

THE RAILWAYS (SECOND AMENDMENT) ACT, 2003

No. 51 OF 2003

[23rd December, 2003.]

An Act further to amend the Railways Act, 1989.

BE it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:—

Short title
and com-
mencement.

1. (1) This Act may be called the Railways (Second Amendment) Act, 2003.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment
of section 2.

2. In section 2 of the Railways Act, 1989 (hereinafter referred to as the principal Act),— 24 of 1989.

(a) after clause (26), the following clause shall be inserted, namely:—

“(26A) “officer authorised” means an officer authorised by the Central Government under sub-section (2) of section 179;”;

(b) in clause (34), after the words “service of a railway”, the following shall be inserted, namely:—

“including member of the Railway Protection Force appointed under clause (c) of sub-section (1) of section 2 of the Railway Protection Force Act, 1957”. 23 of 1957.

Substitution
of new
section for
section 179.

3. For section 179 of the principal Act, the following section shall be substituted, namely:—

Arrest for
offences
under certain
sections.

“179. (1) If any person commits any offence mentioned in sections 150 to 152, he may be arrested without warrant or other written authority by any railway servant or police officer not below the rank of a head constable.

(2) If any person commits any offence mentioned in sections 137 to 139, 141 to 147, 153 to 157, 159 to 167 and 172 to 176, he may be arrested, without warrant or other written authority, by the officer authorised by a notified order of the Central Government.

(3) The railway servant or the police officer or the officer authorised, as the case may be, may call to his aid any other person to effect the arrest under sub-section (1) or sub-section (2), as the case may be.

(4) Any person so arrested under this section shall be produced before the nearest Magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of the Magistrate."

4. In section 180 of the principal Act,—

Amendment of section 180.

(a) in sub-section (1),—

(i) for the word and figures "section 179", the words, brackets and figures "sub-section (2) of section 179" shall be substituted;

(ii) for the words "any railway servant authorised in this behalf or any police officer not below the rank of a head constable", the words "the officer authorised" shall be substituted;

(b) in sub-section (2), for the words "The railway servant or the police officer", the words "The officer authorised" shall be substituted.

5. After section 180 of the principal Act, the following sections shall be inserted, namely:—

Insertion of new sections 180A to 180G.

"180A. For ascertaining facts and circumstances of a case, the officer authorised may make an inquiry into the commission of an offence mentioned in sub-section (2) of section 179 and may file a complaint in the competent court if the offence is found to have been committed.

Inquiry by officer authorised to ascertain commission of offence.

180B. While making an inquiry, the officer authorised shall have power to,—

Powers of officer authorised to inquire.

(i) summon and enforce the attendance of any person and record his statement;

(ii) require the discovery and production of any document;

(iii) requisition any public record or copy thereof from any office, authority or person;

(iv) enter and search any premises or person and seize any property or document which may be relevant to the subject-matter of the inquiry.

C. Every person arrested for an offence punishable under sub-section (2) of section 179 shall, if the arrest was made by a person other than the officer authorised, be forwarded, without delay, to such officer.

Disposal of persons arrested.

180D. (1) When any person is arrested by the officer authorised for an offence punishable under this Act, such officer shall proceed to inquire into the charge against such person.

Inquiry how to be made against arrested person.

(2) For this purpose, the officer authorised 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 the provisions of the Code of Criminal Procedure, 1973, when investigating a cognizable case:

Provided that—

(a) if the officer authorised is of the 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 authorised 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 authorised may direct, to appear, if and when so required, before the Magistrate having jurisdiction.

Search, seizure
and arrest how
to be made.

180E. All searches, seizures and arrests made under this Act shall be carried out in accordance with the provisions of the Code of Criminal Procedure, 1973, relating respectively to searches and arrests made under that Code. 2 of 1974.

Cognizance
by Court on a
complaint
made by
officer
authorised.

180F. No court shall take cognizance of an offence mentioned in sub-section (2) of section 179 except on a complaint made by the officer authorised.

Punishment
for certain
offences in
relation to
inquiry.

180G. Whoever intentionally insults or causes any interruption in the inquiry proceedings or deliberately makes a false statement before the inquiring officer shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both."