

BOMBAY BORSTAL SCHOOLS ACT, 1929

18 of 1929

[25th November 1929]

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BOMBAY BORSTAL SCHOOLS ACT, 1929

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An Act to provide for the establishment of Borstal Schools in the Presidency of Bombay. WHEREAS it Is expedient to provide for the establishment of Borstal school in the Presidency of Bombay; and whereas the previous sanction of the Governor General required by sub-section (3) of Section 80-A of the Government of India Act has been obtained for the passing of this Act; (3 'and 6 Goe. V, c. 61), it is hereby enacted as follows:

1. Short title. :-

This Act. may be called the Bombay Borstal School Act, 1929.

2. Extent and commencement. :-

(1) This Act shall apply to the ¹[Bombay area of the State of Gujarat].

(2) It shall come into operation on such date as the ² (State Government] may, by notification in the Official Gazette, appoint in this behalf.

1. Subs, by A.O. 1960.

2. Subs, by the Adaptation of Laws Order, 1950.

3. Definitions. :-

In this Act, unless there is anything repugnant in the subject or context:

(a) "Borstal School" means a place in which young offenders, whilst detained in pursuance of this Act are given such industrial training and other instruction and are subject to such disciplinary and moral influences as will conduce to their reformation and the prevention of crime;

(b) "Inspector General" means the Inspector-General of Prisons and includes any officer appointed by the [State Government] to perform all or any of the duties imposed by this Act on the Inspector-General;

(c) "Prescribed" means prescribed by rules made under this Act.

4. Establishment of Borstal schools. :-

(1) For the purposes of this Act the ¹ [State Government] may establish one or more Borstal schools,

(2) For every Borstal School, a visiting committee shall be appointed in such manner as may be prescribed.

1. Subs, by the Adaptation of Laws Order, 1950.

5. Application of the Prisons Act, 1894, and the Prisoners Act, 1900. :-

Subject to any alterations, adaptations, and exceptions made by this Act and the rules framed under It, the ¹ Prisons Act, 1894 (IX of 1894), and the 'Prisoners Act 1900 (III of 1900), and the rules framed there under shall apply In the case of every Borstal school established under this Act as if it were a prison and the inmates prisoners.

1. See Central Acts.

6. Court may pass order for detention in a Bontal school. :-

When an offender Is found guilty of an offence for which he is liable to be sentenced to transportation or imprisonment, or Is liable to imprisonment for failure to furnish security under Chapter VIII of the Code of Criminal Procedure, 1898 (V of 1898), whether any previous conviction is proved against him or not, and it appears to the Court

(a) that the offender Is not less than sixteen or, in any district or place In which the Bombay Children Act, 1924 (Bombay XIII of 1924), is not in operation less than fifteen, nor more than twenty-one years of age, and

(b) that by reason of his criminal habits or tendencies or association with persons of bad character it is expedient that he should be subject to detention for such term and under such instructions and discipline as appears most conducive to his reformation,

it shall be lawful for the Court, if empowered in this behalf, to pass, in lieu of a sentence of transportation or Imprisonment, or of an order of imprisonment under section 123 of the Code of Criminal Procedure, 1898 (V of 1898), an order for the detention of the offender in a Borstal school ¹[established under this Act or subject to the provisions of Section 13A In a Borstalschool In any other ²(State in India] for such term, not being less than ³[three] years nor more than five years, as the Court subject to rules made under this Act, thinks fit:

Provided that before passing such an order the Court shall give an opportunity to the parents or guardians of the said offender to be heard and shall consider any report or representation which may be made to it as to the suitability of the case for treatment In ⁴ [such Borstal School], and shall be satisfied that the character, state of

health and mental condition of the offender and the other circumstances of the case, are such that the offender is likely to profit by such instruction sanction of the State Government, See Ibid, AIR 1939 Sind 335.

1. These words, figures and letter were Inserted by Bombay 2 of 1936, S. 2(1).
2. Subs, by the Adaptation of Laws Order, 1950.
3. The words "three" was substituted for the word "two" by Bombay 17 of 1935 s.2.
4. The words "a District Magistrate, a sub-divisional Magistrate" were deleted by Bom. 23 of 1851. s. 2, Schedule-Part II.

