[GB] The Property (Digital Assets etc) Act came into force

IRIS 2026-1:1/7

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The Property (Digital Assets etc) Act 2025 received Royal Assent on 2 December 2025 and came into force on the same day. The background to the Act was described in IRIS 2025-1:1/9.

The Act states that digital assets are not prevented from being treated as a form of property merely because they are not easily categorised within existing legal categories of property, namely "things in possession", like a car or land and "things in action", such as stocks and shares.

This new legislation allows the courts to create rules that reflect the unique characteristics of digital assets such as non-fungible tokens (NFTs) or crypto currencies even within the framework of the normally incremental development of the English common law.

Section 1 of the Act 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 principle set out in the Act avoids a prescriptive route to take account of the fast-changing technology but also falls into line with the existing common law principles that the courts will categorise something as property, even if it cannot be identified within the usual forms of property.

Prior to the enactment of the Act, the English courts relied upon common law principles as to what digital assets may be determined as property.

The court decision in *National Provincial Bank v. Ainsworth (1965) 1AC 1175* determined several principles to help determine whether something can be classed as property in law. These characteristics include being capable of being identified by third parties, being capable of assumption or being transferred to third parties, something that can be subject to exclusive control and has the characteristic of being desirable or wanted (rivalrousness).

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The Act endorses the courts' prior approach and it is anticipated that the legislation will confirm that owners of digital assets can possess enforceable property rights with meaningful legal remedies such as injunctions, claims for damages and prosecution for theft by a third party.

National Provincial Bank v. Ainsworth (1965) 1AC 1175

https://www.bailii.org/uk/cases/UKHL/1965/1.html

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https://www.legislation.gov.uk/ukpga/2025/29

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