THE RAILWAY PROPERTY (UNLAWFUL POSSESSION) ACT, 1966

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THE RAILWAY PROPERTY (UNLAWFUL POSSESSION) ACT, 1966

ACT NO. 29 OF 1966

[16*th 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:—

1. Short title, extent 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 date[1] as the Central Government may, by notification in the Official Gazette, appoint.

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 officers 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 Indian Railways Act, 1890 (9 of 1890), shall have the meanings respectively assigned to them under that Act.

3. [2]**[Penalty for theft, dishonest misappropriation or unlawful possession of railway property].—**[3][Whoever commits theft, or dishonestly misappropriates or is found, or is proved] to have been, in possession of any railway property 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 one year and such fine shall not be less than one 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.

[4][*Explanation.*—For the purposes of this section, "theft" and "dishonest misappropriation" shall have the same meanings as assigned to them respectively in section 378 and section 403 of the Indian Penal Code (45 of 1860).]

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1. 1st April, 1968, *vide* notification No. S.O. 1225, dated 1st April, 1968, *see* Gazette of India, Extraordinary, Part II, sec. 3(*ii*).
2. Subs. by Act 25 of 2012, s. 2, for the marginal heading (w.e.f. 15-8-2012).
3. Subs. by s. 2, *ibid.*, for "Whoever is found, or is proved" (w.e.f. 15-8-2012).
4. *Explanation* ins. by s. 2, *ibid.* (w.e.f. 15-8-2012).

4. [1]**[Punishment for abetment, conspiracy or connivance at offences.]—**[2][Whoever abets or conspires in the commission of an offence punishable under this Act, or any owner] or occupier of land or building, or any agent of such owner or occupier in charge 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.

[3][*Explanation*.—For the purposes of this section, the words "abet" and "conspire" shall have the same meanings as assigned to them respectively in sections 107 and 120A of the Indian Penal Code (45 of 1860.)]

5. Offences under the Act not to be cognizable.—Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (5 of 1898), an offence under this Act shall not be cognizable.

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.

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.

8. [4]**[Inquiry how to be made].—**(*1*) [5][When an officer of the Force receives information about the commission of an offence punishable under this Act, or 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 Code of Criminal Procedure, 1898 (5 of 1898), when investigating a cognizable case:

Provided that—

(*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.

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 to produce a document, or any other thing in any inquiry which such officer in 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 an 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 documents and other things as may be required:

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1. Subs. by Act 25 of 2012, s. 3, for the marginal heading (w.e.f. 15-8-2012).
2. Subs. by s. 3, *ibid.*, for "Any owner" (w.e.f. 15-8-2012).
3. *Explanation* ins. by s. 3, *ibid.* (w.e.f. 15-8-2012).
4. Subs. by s. 4, *ibid.*, for the marginal heading (w.e.f. 15-8-2012).
5. Subs. by s. 4, *ibid.*, for "When any person is arrested" (w.e.f. 15-8-2012).

Provided that the exemptions under sections 132 and 133 of the Code of Civil Procedure, 1908 (5 of 1908), shall be applicable to requisitions for attendance under this section.

(*4*) Every such inquiry as aforesaid, shall be deemed to be a "judicial proceeding" within the meaning of sections 193 and 228 of the Indian Penal Code (45 of 1860).

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 had 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.

11. Searches and arrests how to be made.—All searches and arrests made under this Act shall be carried out in accordance with the provisions of the Code of Criminal Procedure, 1898 (5 of 1898), relating respectively to searches and arrests made under that Code.

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.

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.

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.

15. [*Construction of references to laws not in force in Jammu and Kashmir***].—***Omitted by the Jammu and Kashmir Reorganization (Adaptation of Central Laws) Order*, 2020, *vide notification No. S.O*. 1123(E) *dated* (18-3-2020) and *vide Union Territory of Ladakh Reorganisation* (*Adaptation of Central Laws*) *Order*, 2020, *notification No. S.O*.3774(E), *dated* (23-10-2020).

16. Repeal and savings.—(*1*) The Railway Stores (Unlawful Possession) Act, 1955 (51 of 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 had not been passed.

(*3*) The mention of particular matters in sub-section (*2*) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 (10 of 1897), with regard to the effect of repeals.

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