

THE RAILWAY PROPERTY (UNLAWFUL POSSESSION) ACT, 1966

SUMMARY

The Railway Property (Unlawful Possession) Act, 1966 is an Indian law that aims to prevent the unlawful possession of railway property. The Act defines what constitutes railway property, including land, buildings, structures, and equipment, and establishes penalties for the unauthorized possession, use, or disposal of such property. The Act also empowers railway officials to enter and search any premises suspected of containing railway property and to arrest and prosecute anyone found to be in unlawful possession of such property. The Act is an important tool in protecting railway property and ensuring the efficient and safe operation of India's railway system.

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Section 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.

Simplified

(1) The name of this law is the "Railway Property (Unlawful Possession) Act, 1966."

(2) This law is applicable across the entire country of India.

(3) The law will become active on a date that the Central Government of India decides. This date will be announced in a publication called the Official Gazette.

Explanation using Example

Imagine a scenario where a person, let's call him Arjun, is found in possession of some railway signal cables without any legal authorization or justification. The cables were reported missing from a railway depot in Mumbai, India. The Railway Protection Force (RPF) detains Arjun for questioning. In this situation, the Railway Property (Unlawful Possession) Act, 1966 comes into play. Since the Act extends to the whole of India, it is applicable in Mumbai where the incident took place. The RPF can invoke Section 1 of the Act, among other relevant sections, to establish the legal framework under which Arjun is being investigated and potentially prosecuted for having unlawful possession of railway property.

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 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.

Simplified

This section explains specific terms used in the Railway Property (Unlawful Possession) Act, 1966:

(a) "Force" refers to the Railway Protection Force, which was established by the Railway Protection Force Act of 1957.

(b) "member of the Force" is anyone who has been recruited into the Force, but does not hold a high-ranking position.

(c) "officer of the Force" is someone who is at least an Assistant Sub-Inspector or higher in rank within the Force, including those in high-ranking positions.

(d) "railway property" includes anything valuable, like goods, money, or animals, that is owned by or under the responsibility of the railway authorities.

(e) "superior officer" refers to any high-ranking official appointed under the Railway Protection Force Act of 1957 or appointed by the Central Government as a high-ranking officer of the Force.

(f) Any terms used in this Act that are not defined here but are defined in the Indian Railways Act of 1890 should be understood as they are defined in that Act.

Explanation using Example

Imagine a situation where a person is caught carrying a bag of railway property, which includes several railway signal cables, without authorization. The Railway Protection Force (RPF) is alerted and a member of the Force, who is not an officer, detains the individual for questioning. An officer of the Force, specifically an Assistant Sub-Inspector, takes over the investigation due to the seriousness of the theft, which could potentially disrupt train operations.

In this scenario, the terms defined in Section 2 of the Railway Property (Unlawful Possession) Act, 1966 are used as follows:

The RPF is the "Force" mentioned in (a).

The person who initially detained the individual is a "member of the Force" as per (b).

The Assistant Sub-Inspector is the "officer of the Force" referred to in (c).

The signal cables are considered "railway property" under (d).

If a higher-ranking officer, say a Superintendent, is involved, they would be the "superior officer" as defined in (e).

This example demonstrates the practical application of the definitions provided in the Act for the purpose of legal proceedings against the unlawful possession of railway property.

Section 3: Penalty For Theft, Dishonest Misappropriation Or Unlawful Possession Of Railway Property

Penalty for theft, dishonest misappropriation or unlawful possession of railway property - 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.

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).

Simplified

Simple Explanation of the Legal Text:

If someone steals, wrongfully takes, or has railway property that is suspected to be stolen or obtained illegally, they must prove they got it legally or face punishment. The punishments are:

(a) For the first time they do it, they could go to jail for up to five years, pay a fine, or both. The minimum punishment is usually one year in jail and a fine of at least one thousand rupees, unless the judge has a strong reason to give a lighter sentence and explains it in their decision.

(b) If they do it again, the punishment is jail for up to five years and a fine. The minimum is usually two years in jail and a fine of at least two thousand rupees, unless there's a strong reason for a lighter sentence, which the judge must explain in their decision.

Note: In this section, the terms "theft" and "dishonest misappropriation" mean the same as in sections 378 and 403 of the Indian Penal Code.

