



Property (Digital Assets etc.) Act 2025 & Digital Assets (Scotland) Act 2026

Practitioner Q&A Guide for Will-Writers, Estate Planners and Probate Practitioners

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Scope note

This guide focuses on the Property (Digital Assets etc.) Act 2025 for England, Wales and Northern Ireland, and the Digital Assets (Scotland) Act 2026 for Scotland. It explains what these statutes do, what they do not do, and why they matter for will-writing, estate planning and probate conversations.

It is designed as a quick-reference Q&A for practitioners, not as a general crypto estate planning manual.

Important boundary

This guide is educational and process-support material only. It is not legal advice, tax advice, regulated financial advice, litigation advice, technical recovery advice or drafting advice for any specific matter.

Practitioners should refer to the legislation itself, firm precedents, current professional guidance and appropriate specialists where required. For Scottish matters, check whether relevant provisions of the Digital Assets (Scotland) Act 2026 are in force and obtain Scots law advice where the point matters.

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1. Summary: what practitioners need to know

In 60 seconds

The UK position is now clearer, but still jurisdiction-specific. The Property (Digital Assets etc.) Act 2025 applies in England and Wales and Northern Ireland. Scotland has separate legislation, the Digital Assets (Scotland) Act 2026.



The practical message is simple: digital assets are increasingly recognised as capable of being property, but the legislation does not solve access, evidence, valuation, tax, succession or platform-process problems.

What has become clearer	What still needs separate planning
Certain digital or electronic things can be recognised as objects of personal property rights in England, Wales and Northern Ireland.	Access to wallets, devices, email accounts, seed phrases, exchange accounts and 2FA still requires separate planning.
The Scottish Act confirms a Scots law route for certain digital assets as objects of property in Scots private law.	Succession, executry, incapacity, trusts and drafting still differ by jurisdiction.
Practitioners have a stronger reason to ask about digital assets in normal estate conversations.	Tax treatment remains separate under HMRC rules and facts.
The legal recognition point is stronger than before.	Evidence of ownership, control, value and recoverability still matters.

Practitioner memory line

Legal recognition gives you a stronger foundation. It does not give you the password, seed phrase, 2FA device, valuation evidence or provider access route.

2. The England, Wales and Northern Ireland position: Property (Digital Assets etc.) Act 2025

What is the basic legal change?

The 2025 Act provides that a thing, including something digital or electronic, is not prevented from being the object of personal property rights merely because it is neither a thing in possession nor a thing in action.

In plain English, a digital or electronic thing is not excluded from property status simply because it does not fit neatly into the two traditional categories of personal property.

Practitioner note: Avoid saying “the Act makes all crypto property”. It is safer to say the Act removes a technical barrier and supports recognition where the asset has the relevant characteristics.

When did it come into force?

The 2025 Act received Royal Assent on 2 December 2025 and came into force the same day. It extends to England and Wales and Northern Ireland.

What does the 2025 Act not do?

- It does not create a complete code for ownership, transfer, succession, custody, taxation or recovery.
- It does not list every digital asset that qualifies.
- It does not force exchanges or custodians to cooperate instantly.
- It does not unlock accounts, recover lost seed phrases or replace valuation evidence.
- It does not apply as part of Scots property law.

3. The Scotland position: Digital Assets (Scotland) Act 2026

The Scottish Parliament states that the Digital Assets (Scotland) Bill became an Act on 16 April 2026. The Act is separate from the 2025 Act and is designed for Scots private law.

What does the Scottish Act do at a high level?

- It concerns the nature of certain digital assets as objects of property in Scots law.



- It defines a digital asset, for the purposes of the Act, as a thing that arises from an electronic system that makes it rivalrous and exists independently from the legal system.
- It provides that, in the law of Scotland, digital assets are incorporeal moveables, so far as consistent with their nature.
- It includes a presumption that a person with control of a digital asset owns it, unless the contrary can be shown.
- It includes rules about acquisition of ownership and exclusive control.

Commencement caution

The Act became an Act on 16 April 2026. The Act as passed provides that sections 6, 7, 8 and 9 come into force the day after Royal Assent, while the other provisions come into force on a day appointed by the Scottish Ministers. Before relying on a specific provision in a live matter, check the latest commencement position and take Scots law advice where needed.

What is the practical message for will-writers?

