Pearce and Stevens Trusts and Equitable Obligations 7th edition Pearce Test Bank

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Correct answers are marked with an asterisk (*)

Type: multiple choice question
Title: Chapter 02 - Question 01
1) Which of the following is *not* a characteristic of a trust?
a. A trust can only exist in relation to specific property (real or personal).
Feedback: The correct answer is 'A trustee cannot also be a beneficiary under a trust.' In many trusts, the trustee will be a separate person or body of persons from a beneficiary. This is not always true, however, and a classic everyday example is co-ownership of land, where a person will be a trustee and beneficiary. Note that the same duties and obligations are imposed upon a trustee to act for the beneficiaries as a whole.
***b.** A trustee cannot also be a beneficiary under a trust.
Feedback: In many trusts, the trustee will be a separate person or body of persons from a beneficiary. This is not always true, however, and a classic everyday example is co-ownership of land, where a person will be a trustee and beneficiary. Note that the same duties and obligations are imposed upon a trustee to act for the beneficiaries as a whole.
c. A trust can only exist for legal persons who must be able to enforce the duties under a trust.
Feedback: In many trusts, the trustee will be a separate person or body of persons from a beneficiary. This is not always true, however, and a classic everyday example is co-ownership of land, where a person will be a trustee and beneficiary. Note that the same duties and obligations are imposed upon a trustee to act for the beneficiaries as a whole.
d. Legal title must be vested in trustees.
Feedback: In many trusts, the trustee will be a separate person or body of persons from a beneficiary. This is not always true, however, and a classic everyday example is co-ownership of land, where a person will be a trustee and beneficiary. Note that the same duties and obligations are imposed upon a trustee to act for the beneficiaries as a whole.

Type: multiple choice question
Title: Chapter 02 - Question 02
2) Connie and Prunella are the adult beneficiaries under a trust. Basil is the trustee. Connie and Prunella do not agree with the way in which Basil has been administering the trust for them, although they concede he has not acted in breach of trust. Connie and Prunella can:
a. Give Basil binding direction as to how best to manage the trust for their benefit.
Feedback: The correct answer is 'Bring the trust to an end, and take control of the property themselves'. While it is not possible for a beneficiary to dictate how the trustee administers the trust or to remove a trustee, they may insist that the legal title is transferred to them so that the trust ceases to exist, provided they are legally competent – see *Saunders v Vautier* (1841) 4 Beav 115.
b. Do nothing, except to try and persuade Basil to do what they would like.
Feedback: The correct answer is 'Bring the trust to an end, and take control of the property themselves'. While it is not possible for a beneficiary to dictate how the trustee administers the trust or to remove a trustee, they may insist that the legal title is transferred to them so that the trust ceases to exist, provided they are legally competent – see *Saunders v Vautier* (1841) 4 Beav 115.
***c.** Bring the trust to an end, and take control of the property themselves.
Feedback: While it is not possible for a beneficiary to dictate how the trustee administers the trust or to remove a trustee, they may insist that the legal title is transferred to them so that the trust ceases to exist, provided they are legally competent – see *Saunders v Vautier* (1841) 4 Beav 115.
d. Fire Basil, and take over as trustees, acting for themselves as beneficiaries.
Feedback: The correct answer is 'Bring the trust to an end, and take control of the property themselves'. While it is not possible for a beneficiary to dictate how the trustee administers the trust or to remove a trustee, they may insist that the legal title is transferred to them so that the trust ceases to exist, provided they are legally competent – see *Saunders v Vautier* (1841) 4 Beav 115.

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Type: multiple choice question
Title: Chapter 02 - Question 03
3) Which of the following statements is true in relation to the nature of a beneficial interest under a trust?
a. Beneficial interests are not proprietary rights, as they are rights *in personam*.
Feedback: The correct answer is 'Beneficial interests are proprietary rights, as they are capable of enduring a change of ownership'. While there has been some historical debate about the nature of beneficial interests, it is now all but settled that they are proprietary interests, as they are capable of transference to another beneficiary and are capable of binding a transferee of the legal title.
b. Beneficial interests may be proprietary rights, if the trust property is a right *in rem*.
Feedback: This misunderstands the classification of proprietary rights, which are not linked to the nature of the property. See Chapter 3 for more details. The correct answer is 'Beneficial interests are proprietary rights, as they are capable of enduring a change of ownership'. While there has been some historical debate about the nature of beneficial interests, it is now all but settled that they are proprietary interests, as they are capable of transference to another beneficiary and are capable of binding a transferee of the legal title.
***c.** Beneficial interests are proprietary rights, as they are capable of enduring a change of ownership.
Feedback: The correct answer is 'Beneficial interests are proprietary rights, as they are capable of enduring a change of ownership'. While there has been some historical debate about the nature of beneficial interests, it is now all but settled that they are proprietary interests, as they are capable of transference to another beneficiary and are capable of binding a transferee of the legal title.
d. Beneficial interests are neither proprietary rights or personal rights, but a new classification of right.
Feedback: The correct answer is 'Beneficial interests are proprietary rights, as they are capable of enduring a change of ownership'. While there has been some historical debate about the nature of beneficial interests, it is now all but settled that they are proprietary interests, as they are capable of transference to another beneficiary and are capable of binding a transferee of the legal title.