Explanation using Example

A hypothetical scenario demonstrating the application of Section 3 of The Railway Property (Unlawful Possession) Act, 1966 could be as follows:

Rahul is found at a railway station with several railway signal cables in his possession. The authorities suspect that these cables have been stolen as there have been recent thefts of railway property in the area. Upon questioning, Rahul is unable to provide a satisfactory explanation or evidence that he lawfully acquired the cables. Under Section 3 of The Railway Property (Unlawful Possession) Act, 1966, Rahul can be charged with unlawful

possession of railway property. If found guilty, and since this is his first offence, he could face a minimum of one year in prison and a fine of at least one thousand rupees, unless he can prove that he came into possession of the cables lawfully or the court finds special and adequate reasons to apply a different sentence.

Section 4: Punishment For Abetment, Conspiracy Or Connivance At Offences

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.

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).

Simplified

Simplified Explanation of Section 4:

If someone helps or plans with others to commit a crime covered by this law, or if a person who owns or looks after land or a building intentionally ignores such a crime happening on their property, they can be sent to jail for up to five years, fined, or both.

Note: In this context, "helping" or "planning" a crime means the same as in sections 107 and 120A of the Indian Penal Code.

Explanation using Example

Imagine a scenario where John, the owner of a warehouse near a railway station, is approached by Alex, who plans to steal railway property and needs a place to store the stolen goods. John agrees to let Alex use his warehouse for storing the stolen railway property, fully aware of Alex's intentions. In this case, if Alex is caught and charged under The Railway Property (Unlawful Possession) Act, 1966, John could also be charged for wilfully conniving at the offence, as he provided a space for the stolen goods and was aware of the illegal activity. John's action would be considered abetment and he could face imprisonment of up to five years, a fine, or both, as per Section 4 of the Act.

Section 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.

Simplified

Despite what is stated in the Code of Criminal Procedure from 1898, a crime that falls under this law is not one that the police can arrest for without a warrant.

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.

Simplified

Section 6 says that a high-ranking officer or a member of the railway police can arrest someone without needing permission from a judge (Magistrate) or an arrest warrant if they believe that person has committed a crime under this law or if there's a good reason to think they were involved in such a crime.

Explanation using Example

Imagine a situation where a railway police officer notices someone acting suspiciously on a train platform, carrying a bag that appears to be full of railway property such as signal cables or bolts. The officer, being a member of the railway force, can use the power granted by Section 6 of The Railway Property (Unlawful Possession) Act, 1966, to arrest the person without needing to obtain a warrant from a magistrate first, provided the officer has a reasonable suspicion that the individual has committed a crime under this Act, such as theft of railway property.

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.

Simplified

If someone is arrested for doing something illegal according to this law, and the person who arrested them isn't a railway police officer, they must be taken quickly to the closest railway police officer.

Explanation using Example

Imagine John is caught by a railway staff member while attempting to steal cables from a railway station. Since the staff member is not an officer of the Railway Protection Force (RPF), as per Section 7 of The Railway Property (Unlawful Possession) Act, 1966, John must be promptly handed over to the nearest RPF officer for further legal action.

Section 8: Inquiry How To Be Made

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.

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, 1898 (5 of 1898), when investigating a cognizable case:

Provided that -

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;

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.

Simplified

Section 8: How an Inquiry Should Be Conducted

If a railway police officer gets information about a crime related to railway property, or if someone is arrested for such a crime or handed over to the officer, the officer must investigate the accusation against that person.

The railway police officer has the same authority as a regular police station officer when looking into a serious crime, as per the rules of the Code of Criminal Procedure from 1898:

However, the following conditions apply:

If the railway officer believes there's enough evidence or reason to suspect the person did the crime, they must either let the person go on bail to appear in court or send them to the court while keeping them in custody.

If the railway officer thinks there isn't enough evidence or reason to suspect the person, they must release the person. The person must promise to appear in court if needed, with or without a guarantee from someone else, as the officer decides. The officer must also report the details of the case to their higher-up.

Explanation using Example

Imagine a situation where a railway police officer receives a tip that someone is trying to smuggle stolen railway property out of the station. According to Section 8 of The Railway Property (Unlawful Possession) Act, 1966, the officer must investigate the matter as if they were handling a case at a police station under the Code of Criminal Procedure.

