

The Railway Property (Unlawful Possession) Act, 1966

February 23, 2013

Preamble

[Act No. 29 of 1966]

[16th September 1966]

An Act to consolidate and amend the law relating to unlawful possession of railway property.

Be it enacted by Parliament in the Seventeenth Year of the Republic of India as follows: –

Section 1. Short title, extend and commencement

(1) This Act may be called the Railway Property (Unlawful Possession) Act, 1966.

(2) It extends to the whole of India.

(3) It shall come into force on such ¹[date] as the Central Government may, by notification in the official Gazette, appoint.

Section 2. Definitions

In this Act, unless the context otherwise requires, –

(a) "Force" means the Railway Protection Force constituted under Section 3 of the Railway Protection Force Act, 1957 (23 of 1957);

(b) "Member of the Force" means a person appointed to the force, other than a superior officer;

(c) "Officer of the Force" means an officer of and above the rank of Assistant Sub-Inspector appointed to the Force and includes a superior officer;

(d) "Railway property" includes any goods, money or valuable security or animal, belonging to, or in the charge or possession of, a railway administration.

(e) "Superior officer" means any of the officer's appointed under Section 4 of the Railway Protection Force Act, 1957 (23 of 1957) and includes any other officer appointed by the Central Government as a superior officer of the Force;

(f) Words and expressions used but not defined in this Act and defined in the ¹[Indian Railway Act, 1890], shall have the meanings respectively assigned to them under that Act.



Section 3. Penalty for unlawful possession of railway, property

Whoever is found, or is proved to have been, in possession of any railway reasonably suspected of having been stolen or unlawfully obtained shall, unless he proves that the railway property came into his possession lawfully, be punishable-

(a) For the first offence, with imprisonment for a term which may extend to five years, or with fine or with both and in the absence of special and adequate reasons to be mentioned in the judgment of the Court, such imprisonment shall not be less than two years and such fine shall not be less than two thousand rupees.

(b) For the second or a subsequent offence, with imprisonment for a term which may extend to five years and also with fine and in the absence of special and adequate reasons to be mentioned in the judgment of the Court, such imprisonment shall not be less than two years and such fine shall not be less than two thousand rupees.

Section 4. Punishment for connivance at offences

Any owner or occupier of land or building, or any agent of such owner or occupier incharge of the management of that land or building, who wilfully connives at an offence against the provisions of this Act, shall be punishable with imprisonment for a term which may extend to five years, or with fine, or with both.

Section 5. Offences under the Act not be cognizable

Notwithstanding anything contained in the ¹[Code of Criminal Procedure 1898], and offence under this Act shall not be cognizable.



Section 6. Power to arrest without warrant

Any superior officer or member of the Force may, without an order from a Magistrate and without a warrant, arrest any person who has been concerned in an offence punishable under this Act or against whom a reasonable suspicion exists of his having been so concerned.

Section 7. Disposal of persons arrested

Every person arrested for an offence punishable under this Act, shall, if the arrest was made by a person other than an officer of the Force be forwarded without delay to the nearest officer of the Force.

Section 8. Inquiry how to be made against arrested persons

(1) When any person is arrested by an officer of the Force for an offence punishable under this Act or is forwarded to him under Section 7, he shall proceed to inquire into the charge against such person.

(2) For this purpose the officer of the Force may exercise the same powers and shall be subject to the same provisions as the officer incharge of a police station may exercise and is subject to under the ¹[Code of Criminal Procedure 1898], when investigating a cognizable case:

(a) If the officer of the force is of opinion that there is sufficient evidence or reasonable ground of suspicion against the accused person, he shall either admit him to bail to appear before a Magistrate having jurisdiction in the case, or forward him in custody to such Magistrate;

(b) If it appears to the officer of the Force that there is not sufficient evidence or reasonable ground of suspicion against the accused person, he shall release the accused person on his executing a bond, with or without sureties as the officer of the Force may direct, to appear, if and when so required before the Magistrate having jurisdiction, and shall make a full report of all the particulars of the case to his official superior.

Section 9. Power to summon persons to give evidence and produce documents

(1) An officer of the Force shall have power to summon any person whose attendance he considers necessary either to give evidence or produce a document or any other thing in any inquiry, which such officer is making for any of the purposes of this Act.

(2) A summons to produce documents or other things may be for the production of certain specified documents or things or for the production of all documents or things of a certain description in the possession or under the control of the person summoned.

(3) All persons, so summoned, shall be bound to attend either in person or by authorised agent as such officer may direct; and all persons so summoned shall be bound to state the truth upon any subject respecting which they are examined or make statements and to produce such document and other things as may be required: –

Provided that the exemptions under Sections 132 and 133 of the Code of Civil Procedure, 1908 shall be applicable to requisitions for attendance under this section.

(4) Every such inquiry as aforesaid shall be deemed to be a "judicial proceedings" within the meaning of Sections 193 and 228 of the Indian Penal Code, 1860.

Section 10. Issue of search-warrant

(1) If an officer of the Force has reason to believe that any place is used for the deposit or sale of railway property which has been stolen or unlawfully obtained, he shall make an application to the Magistrate having jurisdiction over the area in which that place is situate, for issue of a search-warrant.

(2) The Magistrate to whom an application is made under sub-section (1), may, after such inquiry as he thinks necessary, by his warrant, authorise any officer of the Force–

(a) To enter, with such assistance as may be required, such place;

(b) To search the same in the manner specified in the warrant;



(c) To take possession of any railway property therein found which he reasonably suspects to be stolen or unlawfully obtained; and

(d) To convey such railway property before a Magistrate, or to guard the same on the spot until the offender is taken before a Magistrate, or otherwise to dispose -thereof in some place of safety.

Section 11. Searches and arrest how to be made

All searches and arrest made under this Act shall be carried out in accordance with the provisions of the ¹[Code of Criminal Procedure 1898] relating respectively to searches and arrests made under that Code.

Section 12. Officers required to assist

All officers of Government and all village officers are hereby empowered and required to assist the superior officers and members of the Force in the enforcement of this Act.

Section 13. Power of Courts to order forfeiture of vehicles, etc

Any court trying an offence punishable under this Act may order the forfeiture to Government of any property in respect of which the court is satisfied that an offence under this Act has been committed and may also order the forfeiture of any receptacles, packages or coverings in which such property is contained, and the animals, vehicles, or other conveyances used in carrying the property.



Section 14. Act to override other laws

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Section 15. Construction of references to laws not in force in Jammu and Kashmir

Any reference in this Act to a law, which is not in force in the State of Jammu and Kashmir, shall, in relation to that State, be construed as a reference to the corresponding law, if any, in force in that State.

Section 16. Repeal and savings

(1) The Railway Stores (Unlawful Possession) Act, 1955, is hereby repealed.

(2) Nothing contained in this Act shall apply to offences punishable under the Act hereby repealed and such offences may be investigated and tried as if this Act has not been passed.

(3) The mention of particular matters in sub-section (1) shall not be held to prejudice or affect the general application of Section 6 of the General Clauses Act, 1897 with regard to the effect repeals.

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