Estate Planning & Crypto Assets

A working guide for will-writers, estate planners and probate professionals on the Property (Digital Assets etc) Act 2025 and what it changes on a file.

For professionals · September 2026 · England & Wales

About this guide. iProbate provides will-writing, estate-planning and estate-administration services. We are not a firm of solicitors and do not carry out reserved legal activities under the Legal Services Act 2007. This guide is general information about the law of England and Wales as at September 2026, not advice on your circumstances. Succession and tax law differ by jurisdiction and change over time. Take advice before you act.

1. What the Act did

Section 1 is one sentence, and it is the whole reform:

> "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."
>
> Property (Digital Assets etc) Act 2025 (c. 29), s.1. Royal Assent 2 December 2025; in force on the day passed (s.2(2)); extends to England and Wales and Northern Ireland (s.2(1)). Source: legislation.gov.uk, Open Government Licence v3.0.

Read it carefully and note the negative construction. The Act does not say crypto-tokens are property. It removes an objection - that a thing must be either a thing in possession or a thing in action - and leaves the courts to develop the boundaries of the resulting third category case by case.

For a practitioner, that is enough to act on. A crypto-token can be owned, held on trust, form part of an estate, and be claimed by personal representatives. What the Act does not do is equally important, and clients should be told all three: it defines no list of qualifying assets, creates no register, and says nothing whatever about access.

What it settled, and what it left open

Settled	Left open
A digital thing can be the object of personal property rights.	Which digital things qualify. No definition, no list, no register.

Tokens can pass under a will and are within the PRs' duty to collect.	The boundaries of the third category - for the courts.
In force 2 December 2025, England & Wales and Northern Ireland.	Collateral arrangements for crypto-tokens; still under Law Commission review.
A recognisable proprietary claim for an executor to pursue.	Access. No statute can reconstruct a private key.

2. The file-opening conversation

Three questions, asked at the first meeting, will catch most of the risk on a digital-asset file. None of them require you to be technical.

- Does anyone else know these assets exist? If the answer is no, the most likely outcome is not a dispute - it is that the estate is administered and closed around an asset nobody found.
- If you died tonight, could someone you trust reach them? This separates the clients with a plan from the clients with a hardware wallet in a drawer.
- Where are the base-cost records? Cheap to assemble in life, frequently impossible to reconstruct after death, and needed for CGT on any disposal by the PRs.

Client types and what each needs

Client	The usual gap	First fix
Self-custody holder	Seed phrase known only to them	Access architecture separate from the will
Exchange-only holder	Executors do not know the venue or the registered email	Inventory naming venue and email, no credentials
NFT / tokenised holder	Valuation and chain identification	Wallet addresses and chain recorded in the schedule
Business with treasury	Multi-sig with no succession for the signer	Signer succession documented in the corporate records

3. Drafting

A general residuary gift will carry digital assets, but it will not help the executor do anything with them. Five additions earn their place.

- A defined digital-asset gift, worded to catch assets acquired after execution. Holdings change constantly; a schedule fixed at the date of the will is wrong within months.
- Extended administrative powers: express authority to deal with digital assets, to engage specialist custodians and technical advisers at the estate's expense, and to

hold or realise volatile assets without personal liability for the timing of realisation. Standard power clauses were not drafted with this in mind.

- A trust where the beneficiary is a minor or non-technical. An outright gift of self-custodied crypto to someone who cannot hold it safely is a gift that will be lost.
- Reference to an inventory, incorporated but not annexed, so the schedule can be updated without re-execution - and so it does not become public on the grant.
- A letter of wishes explaining what the assets are and why they are held. The single most useful document for a PR who has never seen a wallet.

The one instruction to give every client

Never write a recovery phrase, password or private key into the will. A will becomes a public document once probate is granted, and anyone may obtain a copy. This is the most common and most expensive error in the field, and it is entirely avoidable.

4. Access architectures, ranked by how they fail

You are not being asked to build these. You are being asked to know which one your client has chosen and whether it survives their death.

Approach	Mechanism	Failure mode
Sealed instruction	Phrase held by a trusted person or in a deposit box, released on a death certificate	Depends wholly on one person's integrity and survival
Split secret	Phrase divided into shares; a threshold reconstructs it (commonly 2 of 3)	Shares lost, holders untraceable, or a family that will not cooperate
Multi-signature	Several keys required to move funds; estate holds one	Co-signers must still be findable and competent years later
Inheritance service	Keys released after verified inactivity or proof of death	Provider failure; and a timer can fire while the client is alive

On the specialist platforms

There is now a substantial market of dead-man's-switch and vault services, several cryptographically serious. The limitation is categorical rather than technical: handing a key to a nominated person transfers control, not title. If the will leaves residue elsewhere, the platform has created a dispute. In a Shariah estate it may have created an impermissible distribution as well. Used as an access layer beneath a properly drafted will, with the release condition aligned to the will's terms, they are useful. Used instead of one, they are a liability.

5. Administration

Valuation and tax

HMRC treats crypto-assets as property for inheritance tax. Value at the date of death and report; disposal by PRs can trigger CGT on the gain since death. Volatility between death and realisation creates genuine difficulty - and a real question about whether the PRs should realise promptly or hold. Get the beneficiaries' position in writing either way.

Exchanges

Each venue has its own bereavement process and none are quick. Expect to need a death certificate, a grant of representation or local equivalent, executor identification and often a notarised instruction. Most liquidate to fiat rather than transferring in specie. Several are incorporated outside the UK, which raises situs and enforcement questions of its own. Start the process early; it runs in parallel with everything else.

A file checklist

- Digital assets raised and recorded at the first meeting, including a nil return
- Inventory started, with no credentials in it
- Digital-asset gift and extended powers in the draft
- Access architecture identified, and its failure mode explained to the client
- Recovery material confirmed to be outside the will
- Base-cost records located or begun
- Letter of wishes covering the digital estate
- Review diarised - annually, and on any change of platform

Where this guide came from

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