



THE RAILWAY PROPERTY (UNLAWFUL POSSESSION) ACT 1966

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THE RAILWAY PROPERTY (UNLAWFUL POSSESSION) ACT 1966

(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:-

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 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;

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Mere possession of articles manufactured by private firms for the use of the railway administration cannot be regarded as railway property. Umar Khan Vs. State of U.P., 1973 Cri.LJ 1706 (All).

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Mere 'I.R.' and 'A railway' marks would not be sufficient to discharge the burden of the prosecution. It must be proved that the property belonged to or was in possession the Manager of the railway or the Government. Ram Avtar Vs. State of U.P., 1978 All Cr.PC 14.

Where the accused was caught while coming out of the Railway workshop along with some material which was used in the workshop the High Court acquitted the accused and laid down that there must be some direct evidence to prove that the material is railway property. Ram Narain Tiwari Vs. State of U.P., 1989 Cri.LJ (NOC) 218 (All).

- (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. Penalty for unlawful possession of Railway property:-

Whoever 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.

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Ingredients:-

In State of Maharashtra Vs. Vishwanath Tukaram, (1979) 4 SCC 23: 1979 SCC (Cri) 993, laid down the following ingredients of the section:

- (i) The property in question should be railway property;
- (ii) It should be reasonably suspected of having been stolen or unlawfully obtained and
- (iii) It should be found or proved that the accused was or had been in possession of that property.

4. Punishment for connivance of offences:-

Any owner or occupier of land of building, or any agent of such owner or occupier in charge of the management of that land or building, who willfully 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.

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.

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Where the articles recovered from the possession of the accused were not sealed on the spot but later on, sealed at the Police Station the recovery from the accused person was held doubtful. Mool Chand Vs. State, 1971 ACC 334.

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 in charge of a Police Station may exercise and is subject to under the Code of Criminal Procedure, 1989 (5 of 1989), 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.

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As office of the R.P.F. conducting an enquiry under section 8(1) is not a Police officer within the meaning of Section 25, Evidence Act. *Balkishan A.Devidayal Vs. State of Maharashtra*, 1980 SCC (Cri) 62: (1980) 4 SC 600.

Section 8(1) is not at par with Sections 161 and 162, Cr.PC. so R.P.F. inquiry officer can obtain the signatures of the witnesses on their statements. *State of U.P. Vs. Durga Prasad*, 1974 Cri L.J.1465 (SC).

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 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 thing 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 authorized 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:

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 Section 193 and Section 228 of the India Penal Code (45 of 1860).

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The proceedings under the R.P.(U.P) Act are judicial by virtue of Section 9 of this Act and Sections 193 and 228, I.P.C. State of U.P., Vs. Durga Prasad, 1974 Cri LJ 1465 (SC).

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, authorize 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.

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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.

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There is nothing inconsistent in Section 190, Cr.PC. to Section 14 of the RP(UP) Act. An ASI is competent to file a complaint, because no separate definition of compliant is given under this Act. State of U.P., Vs. Ram Charan, 1974 ACC 282.

15. Construction of reference 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.

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16. **Repeal and savings:-**

- (1) The Railways 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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