

ALERTER

The Property (Digital Assets etc) Act 2025

Weishi Yang



Weishi Yang examines the recent Property (Digital Assets etc) Act 2025.

On 2 December 2025, the Property (Digital Assets etc) Act 2025 (the “**Act**”) was given royal assent and came into force that same day.

The new Act contains one substantive provision, at section 1:

“ 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—
(1) a thing in possession, nor
(2) a thing in action. ”

This provision relates to a longstanding problem in fitting digital assets within the legal taxonomy of personal property. The common law has traditionally only recognised two categories of personal property: ‘things in possession’ and ‘things in action’. The difficulty was, as the Law Commission concluded in its extensive consultation, that some digital assets did not neatly fall within either of these categories, and instead should be considered to fall into a bespoke third category.

[While there has been some suggestion of the existence of this third category in the case law](#), this is the first time that any such category has been recognised in legislation.

It should be noted that section 1 of the Act does not expressly provide that digital assets do fall within a third category. The provision is instead framed in the negative, providing that a digital asset does not need to fall within either of the traditional categories to be considered personal property. As such, section 1 can be characterised as an ‘unlocking provision’, supporting the common law’s development of the legal characterisation of digital assets, without prescribing what exactly that development would entail.

The Act is also not prescriptive on how digital assets should be treated in law. While the Law Commission’s Final Report contains guidance for the courts on how they consider digital assets can be treated as a form of personal property, including their transfer, use as collateral, and recovery through legal action, those recommendations are not binding. The Act merely permits the courts to develop the common law on digital assets, and by being so permissive, to evolve alongside future technological advancements in the digital asset sphere.

Finally, it should be noted that section 1 of the Act is not strictly limited to digital assets. While the legal treatment of digital assets is at

The Property (Digital Assets etc) Act 2025

Weishi Yang

the forefront of this policy reform, the wording of the Act makes clear that digital assets are merely included within the scope of section 1. As such, section 1 leaves open the possibility

that this provision will be relied upon in the future to support categorising other ‘things’ within a bespoke additional category of personal property.

ABOUT THE AUTHOR



Weishi Yang

Weishi accepts instructions across all of Chambers’ main areas, with a particular focus on commercial litigation, arbitration, group actions, and insolvency.

Weishi regularly advises on digital trade finance. Weishi previously worked as the main research assistant on the electronic trade documents project at the Law Commission of England and Wales, and thus she has unique expertise on the Electronic Trade Documents Act 2023.

View Weishi’s profile [here](#).

