

T: 0300 244 4000  
E: [scottish.ministers@gov.scot](mailto:scottish.ministers@gov.scot)

Convener of The Economy and Fair Work  
Committee  
[economyandfairwork.committee@parliament.scot](mailto:economyandfairwork.committee@parliament.scot)

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27 November 2024

Dear Convener,

In recent years, digital assets have grown in significance and there are several legal challenges involved in accommodating them within any legal system. Recognising recent developments across the UK, I am writing to update you on the Scottish Government's proposed approach regarding accommodating digital assets in Scots private law.

At the request of Scottish Ministers, an Expert Reference Group ("ERG") was set up to provide legal clarification on Scotland's path to accommodating digital assets within Scots private law, which includes the status and treatment of crypto-assets and related technologies. This group worked closely with the Law Commission of England and Wales.

You may be aware that the Law Commission of England and Wales reported to the UK Government in June 2023, with a supplementary report in July 2024 supported by a draft Bill which proposed to establish a 'third category' of personal property rights that are capable of accommodating certain digital assets such as crypto tokens. The Property (Digital Assets Etc.) Bill which is currently proceeding through the UK Parliament seeks to reform property law in respect of England and Wales and does not extend to Scotland.

The ERG has provided findings and recommendations to the Scottish Government taking into account the historically different basis of Scots law. The primary recommendation is that there is a need for Scotland to have its own legislation to accommodate digital assets in Scots private law. This legislation will enable Scots law to adapt to important emerging trends, as well as allowing us to tailor the legislative approach to the needs of Scotland's fast-growing financial services and digital sectors.

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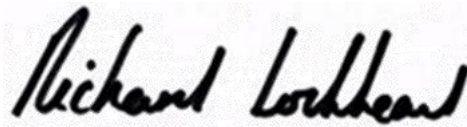
To further inform policy development and possible future legislation, the Scottish Government has published a consultation:

<https://www.gov.scot/isbn/9781836910510>

The recommendations being consulted on set out that supporting the needs of Scotland's digital and financial services ecosystem would be best addressed by legislation in the Scottish Parliament. This public consultation will be open until 5 February 2025. My officials plan to hold a series of roundtable events early in 2025 to complement the consultation. I look forward to sharing our analysis report of the consultation with you, when available.

I hope that you and the Committee members will agree that developing a modern legal approach for Scotland is a positive step for businesses and consumers.

Yours sincerely,



**Richard Lochhead**

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St Andrew's House, Regent Road, Edinburgh EH1 3DG  
[www.gov.scot](http://www.gov.scot)

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