

Trusts Act, 1882

Section 6 - CREATION OF TRUST. Subject to the provisions of section 5 -, a trust is created when the author of the trust indicates

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) transfers the trust- property to the trustee. Illustrations (a) A bequeath certain property to B, 'having the fullest confidence that he will dispose of it for the benefit of C'. This creates a trust so far as regards A and C. (b) A bequeaths certain property to B, "hoping he will continue it in the family". This does not create a trust, as the beneficiary is not indicated with reasonable certainty. (c) A bequeaths certain property to B, requesting him to distribute it amongst such members of C's family as B should think most deserving. This 'does not create a trust, for the beneficiaries are not indicated with reasonable certainty. (d) A bequeaths certain property to B, desiring him to divide the bulk of it among C's children. This does not create a trust, for the trust-property is not indicated with sufficient certainty. (e) A bequeaths a shop and stock-in-trade to B, on condition that he pays A's debts and legacy to C. This is a condition, not a trust for A's creditors and C.