7. Power of 1 [State] Government to exempt. :-

The ¹ (State Government] may, by rules made under this Act, direct that any class or classes of persons specified In such rules shall not be ordered to be detained In a Borstal School.

1. Substituted by the Adaptation of Laws Order, 1950.

8. Courts empowered to pass order for detention. :-

The powers conferred on Courts by this Act shall be exercised only by the High Court, a Court of Session. ¹[X X X] ² [x x x] or a Magistrate of the first class and or an appeal or in revision.

1. The words "a District Magistrate, a sub-divisional Magistrate" were deleted by Bombay 23 of 1951, S.2. Schedule Part III.
2. Omitted by A.O. 1960.

9. Procedure when Magistrate is not empowered to pass an order under this Act. :-

(1) When any Magistrate not empowered to pass an order for detention under this Act Is of opinion that an offender who has been found guilty by him or who has felled to furnish the security which the Magistrate has ordered him to furnish under Chapter VIII of the Code of Criminal Procedure. 1898 (V of 1898). is a proper person to be detained in a Borstal school, he may, without passing any order, record such opinion and submit his proceedings and forward the offender to the ¹[Magistrate of the first class] [x x x] to whom he is subordinate.

(2) The ²[Magistrate of the first class) ³(x x x] to whom the proceedings are so submitted may transfer the proceedings to any Magistrate subordinate to him competent to pass an order under this Act, ⁴[x x x]

(3) The ⁵[Magistrate of the first class] ⁶ [x x x] to whom the proceedings are so-submitted or any Magistrate to whom the proceedings are so transferred may make such further enquiry (if any) as he may think fit and may pass such order for the detention of the offender in a Borstal school, or such other sentence or order, as he might have passed if such offender had originally been brought before or tried by him.

1. These words were substituted for the words "District Magistrate" by Bombay 23 of 1951, s. 2, Schedule Pt.III.

2. These words were substituted for the words "District Magistrate" by Bombay 23 of 1951. s. 2, Schedule Pt.III.

3. Omitted by A.O. 1960.

4. Omitted by A.O. 1960.

5. These words were substituted for the words "District Magistrate" by Bombay 23 of 1951. s. 2, Schedule Pt. III.

6. Omitted by A.O. 1960.

10. Limitation on powers conferred by section 6. :-

Any offender detained in a Borstal school for failure to furnish security when ordered to do so under Section 120 of the Transfer of Property Act, 1882 or s. 118 of the Code of Criminal Procedure, 1898 (V of 1898), shall be released on furnishing such security or on the passing of an order under section 124 of the said Code.

11. Transfer from prison to Borstal school. :-

(1) If the Inspector General is satisfied that a person undergoing transportation or imprisonment in consequence of a sentence ¹[passed undergoing imprisonment under an order made under section 123 of the Code of Criminal Procedure, 1898 (V of 1898), for failure to give security] being within the limits of age within which persons may be ordered to be detained in a Borstal school, by reason of his criminal habits or tendencies, or association with persons of bad character, might with advantage be detained in a Borstal school, the Inspector-General may by order in writing direct such person to be transferred from prison to a Borstal 'school ²[established under this Act or subject to the provisions of Section 13A, to a Borstal school in any other ³(State] in India and to be detained in such school, in lieu of the unexpired residue of his sentence, ⁴[or of the period of imprisonment which he is liable to undergo for failure to give security, as the case may be,] for such period of transportation or imprisonment already undergone will not exceed the maximum period for which such person could have Section 6 :

Provided that the Inspector-General shall not, without the previous sanction of the ⁵[State Government], direct such person to be detained in a Borstal school for a period which including the period of imprisonment or transportation undergone exceeds the period of imprisonment Or transportation to which such person has been sentenced ⁶ (or the period of imprisonment which he is liable to undergo for failure to give security, as the case may be.)

(2) A person transferred to a Borstal school under sub-section (1) shall upon transfer to such school be deemed to be an offender ordered to be detained by a Court under the provisions of Section 6 and the provisions of the Act shall apply to such person accordingly.

