requisite permanence and rivalrousness.
- The Act provides stronger legal protections for digital asset owners, enabling them to seek remedies for theft or misappropriation, use digital assets as collateral, and ensures at a statutory level, that such assets are properly treated in proceedings.
- By adopting a principles-based approach rather than prescriptive definitions, the Act gives the courts flexibility to develop the law in response to rapidly evolving technology whilst positioning the UK as an attractive jurisdiction for digital innovation.

On 2 December 2025, [the Property \(Digital Assets etc\) Act 2025](#) received Royal Assent and came into force, marking a significant development in modernising the legal framework for digital assets. For the first time, digital assets such as cryptocurrencies and non-fungible tokens (NFTs) are explicitly recognised in statute as capable of being personal property.

Why digital assets have struggled to be classified as legal "property"

Traditionally, English law has divided personal property into two categories. The first category is "things in possession" – these are physical objects you can touch and hold, such as gold bars, cars, paintings, jewellery, or furniture. The second category is "things in action" – intangible rights that you cannot physically touch but can enforce through the courts, such as the right to collect a debt owed or the rights under a contract.

However, the emergence of digital assets such as cryptocurrencies and NFTs has created a significant challenge for this traditional framework. These new types of assets possess distinctive characteristics that make them difficult to fit into either of the existing categories. They cannot be physically possessed in the way that physical items can be and, unlike debts, contractual rights and other forms of intangible legal property, they exist independently of any legal system – for example, a cryptocurrency exists on a blockchain network irrespective of whether any country's legal system recognises it or not.

How digital assets behave like property

Despite the classification challenges, when one examines how digital assets function, they share many of the key characteristics that the law has traditionally used to identify property. Caselaw has referred to these characteristics as "indicia" of property – essentially, a checklist of features that help determine whether something should be treated as property under the law. A review of these indicia illustrates that many types of digital assets contain these key characteristics:

Definable

An asset must be capable of clear definition with ascertainable boundaries and characteristics that distinguish it from other property. A car, for example, can be defined by its physical attributes (its make, model, colour etc.). Similarly, Bitcoin is definable as a specific quantity of cryptocurrency recorded on a blockchain with unique transaction identifiers and wallet addresses.

Identifiable by third parties

Third parties must be able to recognise and distinguish the asset from other property, enabling verification of ownership and existence. A company share (a common example of a "thing in action") is identifiable through share certificates, registry entries, and unique shareholder reference numbers. These allow third parties to recognise and verify the specific share in question. By comparison, NFTs are also identifiable – through, for example, unique token IDs on the blockchain, metadata, and smart contract addresses.

Capable of assumption by third parties

The asset must be transferable or capable of being assumed, possessed, or controlled by another party. Here too, digital assets act in similar ways to traditional property models – cryptocurrency can be transferred to another party by sending it to their wallet address using private keys, in much the same manner as a watch can be bought in a shop or the rights under a contract can be assigned to another party.

Subject to exclusive control

Someone must be able to exercise exclusive dominion over the asset, excluding others from its use or enjoyment. Physical possession of a bike allows one to prevent others from using it; so too, a private wallet on a cryptocurrency account is subject to exclusive control through possession of the private cryptographic keys.

Requisite degree of permanence and stability

The asset must have sufficient stability and durability over time. It cannot be too transient or ephemeral to constitute property. As an illustration, a building possesses *permanence* as a lasting structure, unlike a sandcastle that erodes quickly. In addition, an asset's essential characteristics and existence must remain relatively constant, not fluctuating so dramatically as to undermine its nature as property. Once again, digital assets conform to these indicia: Bitcoin stored on the blockchain has permanence as the distributed ledger maintains the record indefinitely, and the specific quantity of Bitcoin one owns remains *stable* as a number, despite price volatility.

Requisite degree of rivalrousness

An asset is rivalrous if one person's use necessarily precludes simultaneous use by others. For example, a debt can only be collected once; payment to one creditor extinguishes the right of another to collect the debt. So too, a specific Bitcoin can only be spent once due to blockchain protocols preventing double-spending, making it rivalrous in nature.

Requisite degree of separability

Property must be capable of existing separately from the person who owns it, enabling it to be dealt with as a distinct, independent asset. A painting can be separated from its owner and sold, and a specific contractual right can be separated from other terms in a contract and assigned to someone else. So too, ownership of cryptocurrency is tied to control of the private cryptographic key, not to any particular person. The cryptocurrency exists as a distinct thing and can be transferred independently.

Legislative journey and framework

Given the overwhelming conformity of digital assets to other property indicia, it is not surprising that over the past decade, English courts have begun to tentatively recognise certain digital assets as property. Most notably, in 2019 in [AA v Persons Unknown](#), the High Court found that Bitcoin could be considered property even though

it is neither a thing in possession nor a thing in action. This case signalled judicial willingness to treat digital assets as property and grant legal remedies to protect them but, in the absence of clear statutory guidance, legal uncertainty remained.

Recognising this uncertainty, the Law Commission commenced a review in April 2021, consulting members of the judiciary, legal practitioners, technology sector representatives, and other stakeholders. The Commission's July 2022 consultation paper proposed the introduction of a distinct third category of personal property called "data objects" and set out three key criteria that digital assets must satisfy to fall within this new category (as we discussed in our article: [Law Commission launches Digital Assets Consultation Paper proposing new category of personal property](#)). In its [June 2023 final report](#), the Commission recommended legislation to confirm that a thing can be property even if it is not a thing in possession or a thing in action, thereby validating the emerging third category in common law. This proposal won widespread support (we considered the Final Report and its recommendations for reform in our previous article, [Digital Assets Consultation: Final Report](#)).