During the investigation, if the officer finds enough evidence against the suspect, they can either release the suspect on bail with a date to appear before a magistrate, or send the suspect to the magistrate in custody. If the evidence is insufficient, the suspect may be released after signing a bond promising to appear before a magistrate if called upon, and the officer must report the details to their 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 to 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 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: 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).

Simplified

(1) A railway police officer can call on someone to either give evidence or bring documents or items that are needed for an investigation related to this law.

(2) When someone is asked to bring documents or items, the request can specify exactly what to bring or describe the type of things needed, as long as they are owned or controlled by the person being asked.

(3) People who are called upon must show up themselves or send someone else who is allowed to represent them, as the officer decides. They must tell the truth, answer questions honestly, and bring any documents or items they are asked for. However, there are some exceptions to this rule, which are the same as those in sections 132 and 133 of the Code of Civil Procedure from 1908.

(4) Any investigation done by the railway police for this law is considered a legal proceeding, similar to those mentioned in sections 193 and 228 of the Indian Penal Code.

Explanation using Example

Imagine a situation where a railway officer discovers that some railway property, such as signal cables, has gone missing. Under Section 9 of The Railway Property (Unlawful Possession) Act, 1966, the officer has the authority to conduct an inquiry into the theft. To gather evidence, the officer can

summon the scrap dealer in the nearby area whom he suspects might have purchased or come across the stolen cables.

The officer uses his power under subsection (1) to summon the dealer to testify or provide any documents related to the purchase of scrap metal that could include the stolen cables. In compliance with subsection (2), the officer specifies the documents he requires, such as receipts or inventory records that detail the scrap metal transactions.

As per subsection (3), the scrap dealer is legally obligated to attend the inquiry, provide truthful information, and produce the requested documents. The dealer's attendance and cooperation are mandatory, with the understanding that the same privileges and exemptions that apply in civil court proceedings also apply here.

Finally, the inquiry conducted by the officer is considered a "judicial proceeding" as per subsection (4), meaning that if the scrap dealer lies or withholds information, he could be charged with an offense under the relevant sections of the Indian Penal Code for lying in a judicial proceeding.

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 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.

Simplified

(1) If a railway police officer thinks that a place might be used to keep or sell stolen or illegally gotten railway items, they need to ask a local judge for a search warrant for that place.

(2) The judge can make inquiries if needed and then give the officer a written order (warrant) to:

(a) enter the place with help if needed;

(b) search the place as described in the warrant;

(c) take any railway items found there that the officer thinks might be stolen or gotten illegally; and

(d) either bring those items to a judge, watch over them at the place until the suspected thief is brought to a judge, or put them somewhere safe.

Explanation using Example

Imagine a scenario where a Railway Protection Force (RPF) officer receives a tip-off that a local scrapyard is illegally storing and selling metal railway tracks that were stolen from a railway construction site. Acting on this information, the RPF officer believes the scrapyard is being used to deposit and sell this stolen railway property.

The officer then approaches the Magistrate with jurisdiction over the area where the scrapyard is located and applies for a search warrant. The Magistrate conducts a preliminary inquiry and decides that there is sufficient cause to investigate. Consequently, the Magistrate issues a warrant that allows the RPF officer:

To enter the scrapyard with the necessary assistance;

To search the premises as detailed in the warrant;

To seize any railway property found on the premises that is suspected to be stolen or unlawfully obtained;

To either bring the seized property before a Magistrate, keep it guarded at the location until legal proceedings commence, or secure it in a safe location.

This action is in accordance with Section 10 of The Railway Property (Unlawful Possession) Act, 1966, which aims to prevent and penalize the theft and unlawful possession of railway property.

Section 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.

Simplified

Section 11 states that if the police need to search someone's property or arrest someone under the rules of this Act, they must follow the same procedures that are outlined in the Code of Criminal Procedure, 1898. This means they can't just search or arrest someone any way they want; they have to do it according to the established legal rules.

Explanation using Example

Imagine a situation where a railway police officer receives information that someone is in possession of stolen railway cables. To investigate this, the officer decides to search the suspect's property. According to Section 11 of The Railway Property (Unlawful Possession) Act, 1966, the officer must conduct this search in compliance with the search procedures outlined in the Code of Criminal Procedure, 1898. This means that the officer needs to follow the same rules for obtaining search warrants, conducting the search, and seizing any items, as they would for any other criminal investigation 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.

