

THE INDIAN TRUSTS ACT, 1882

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EXAM
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Chapter I	Section 3	:	Preliminary
Chapter II	Section 4,5,6	:	The Creation Of Trusts
Chapter III	Section 11,19,20,20 A, 23	:	The Duties And Liabilities Of Trustees
Chapter IV	Section 58, 64, 67	:	The Rights And Powers Of Trustees
Chapter VIII	Section 78	:	The Extinction Of Trusts
Chapter IX	Section 81, 85, 88	:	Certain Obligations In The Nature Of Trusts

CHAPTER I & II

- 1 The Act came into force March 1, 1882.
- 2 The Indian Trusts Act, 1882 extends to the whole of India except the state of Jammu & Kashmir and the Andaman & Nicobar Islands.
- 3 The Indian Trusts Act, 1882 deals with
The law relating to private trusts and trustees.
- 4 The Act does not apply to -
 - (a) Public trusts
 - (b) public or private religious or charitable endowments
 - (c.) trusts to distribute prizes taken in war among the captors
 - (d) trusts created before the passing of the Act
 - (e) the rules of Muhammadan law as to waqf
 - (f) the mutual relations of the members of an undivided family
- 5 Definitin of Trusts (Section 3) :
A "trust" is an obligation annexed to the ownership of property, and arising out of a confidence reposed the benefit of another, or of another and the owner:
- 6 Definitions ?

Author : the person who reposes or declares the confidence is called the "author of the trust":

Trustee : the person who accepts the confidence is called the "trustee":

Beneficiary : the person for whose benefit the confidence is accepted is called the "beneficiary":

Trust Money : the subject-matter of the trust is called "trust-property" or "trust-money":the trust-property;

Benefial Interest : the beneficiary is his right against the trustee as owner of the property

Instrument of Trust : the instrument, if any, by which the trust is declared is called the "instrument of trust";
- 7 **Lawful purpose : (Section 4)**
A trust may be created for any lawful purpose.
The purpose of a trust is lawful unless it is
 - (a) forbidden by law, or
 - (b) is of such a nature that, if permitted, it would defeat the provisions of any law, or
 - (c) is fraudulent,
 - (d) involves or implies injury to the person or property of another, or
 - (e) the court regards it as immoral or opposed to public policy.

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Every trust of which the purpose is unlawful is void. And where a trust is created for two purposes, of which one is lawful and the other unlawful, and the two purposes, cannot be separated, the whole trust is void.

8 Trust of immovable property (Section 5)

No trust in relation to immovable property is valid unless declared by a non-testamentary instrument in writing signed by the author of the trust or the trustee and registered or by the will of the author of the trust or of the trustee.

Trust, of movable property: No trust in relation to movable property is valid unless declared as aforesaid, or unless the ownership of the property is transferred to the trustee

9 Creation of trust (Section 6)

a trust is created when the author of the trust indicates with reasonable certainty by any words or acts -

- (a) an intention on his part to create thereby a trust,
- (b) the purpose of the trust,
- (c) the beneficiary, and
- (d) the trust-property, and (unless the trust is declared by will or the author of the trust is himself to be the trustee) transferred the trust-property to the trustee.

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From the above -

- (i) Where there is no indication with reasonable certainty by any words or acts of an intention, to create a trust, there can be no trust
- (ii) For constitution of a trust, beneficiaries must be indicated with reasonable certainty, otherwise the trust would be void for uncertainty.

- 10 If a trust is created for two purposes, of which one is lawful and the other unlawful, then -
The whole trust is void.

CHAPTER III

Bequeath

To leave or give (personal property) by will

- 11 If the directions given by the settler can be modified ?

Yes. It may be modified by the consent of all the beneficiaries being competent to contract.

Where the beneficiary is incompetent to contract, his consent may be given by a principal Civil Court of original jurisdiction.

- 12 Section 19 of the Indian Trusts Act deals with ?

A trustee is bound to keep accounts and furnish information of the trust property

- 13 Where A trustee is bound to invest the money of the trust ?

Only on the approved securities and on no others (Sec-20)

14 What is breach of trust ?

15 What is liability for breach of trust (Section 23) ?

Where a trustee commits a breach of trust, he is liable to make good the loss which the trust-property or the beneficiary has thereby sustained.

However, the trustee is not liable in the following situations ;

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CHAPTER IV

- 16 Whether a beneficiary of trust can transfer his interest ?

Yes. The beneficiary can transfer his interest. The right of the beneficiary is however subject to the law for the time being in force.

But when property is transferred or bequeathed for the benefit of a married woman, so that she shall not have power to deprive herself of her beneficial interest, she cannot transfer such interest during her marriage.

- 17 A judgment-creditor of the trustee attaching and purchasing trust-property is not a transferee for consideration within the meaning of this section. (Section 64)

- 18 If a partner, being a trustee, wrongfully employs trust-property in the business or on the account of the partnership, then -

no other partner is liable, therefore in his personal capacity to the beneficiary, unless he had notice of breach of trust. The partners having such notice are jointly and severally liable for the breach of trust.

CHAPTER VIII

- 19 Revocation of Trust (Section 78)

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