1. These words were substituted for the original by Bombay 30 of 1948, s. 2.

2. These words, figures and letter were Inserted by Bombay 2 of 1936, s. 3.

3. Substituted by the Adaptation of Laws Order, 1950.

4. These Words were Inserted by Bombay 39 of 1948, s. 2.

5. Substituted by the Adaptation of Laws Order, 1950.

6. These words were substituted for the words "District Magistrate" by Bombay 23 of 1951, s. 2. Schedule Pt. ID.

12. Transfer of incorrigibles, etc. to prison. :-

(1) Where an offender detained in a Borstal school escapes, or is reported the ¹[State Government] by the Inspector-General to be incorrigible or to exercise ²(or to be likely to exercise] a bad influence on the other inmates of the school, ³[or to be more than twenty years of age] or where a licence granted under Section 14 is revoked by the ⁴[State] Government under clause (11) of the proviso to sub-section (1) of Section 15 or is, in the opinion of the ⁵[State] Government, otherwise unsuitable for training in a Borstal school], the ⁶[State Government] may commute the unexpired residue of the term of detention to such term of imprisonment of either description as the ⁷[State Government] may determine, but in no case exceeding the shorter of the following two periods :

(a) the unexpired residue of the term of detention, or

(b) the maximum period of imprisonment provided by law for the offence of which the offender was found guilty or the failure to give security, as the case may be, la consequence of which the offender was ordered to be detained in a Borstal school 10[or ordered to be transferred to and detained in such school by the Inspector

General].

(2) Such offender may be confined in any prison within the ⁸[State of Gujarat] by warrant tendered under the hand of a Secretary to the ⁹[State Government] and effect shall be given to such warrant and the sentence of imprisonment passed upon such offender shall be executed in the same manner as if such person had been sentenced by a competent court of criminal jurisdiction.

1. Substituted by the Adaptation of Laws Order, 1950.
2. These words were Inserted by Bombay 30 of 1948.
3. The words "or to be more than twenty years of age" were Inserted by Bombay 10 of 1932, s. 2.
4. Substituted by the Adaptation of Laws Order, 1950.
5. Substituted by the Adaptation of Laws Order, 1950.
6. Substituted by the Adaptation of Laws Order, 1950.
7. Substituted by the Adaptation of Laws ORDER. 1950.
8. These words were added by Bombay 3 of 1934, s.3.
9. Substituted by the Adaptation of Laws Order, 1950.

13. 3[State] Government to determine the Borstal school in which a person shall be detained and may order removal. :-

(1) Every offender ordered to be detained in a Borstal school shall be detained in such Borstal school as the ¹[State Government] may, by general or special order, or in the prescribed manner, appoint for reception of persons so ordered to be detained: Provided that if accommodation in a Borstal school is not Immediately available, for such offender he may be detained in a special ward, or such other suitable part of a prison as the ²[State Government] may direct until he can be sent to a Borstal school. The period of detention so undergone shall be treated as detention in a Borstal school.

(2) The ³[State Government] may order the removal of any offender from any one Borstal school to any other Borstal school, ⁴[established under this Act or to a Borstal school in any other ⁵[State] in India provided that the whole period of his detention in a Borstal school shall not be increased by such removal.

1. Substituted by the Adaptation of Laws Order, 1950.
2. Substituted by the Adaptation of Laws Order, 1950.
3. Substituted by the Adaptation of Laws Order, 1950.
4. Inserted by Bombay 2 of 1936.
5. Substituted by the Adaptation of Laws Order, 1950.

13A. Power to order detention in or removal of offenders to

a Borstal school in another 10[State]. :-

No order for the detention in or transfer or removal to a Borstal school in any other ¹[State] in India shall be passed except with the previous concurrence of the officer in charge of such Borstal school and unless the ²(State Government] of the said ³[State] ⁴[x x x] under any law in force therein or by general Of special order, has consented or empowered, to receive such offender for detention in such Borstal school;

1. Substituted by the Adaptation of Laws Order, 1950.
2. Substituted by the Adaptation of Laws Order, 1950.
3. Substituted by the Adaptation of Laws Order, 1950.
4. Omitted by the Adaptation of Laws Order, 1950.