Type: multiple choice question
Title: Chapter 02 - Question 04
4) Which of the following statements is true?
a. A trust and a power are identical methods for distributing property.
Feedback: The correct statement is 'A trust and a power are similar methods of distributing property, but differ in the enforceability of the obligation by the potential objects'. Ultimately, the distinction between a trust and a power matters most from the position of the enforceability by the potential objects – a would-be beneficiary under a discretionary trust can compel that a distribution is made, a would-be object under a power cannot. However, it is less than clear that a distinction can be made between trusts and powers in this way, and that it is best to consider that these two concepts lie at extreme ends of a scale of obligations.
Figure reference: Figure 2.1.
b. A trust and a power are both methods for distributing property, and differ only in the legal tests applicable to establish them.
Feedback: The correct statement is 'A trust and a power are similar methods of distributing property, but differ in the enforceability of the obligation by the potential objects'. Ultimately, the distinction between a trust and a power matters most from the position of the enforceability by the potential objects – a would-be beneficiary under a discretionary trust can compel that a distribution is made, a would-be object under a power cannot. However, it is less than clear that a distinction can be made between trusts and powers in this way, and that it is best to consider that these two concepts lie at extreme ends of a scale of obligations.
Figure reference: Figure 2.1.
***c.** A trust and a power are similar methods of distributing property, but differ in the enforceability of the obligation by the potential objects.

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Feedback: Ultimately, the distinction between a trust and a power matters most from the position of the enforceability by the potential objects – a would-be beneficiary under a discretionary trust can compel that a distribution is made, a would-be object under a power cannot. However, it is less than clear that a distinction can be made between trusts and powers in this way, and that it is best to consider that these two concepts lie at extreme ends of a scale of obligations.
Figure reference: Figure 2.1.
d. A trust and a power differ in that a trust provides a fixed method for distributing property to named persons whereas a power allows flexibility in deciding who should benefit under a distribution of property.
Feedback: The correct statement is 'A trust and a power are similar methods of distributing property, but differ in the enforceability of the obligation by the potential objects'. Ultimately, the distinction between a trust and a power matters most from the position of the enforceability by the potential objects – a would-be beneficiary under a discretionary trust can compel that a distribution is made, a would-be object under a power cannot. However, it is less than clear that a distinction can be made between trusts and powers in this way, and that it is best to consider that these two concepts lie at extreme ends of a scale of obligations.
Figure reference: Figure 2.1.

Type: multiple choice question
Title: Chapter 02 - Question 05
05) Which of the following statements is false?
***a.** Where the donee is granted a mere power, and makes a distribution outside the objects of the power, the potential objects have no right of redress.
Feedback: Where distribution is made, the potential objects can enforce the power if appointment is not made according to the terms of the power. Note, however, that this while the other statements are true in theory, it has been suggested that a fiduciary power, for example, may be enforceable alongside a trust. Again, this is further evidence that distinct categories are no longer helpful in classifying obligations.
b. Where a mere power is given, the donee is under no obligation to carry out the terms of the power, but may instead choose to make no appointment.
Feedback: The correct answer is 'Where the donee is granted a mere power, and makes a distribution outside the objects of the power, the potential objects have no right of redress.' Where distribution is made, the potential objects can enforce the power if appointment is not made according to the terms of the power. Note, however, that this while the other statements are true in theory, it has been suggested that a fiduciary power, for example, may be enforceable alongside a trust. Again, this is further evidence that distinct categories are no longer helpful in classifying obligations.
c. Where a fiduciary power is granted to the donee, the donee need not make a distribution, but must consider whether or not to do so.
Feedback: The correct answer is ' Where the donee is granted a mere power, and makes a distribution outside the objects of the power, the potential objects have no right of redress.' Where distribution is made, the potential objects can enforce the power if appointment is not made according to the terms of the power. Note, however, that this while the other statements are true in theory, it has been suggested that a fiduciary power, for example, may be enforceable alongside a trust. Again, this is further evidence that distinct categories are no longer helpful in classifying obligations.
d. The objects of a power have no rights in relation to the property contained in the power unless and until a distribution is made by the donee of the power.
Feedback: The correct answer is 'Where the donee is granted a mere power, and makes a distribution outside the objects of the power, the potential objects have no right of redress.' Where distribution is made, the potential objects can enforce the power if appointment is not made according to the terms of the power. Note, however, that this while the other statements are true in theory, it has been suggested that a fiduciary power, for example, may be enforceable alongside a trust. Again, this is further evidence that distinct categories are no longer helpful in classifying obligations.

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