Simplified

Section 12 states that all government officers and local village officers must help higher-ranking officers and members of the Railway Protection Force to carry out the rules of this law.

Explanation using Example

Imagine a scenario where a local train station has been facing issues with theft of railway property. The Station Master notices this trend and reports it to the Railway Police. To effectively enforce the law under The Railway Property (Unlawful Possession) Act, 1966, the Railway Police seek assistance from local government officers and village officers in the area. Under Section 12 of the Act,

these officers are not only empowered but also obligated to assist in the enforcement. Consequently, the village headman helps by informing the community about the legal consequences of such thefts and keeping an eye out for any suspicious activities. Meanwhile, local government officers work in collaboration with the Railway Police to set up checkpoints and conduct searches to protect railway property.

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.

Simplified

If you're found guilty of a crime under this law, the court can take away any property involved in the crime and give it to the government. This includes not just the property itself, but also any containers, packaging, or coverings it was in, and any animals or vehicles used to transport it.

Explanation using Example

Imagine a situation where a person is caught by the railway police for stealing cables from a railway station. After the trial, the court finds the person guilty of the theft, which is an offence under The Railway Property (Unlawful Possession) Act, 1966. As a result, not only is the person punished for the theft, but the court also orders that the stolen cables, which are railway property, must be returned to the government. Furthermore, the backpack and tools used to carry and remove the cables, as well as the getaway bicycle the thief used to transport the stolen cables away from the scene, are also ordered to be forfeited to the government. This is an application of Section 13 of the Act, which allows the court to seize any items related to the commission of the crime.

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.

Simplified

This law will apply even if there are other laws that conflict with it.

Section 15: Construction Of References To Laws Not In Force In Jammu And Kashmir

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. SO 1123(E) dated (18-03-2020) and vide Union Territory of Ladakh Reorganisation (Adaptation of Central Laws) Order, 2020, notification No. SO3774(E), dated (23-10-2020).

Simplified

The section that used to discuss how references to laws not currently active in Jammu and Kashmir should be understood has been removed. This change was made official through two notifications. The first one, numbered SO 1123(E), was issued on March 18, 2020. The second one, numbered SO3774(E), was issued on October 23, 2020, and it also relates to the Union Territory of Ladakh.

Explanation using Example

Imagine a scenario where a person in the Union Territory of Jammu and Kashmir is found in possession of railway property that they cannot account for. Prior to the amendments made in 2020, Section 15 of The Railway Property (Unlawful Possession) Act, 1966 would have been applied to determine the references to laws that were not in force in Jammu and Kashmir. However, after the reorganization of Jammu and Kashmir and the adaptation of central laws through the notifications mentioned, Section 15 has been omitted. Now, the central law applies directly, and the person in possession of the railway property would be dealt with under the current applicable laws without needing special references that Section 15 used to provide.

Section 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.

Simplified

(1) The previous law called the Railway Stores (Unlawful Possession) Act, 1955 has been officially cancelled and is no longer in effect.

(2) However, if someone committed a crime under the old 1955 law before it was cancelled, they can still be investigated and tried as if the new law didn't exist.

(3) Just because we specifically mention how the old offences are treated in point (2), it doesn't change or undermine the general rules about what happens when a law is repealed, as explained in the General Clauses Act, 1897.

Explanation using Example

Imagine a situation where an individual was found in possession of stolen railway property before the Railway Property (Unlawful Possession) Act, 1966 came into effect. This individual was charged under the Railway Stores (Unlawful Possession) Act, 1955, which was the relevant law at that time.

Now, even though the 1955 Act has been repealed by Section 16(1) of the 1966 Act, the case against the individual will not be affected by this repeal. According to Section 16(2), the offence will still be processed and the accused will be tried under the provisions of the old 1955 Act as if the new 1966 Act had never been enacted. This ensures that the repeal of the old law does not offer an unintended escape route to those who were already facing charges under it.

Furthermore, Section 16(3) clarifies that the specifics mentioned in subsection (2) do not undermine the general principles laid out in the General Clauses Act, 1897, particularly section 6, which deals with the effects of repealing a law.