In September 2024, the Government introduced the Bill in the House of Lords, and it received swift passage with only minor amendments being made prior to it receiving Royal Assent.

What the Act does (and does not) do

The Act comprises only one substantive provision. Section 1 states:

"A thing (including a thing that is digital or electronic in nature) is not prevented from being the object of personal property rights merely because it is neither (a) a thing in possession, nor (b) a thing in action."

The provision confirms that an asset can be legal property even where it does not conform to the previously existing traditional classifications of property. This means that cryptocurrencies and other novel intangibles can fall within the scope of personal property rights if they meet the general criteria the law expects of "property" (i.e., the indicia discussed above).

Importantly, the Act does not list which digital assets are property or define the exact rights they confer. This might seem like an oversight, but it reflects a deliberate policy choice. Technology evolves rapidly. New types of digital assets are constantly being created, and existing ones are being used in novel ways. If the Act had provided a detailed, prescriptive list of what counts as property, that list would quickly become outdated as technology advances. Similarly, if the Act had rigidly defined the rights attached to digital assets, it might not accommodate future innovations. Instead, the legislation leaves finer details to be worked out by the courts on a case-by-case basis, with judges continuing to play a pivotal role in shaping how digital assets are treated.

Practical implications

The Act's real-world impact will be realised in a number of ways:

- **Stronger protection against theft or misuse:** the Act confirms that owners of digital assets can possess enforceable property rights with meaningful legal remedies. If digital assets are stolen, hacked, or misappropriated, owners can take legal action to assert their property rights and seek remedies. Courts can impose proprietary injunctions (for example, freezing orders) to block wrongdoers from dissipating stolen digital assets, just as they would for stolen tangible property. Furthermore, the recognition of digital assets as property means that traditional property law remedies – including tracing claims and the imposition of constructive trusts – may become available to victims, providing a more robust recovery process.
- **Inclusion in estate and insolvency:** digital assets now clearly form part of a person's estate. Executors and administrators can deal with cryptocurrencies and NFTs with greater confidence, knowing these assets are legally recognised property that can be distributed to beneficiaries. Similarly, in divorce proceedings, the Act puts on a statutory footing the fact that digital assets must be disclosed and can be taken into account when dividing property between the spouses. In the insolvency context, if a business holding crypto-assets becomes insolvent, those assets form part of the pool available to creditors, ensuring fairer outcomes for all stakeholders.

- Use as collateral and in commerce: recognising digital assets as property opens the door for them to be utilised as security for financing arrangements. Lenders may now be more willing to accept crypto-assets as collateral, knowing that the law confirms such assets exist within a property rights framework and that they can enforce their security interests through established legal mechanisms. This development could unlock new sources of capital for businesses and individuals holding digital assets, facilitating growth in the digital economy.
- Reducing litigation costs and encouraging innovation: the Act removes the costly threshold question of whether something can be "property" at all, enabling courts to address substantive disputes directly. This should streamline legal proceedings, reduce uncertainty and encourage businesses in the crypto and FinTech sectors to operate under English law. Importantly, the Act's clarification also benefits traditional businesses that are considering entering the digital asset space but have perhaps previously been deterred by legal uncertainty. By establishing a clear legal framework, the Act lowers the barrier to entry for companies who are, for example, exploring blockchain technology, considering accepting digital assets as payment, or evaluating whether to offer crypto-related services. This legislative certainty positions the UK as an attractive jurisdiction for digital innovation.

A new age – digital assets are here to stay

The Act does not exist in isolation. It forms part of a comprehensive regulatory landscape that the UK is building to address digital assets from multiple angles. As an illustration of this, the Financial Conduct Authority is developing an extensive crypto-assets regulatory framework focused on consumer protection (see, for example, the consultation papers the FCA has published in relation to [crypto-asset custody](#) and [regulated crypto-asset activities](#)), whilst the Economic Crime and Corporate Transparency Act 2023 has provided law enforcement with enhanced powers to seize crypto-assets (as explained in the Government Factsheet: [Economic Crime and Corporate Transparency Act: crypto-assets](#)). These developments will sit alongside the Act, providing consumer protection whilst the Act provides the underlying property law framework.

The Ministry of Justice has tasked the UK Jurisdiction Taskforce (UKJT) – a tech-law panel chaired by the Master of the Rolls – to provide expert guidance on technical and legal issues, including defining "control" of digital assets and how traditional concepts map onto decentralised technologies. The UKJT has already published leading reports on [smart contracts and blockchain technologies](#). Its ongoing work will help ensure that English law continues to develop in a way that is both legally sound and technologically informed.

These measures support the UK's development as a prominent jurisdiction for digital asset innovation. They help maintain legal protections, regulatory oversight, and enforcement capabilities that contribute to a functioning legal and financial system. The Act's principles-based approach does leave certain questions to be resolved through future court cases, though this flexibility may allow the law to adapt to evolving technology. As digital assets become more integrated into commercial and personal transactions, the Act provides a legal framework to support this development.

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