

PROPERTY (DIGITAL ASSETS ETC.) BILL

EUROPEAN CONVENTION ON HUMAN RIGHTS MEMORANDUM

A. Summary of the Bill

1. This memorandum addresses issues arising under the European Convention on Human Rights (**ECHR**) in relation to the Property (Digital Assets etc.) Bill (**the Bill**). On introduction in the House of Commons, the Lord Chancellor and Secretary of State for Justice, the Rt Hon. Shabana Mahmood MP, made a statement under section 19(1)(a) of the Human Rights Act 1998 that, in his view, the provisions of the Bill are compatible with the Convention rights.

B. ECHR considerations

2. The provisions of this Bill may engage Article 1 of Protocol No. 1 (**A1P1**) of the ECHR, although no interference has been identified.
3. A1P1 refers to the peaceful enjoyment of “possessions”. The European Court of Human Rights (**ECtHR**) is clear that it takes its own view of the definition of “possessions” and that its definition may not coincide with a member state’s definition in that member state’s domestic law.
4. The ECtHR has considered that “non-physical assets” can constitute “possessions” under A1P1, including the right to use Internet Domains.
5. The Ministry of Justice does not consider that this Bill, which reiterates the common law position that a thing may amount to property even if it is neither a thing in action nor a thing in possession, interferes with any rights under A1P1.

Ministry of Justice
August 2024