Scotland is not simply covered by the 2025 Act. It has its own statutory route. This strengthens the broader message that digital assets matter as property, but it does not make Scottish succession, executry, incapacity, trusts or drafting rules the same as England and Wales.

Practitioner note: If a matter is Scottish, cross-border, executry-heavy or drafting-sensitive, signpost to a suitably qualified Scottish specialist.

4. What the Acts do and do not do

Issue	Position	Practitioner takeaway
Property status	2025 Act: removes a technical barrier in England, Wales and Northern Ireland. Scottish Act: confirms a Scots law approach for certain digital assets.	Useful legal certainty, but still fact-sensitive and jurisdiction-specific.
Scotland	Scotland has separate legislation. Do not treat the 2025 Act as the Scots law answer.	Use Scottish-specific signposting where local law matters.
Access	Neither Act grants access to wallets, devices, passwords, exchanges or email accounts.	Plan separately for records, provider routes and access evidence.
Tax	Neither Act changes HMRC treatment.	IHT, CGT and Income Tax signposting remains separate.
Succession	Neither Act changes who inherits.	The will, intestacy rules and local succession law still matter.
Provider processes	Neither Act overrides platform bereavement or deceased-account procedures.	Do not tell executors to “just log in”.
Valuation	Neither Act sets valuation rules.	Evidence, methodology and date-of-death valuation still matter.
Lost access	Neither Act recovers lost seed phrases, private keys or devices.	Record evidence and signpost. Do not assume nil without proper analysis.

5. Core practitioner Q&A

1. How does the 2025 Act change the legal treatment of cryptocurrency in England, Wales and Northern Ireland?

It confirms that a digital or electronic thing is not prevented from being the object of personal property rights simply because it is neither a thing in possession nor a thing in action. This supports the treatment of many cryptoassets as capable of attracting property rights, but it does not declare that every cryptoasset is property in every case, and it does not solve access, custody or evidential issues. Practitioner note: use “capable of being property”, not “all crypto is automatically property”.



2. What is the position in Scotland after April 2026?

Scotland has its own legislation, the Digital Assets (Scotland) Act 2026. The Act is aimed at Scots private law and states that digital assets are incorporeal moveables, so far as consistent with their nature. It also includes provisions on control, ownership and acquisition. Practitioners should check commencement and take Scots law advice where local law matters.

3. Does the 2025 Act apply in Scotland?

No. The 2025 Act extends to England and Wales and Northern Ireland. Scotland has its own legal system and now has separate digital assets legislation. Do not assume England and Wales wording or legal analysis applies automatically in Scotland.

4. Does this affect intestacy outcomes?

No. The legislation does not change intestacy rules or who inherits. It supports property analysis, but succession still depends on the will, intestacy rules and jurisdiction-specific law.

5. Does this mean executors can just access crypto accounts?

No. Legal recognition and practical access are different. Executors may still need probate or confirmation documents, death certificates, identity documents, provider forms and formal instructions. For self-custody assets, access may depend entirely on the client's records.

6. Can we rely on exchanges to cooperate with executors?

Not automatically. The legislation may support the property analysis, but each exchange or custodian has its own deceased-account, bereavement or legal-process route. Some processes are slow, evidence-heavy and jurisdiction-specific.

7. Does the legislation protect an executor who logs into the deceased's exchange account?

No. Property recognition does not override platform terms, authorisation rules or the Computer Misuse Act 1990. Executors should not be advised to impersonate the deceased by using passwords, PINs, Face ID or 2FA to move funds. Use the formal estate or bereavement process.

8. Do clients need to update existing wills?

Possibly. The legislation does not automatically require a new will, but clients with digital assets should review whether their will, executor powers and supporting records are adequate. Older wills may not mention digital assets and may not support a clear practical administration route.

9. Can digital assets be gifted in specific legacies?

Yes, where the asset can be clearly identified and the drafting is suitable. The harder question is practical: can the executor identify, value and transfer the asset, and can the beneficiary receive it safely? Specific gifts should be drafted carefully and may need specialist review.

10. What if the client held assets on a locked device?

The legislation does not unlock the device. Preserve the device and evidence. Do not wipe, reset, recycle, guess passwords or test access. If the asset is self-custodied and access information is lost, recovery may be impossible. If assets are held with a provider, a formal process may exist.



11. Are NFTs treated the same as crypto?

Possibly, depending on the facts and the rights involved. Some NFTs may have property characteristics, but an NFT may also involve licences, platform terms, copyright issues or little more than metadata. Do not assume every NFT has the same value or legal treatment.

