

Digital Assets and Trusts

Presentation No. 4

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Content overview

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Source:

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The Property Act 2025



Property (Digital Assets etc) Act 2025

2025 CHAPTER 29

An Act to make provision about the types of things that are not prevented from being objects of personal property rights.

[2nd December 2025]

BE IT ENACTED by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 **Objects of personal property rights**

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.

2 **Extent, commencement and short title**

- (1) This Act extends to England and Wales and Northern Ireland.
- (2) This Act comes into force on the day on which it is passed.
- (3) This Act may be cited as the Property (Digital Assets etc) Act 2025.

<https://www.legislation.gov.uk/ukpga/2025/29/enacted>

The Property Act 2025

Before the Property Act

Traditional division of all personal property into two categories:

- a thing in possession
- a thing in action
- digital assets do not fit into either category
- Legal gap/uncertainty: courts struggled to confirm whether digital assets were even "property" in the legal sense

With the Property Act

- Introduction of a new property category
 - Formal recognition of things of a *digital* or *electronic* nature as a subject of property



What are digital assets?

Definition:

There is none

However, a digital asset can be transferred, stored, or traded electronically

— Often based on distributed ledger technology

- For example: digital files, email accounts, **cryptocurrencies**, security tokens

What are cryptocurrencies?

- Digital tokens that use distributed ledger technology (DLT)
 - Multiple parties recording transactions, rather than a single central authority



Trusts

Origin in English equity

Modern uses of trusts

- Family and inheritance planning
- Tax planning
- Investments and pensions
- Protection of creditors
- Holding property

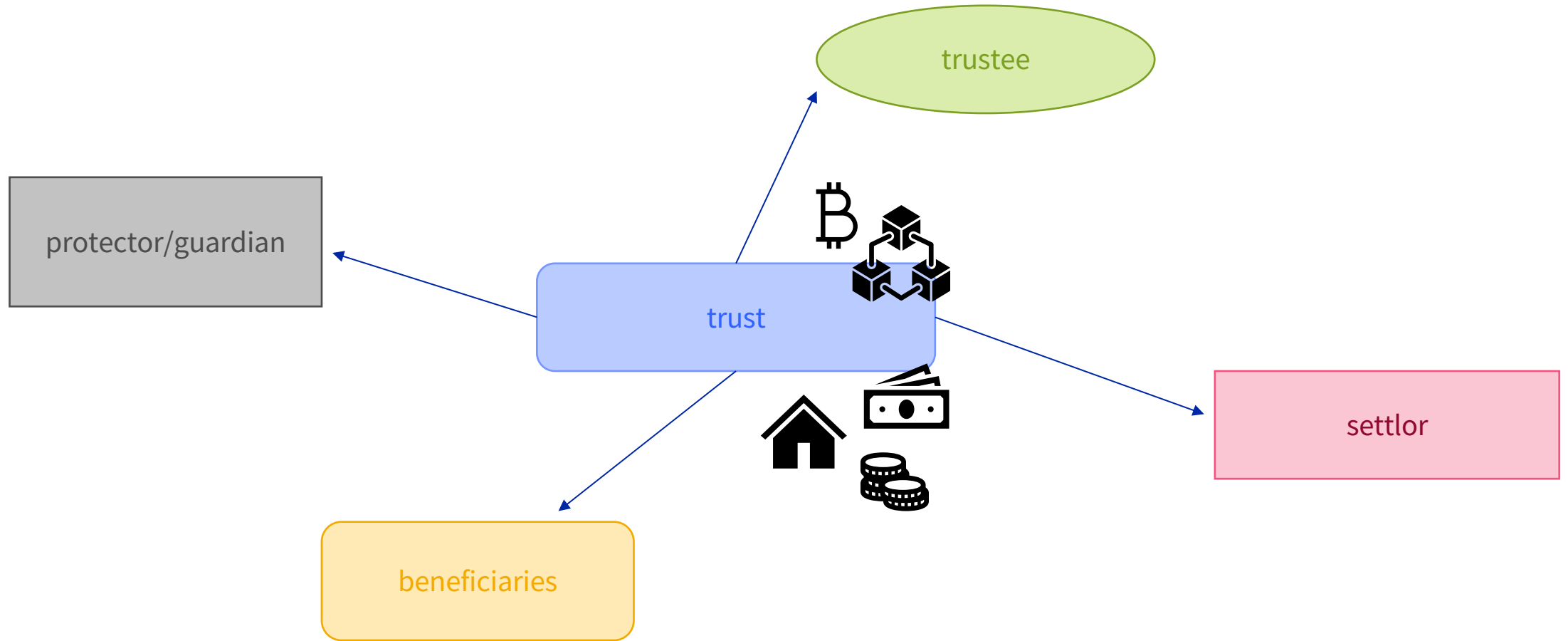
Division of ownership into two parts

- The **trustee** holds the legal title = **legal ownership**
- The **beneficiary** has the beneficiary interest = **equitable ownership**

Trusts

“A trust is an equitable obligation, binding a person (who is called a trustee) to deal with **property** over which he has control (which is called the trust property), for the benefit of persons (who are called the beneficiaries or cestuis que trust), of whom he may himself be one, and any one of whom may enforce the obligation.”

Trusts



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What is the problem?

Ownership issues

Are crypto assets property?

- This would enhance legal recourses
 - e.g. inclusion in estate proceedings, freezing injunctions, etc.

Investment liability

Crypto assets are volatile in nature

- Trustee would need wide investment powers

Consumer Protection

- Misleading promotions

Opaque traceability muddles criminal past

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Key Provision

1 Objects of personal property rights

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.

Formal recognition of a third category of property including digital assets

- However, **not** every digital asset is automatically property
- Intentional **flexibility** for the English Courts

<https://www.legislation.gov.uk/ukpga/2025/29/enacted>

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A comparative analysis

Common Law

UK is among the first to recognize digital assets

Flexibility of common law

- Law developed by courts moulded to fit modern circumstances

Civil Law

Swiss DLT Bill

- Segregation of crypto assets during bankruptcy

Consultation on an amendment to the Swiss Financial Institutions Act

- New licence categories

Thank you for your attention!

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