




# EXTINCTION OF TRUSTS



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## **TOPIC: EXTINCTION OF TRUSTS**

### **INTRODUCTION:**

### **RELEVANT PROVISIONS:**

**Chapter:8, sec:77-79 of Trust Act,1882**

### **DEFINITION OF TRUST:**

### **PARTIES OF A TRUST:**

### **MEANING OF EXTINCTION:**

Extinction of trust means the termination of trust i.e. when a trust comes to an end or ceases to exist.

### **MODES OF EXTINCTION OF TRUST:**

**Sec:77**, churns out the following grounds/situations in which trust will become extinct:

**a) Compete fulfillment of purpose:**

One of the essentials of creation of trust is a purpose for its creation. When a trust is created, the author of trust expressly lays down the purpose in the instrument. Thus once the purpose is completely fulfilled, it follows that trust shall cease to exist.

**b) Purpose becomes unlawful:**

To be legal, a trust must have a lawful object or purpose:

However, a purpose lawful at an initial stage may become unlawful afterwards due to some new legislation coming into force. Thus the purpose cannot be accomplished being lawful.

In such cases, the trust is extinguished on the date when its purpose becomes lawful.

Thus while an initial unlawfulness does not allow a trust to come into existence, a supervising unlawfulness turns a lawful purpose into an unlawful one whereby the trust is extinguished.

**c) Impossibility of fulfillment of purpose:**

A trust also extinguishes when the fulfillment of purpose becomes impossible by:

1-destruction of trust property

2-Otherwise

**d) Revocation of trust u/s:78**

A trust extinguishes where the trust, when was revocable, is expressly revoked.

Sec:78, enumerate the instances when a trust other than that which is created by a will can be revoked.

**Meaning of revocation:**

Revoke means to annul something by

1-recalling 2-taking back.

Therefore, to revoke is to make generally void a document by recalling it or taking it back

**General rule regarding revocation of trust:**

A trust created by will, can be revoked any time during the life of the testator, but it cannot be revoked after the testator's death.

**Modes of revocation of trust:**

According to sec:78, a trust may be revoked

1-By consent of beneficiaries

2-By expressly providing in the instrument of trust for a power of revocation by exercising such a power a trust may be revoked

3-Where the trust is for the payment of debts of the settlor, has not been communicated to the creditors **(AIR 1969 Bom. 101)**

**EFFECT OF REVOCATION U/S:79**

An author of trust cannot revoke the trust so as to defeat or prejudice what the trustee may have duly done in execution of trust. Such revocation shall not have retrospective effect.

**CONCLUSION:**

As a general principle a trust cannot be revoked on unqualified terms. However, it can be revoked if the author either reserves the rights in instrument or u/s:78 of Trust Act,1882.