12. Does the legislation apply to stablecoins?

The 2025 Act is broad and technology-neutral. The Scottish Act uses its own definition. A stablecoin or tokenised asset may be capable of attracting property rights, but the position depends on the token structure, issuer terms, jurisdiction and facts.

13. Does it change how powers of attorney should be discussed?

It reinforces the need to think about digital assets in incapacity planning, but it does not give attorneys automatic practical access to devices, wallets or accounts. The relevant financial authority differs by jurisdiction. Authority is not the same as competence, access or safe execution.

14. Does this make it easier to trace stolen or lost crypto?

It may support legal pathways for asserting proprietary rights and seeking remedies, but it does not make blockchain tracing easier and does not guarantee recovery. Evidence, technical investigation and legal advice may still be needed.

15. Does the legislation change tax treatment?

No. HMRC tax treatment remains separate. IHT, CGT and Income Tax questions remain fact-dependent and should be signposted where the outcome matters.

16. Do trustees have new duties because of these Acts?

The legislation does not create a complete trustee-duty code. Trustees still need to consider the trust instrument, investment powers, standard of care, tax, custody, valuation and administration. High-value or technical digital assets may require specialist support.

17. Does this mean digital assets definitely form part of the estate?

Where the deceased had proprietary rights in a relevant digital asset, it may form part of the estate. Advisers still need evidence of ownership, control, location, value and recoverability. A rumour of crypto is not the same as a recoverable estate asset.

18. Are email accounts, photos and ordinary online accounts now property?

Not automatically. Some accounts are governed mainly by contract, licence terms, platform rules, privacy law or copyright rather than property ownership in the account itself. Avoid telling clients that all online accounts are now property.

19. Should firms change their fact-find?

Yes, as a practical matter. Firms should ask in plain English whether clients hold crypto, tokens, NFTs or other digital assets, and whether there are records that would help executors or attorneys.

20. Does every crypto client need a specialist clause?

Not necessarily. The right response depends on value, custody method, complexity, client intention, jurisdiction and the firm's precedent structure. Keep this guide separate from any clause specimen or drafting decision guide.



21. Do executors need express authority in the will to deal with digital assets?

Usually, executors have general authority to collect, manage and administer estate assets. It is too strong to say they can only deal with crypto if the will expressly says so. However, clear digital asset wording is sensible because it reduces uncertainty and can help confirm powers to identify, preserve, value, realise, transfer and seek specialist support. The clause gives clarity. The instruction pack gives the route. Neither replaces access planning.

22. Is crypto a personal chattel?

No. Crypto may be personal property, but it is not a personal chattel in the ordinary will-writing sense. Personal chattels are generally tangible movable personal possessions. Do not assume a personal chattels clause deals with cryptoassets.

23. What is the biggest misunderstanding about the legislation?

That it solves access. It does not. It helps with legal recognition, but estate administration still depends on discovery, evidence, valuation, provider processes, authority and safe records.

6. Safe wording and file-note prompts

Safe client explanation

Digital asset legislation helps confirm that certain digital assets may be recognised as property. It does not give your executors access to wallets, passwords or exchange accounts. The practical planning still matters: what exists, where it is held, and where your executors can find the right instructions.

File-note examples

Scenario	Suggested file note
Client confirms exchange-held cryptoassets	Client confirms cryptoassets are held on [platform]. Client advised that property recognition does not remove the need to follow the platform's formal estate process. No passwords, private keys, seed phrases or recovery codes recorded.
Client confirms self-custody wallet	Client confirms self-custody wallet exists. Client advised that legal recognition does not resolve practical access. Client to maintain separate inventory/instruction record. No access credentials reviewed, copied or retained.
Client reports lost access	Client confirms holding [asset], but states device/password/seed phrase is permanently lost. Client advised that legal recognition does not resolve practical recoverability. File note records client's explanation. Valuation, tax and recovery treatment to be signposted if material.
Client asks about tax	Client asked whether sale/transfer would create tax. Explained that digital asset property legislation does not change HMRC treatment and that tax advice should be obtained from a suitably qualified specialist.
Client asks if will needs changing	Client advised that the legislation does not automatically require a new will, but digital asset holdings may justify review of will, executor powers and supporting records.
Scottish or cross-border matter	Client matter includes Scottish/cross-border element. Client advised that Scotland has separate digital asset legislation and distinct succession/executor/incapacity rules. Local specialist review recommended where drafting or administration turns on Scottish law.

7. Top client questions about the Acts

Does this mean my Bitcoin is legally recognised?

It supports that kind of recognition, but the details depend on the asset, the facts and the jurisdiction.

Does this mean my executor can access my wallet?

No. They still need the right information and must follow safe and lawful processes.



Do I need to put my seed phrase in my will?

No. That is strongly discouraged. Store access information securely and separately. The will or instruction pack should signpost where the information is held, not reveal the secret itself.

Do I need a new will because of this legislation?

Not automatically, but it is a sensible reason to review your will and supporting records if you hold digital assets.

Does this change who inherits my crypto if I die without a will?

No. The relevant intestacy rules still apply.

Are NFTs covered?

Possibly, depending on the NFT and the rights attached to it.

Does this make lost crypto recoverable?

No. If the access route is gone, the asset may still be unrecoverable in practice.

Does it change tax?

No. Tax treatment is separate.

What should I do now?

Record what exists, where it is held and where access information is stored, without exposing passwords, seed phrases or private keys.

What if I am in Scotland?

Scotland has its own legislation and its own succession, executry and incapacity rules. Local advice may be needed where the point matters.

8. Why this matters in practice

- It gives will-writers a stronger reason to ask about digital assets as part of a modern estate overview.
- It helps probate practitioners treat digital assets as something to be investigated rather than dismissed as “not real property”.
- It helps explain why the will and supporting records need to work together.
- It gives practitioners a clear explanation of why property recognition does not solve access.
- It supports internal policy development around fact-finding, record keeping and signposting.
- It avoids the mistake of treating Scotland as simply covered by England and Wales legislation.

9. Traffic-light practitioner risk guide

Green - routine awareness	Amber - slow down and clarify	Red - signpost specialist support
Known exchange-held asset Client knows platform Clear record exists Low value relative to estate	Client unsure about exact holdings Mixed wallet/exchange setup Foreign platform 2FA/device access unclear Beneficiary capability unclear	Lost keys or seed phrase Disputed ownership Business/trust-linked assets High value Litigation/recovery issue Tax-led planning Scottish or cross-border succession issue

Practical rule

Green: record and proceed. Amber: clarify and document. Red: stop guessing and signpost.

If a file exhibits red-flag characteristics, practitioners should stop trying to triage the asset themselves and direct the client, executor or firm to appropriate specialist support.



10. Sources and further reading

- Property (Digital Assets etc.) Act 2025, legislation.gov.uk: <https://www.legislation.gov.uk/ukpga/2025/29/contents>
- GOV.UK Property (Digital Assets etc.) Bill factsheet: <https://www.gov.uk/government/publications/property-digital-assets-etc-bill/property-digital-assets-etc-bill-factsheet>
- GOV.UK announcement on the Property (Digital Assets etc.) Act 2025: <https://www.gov.uk/government/news/uk-among-first-countries-to-recognise-cryptocurrency-as-personal-property>
- Scottish Parliament Digital Assets (Scotland) Bill page: <https://www.parliament.scot/bills-and-laws/bills/s6/digital-assets-scotland-bill>
- Digital Assets (Scotland) Bill as passed / Digital Assets (Scotland) Act 2026 short title: <https://www.parliament.scot/-/media/files/legislation/bills/s6-bills/digital-assets-scotland-bill/stage-3/spbill75bs062026.pdf>
- Scottish Government Digital Assets in Scots private law materials: <https://www.gov.scot/publications/digital-assets-scots-private-law-consultation/>
- HMRC Cryptoassets Manual: <https://www.gov.uk/hmrc-internal-manuals/cryptoassets-manual>
- Computer Misuse Act 1990, where proposed account/device access raises authorisation concerns: <https://www.legislation.gov.uk/ukpga/1990/18/contents>

11. Review notes

This guide updates version 2.2 by adding the Digital Assets (Scotland) Act 2026, correcting the previous Scotland position, adding commencement caution for Scotland, and making the jurisdiction language clearer throughout.

Current as at 20 May 2026 based on publicly available official sources. Review again if commencement regulations, HMRC guidance, professional guidance or case law materially changes the position.

Final practitioner memory line

Legal recognition gives you the foundation. It does not give you the password.