13B. Removal of person detained to civil hospital in 2[State] for medical treatment. :-

(1) If an offender detained in a Borstal school is suffering from any illness and the Inspector General is satisfied that it is not possible to render to him proper medical care or treatment in the school, the Inspector General may provide for the removal of such offender to any civil hospital in the ¹ [State] for the purpose of undergoing medical treatment and for his return to the school after such treatment is undergone.

(2) The period during which an offender is absent from a Borstal school under sub-section (1) shall, for the purposes of computing his term of detention in the school, be deemed to be part of that detention.¹

1. Substituted by the Adaptation of Laws ORDER. 1950.

14. Power to release on licence. :-

(1) Subject to the prescribed conditions, the Inspector General may on the recommendation of the Visiting Committee, at any time after the expiration of six months from the commencement of the detention of an offender in a Borstal school, if he is satisfied that there is a reasonable probability that the offender will abstain from crime and lead a useful and industrious life, discharge him from the Borstal school and grant him a written licence in the prescribed form and on the prescribed conditions permitting him to live under the supervision and authority of such

(a) Government office.

(b) secular institution,

(c) religious society, or

(d) responsible person, as may be approved by the Inspector General and willing to take charge of the offender.

¹ [(1A) The Inspector General may, subject to the prescribed conditions, discharge any offender who had been previously granted a licence but whose licence was subsequently revoked under Section 15 and grant him a fresh written licence and in such case the provisions of this Act shall apply as if such fresh licence had been granted under sub-section (1).]

(2) A licence under this section shall be in force until the expiry of the term for which the offender was ordered to be detained in a Borstal school, unless sooner revoked.

(3) The period during which an offender is absent from a Borstal school during the continuance of a licence granted to him under this section shall, for the purposes of computing his term of detention in such school be deemed to be part of that detention.

1. Inserted by Bombay 39 of 1948.

15. Revocation of licence. :-

(1) Subject to the prescribed conditions, the Inspector General may at any time ¹[and in the case of a request made by] the institution, society or person, under whose supervision and authority the offender has by licence been permitted to live ²[shall, after considering the report of the Investigating Committee submitted to him under Section 17B] revoke a licence granted under Section 14 , and upon such revocation the offender shall be detained in a Borstal school until the expiry of the term for which he was ordered to be detained in such school:

³[Provided that if the Investigating Committee report that the conduct of the offender has been such that he is unfit for detention in a Borstal school, the Inspector General shall forward the report of the Investigation Committee to the ⁴[State] Government and the ⁵[State] Government may

(1) direct the Inspector General to revoke the licence as provided in this sub-section, or

(ii) itself revoke the licence and commute the unexpired residue of the term of detention of the offender to a term of imprisonment as provided in Section 12 .]

(2) If an offender removes himself from the supervision of the institution, society or person under which he was by licence permitted to live, his licence shall be deemed to have been revoked from the date on which he has so removed himself.

⁶ [(3) On the revocation of a licence under sub-section (2) the period beginning from the date on which the offender removed himself from supervision till the date on which he is arrested shall, subject to the provisions of Section 17 , be excluded in computing the period for which he has been ordered to be detained in a Borstal school.]

1. Substituted by Bombay 39 of 1948, s.9.

2. Inserted by Bombay 39 of 1948.

3. Added by Bombay 39 of 1948.

4. Substituted by the Adaptation of Laws Order, 1950.

5. Substituted by the Adaptation of Laws Order, 1950.

6. Inserted by Bombay 39 of 1948.

16. Subsequent supervision. :-

(1) When the Inspector General and the Visiting Committee report that the conduct [and progress] of any offender detained in a Borstal school has been such that it is expedient that he shall remain under supervision for a further period after the end of the term of detention, the ¹[State Government] may direct that he shall, on the expiration of the term of his detention, remain for a further period not exceeding one year under the supervision of such authority, society or person as the Inspector General, subject to rules made under this Act, may direct.

²[(2) The ³ [State Government) may, after considering the report of the Investigating Committee forwarded to it under Section 17B , direct that the offender who is under supervision in accordance with sub-section (1) shall

(a) again be detained in a Borstal school for such period as it may think fit, or

(b) if the Investigating Committee report that the conduct of the offender has been such that he is unfit for detention in a Borstal school undergo imprisonment of such description and for such

period as it may direct:

Provided that the total period of supervision, detention and imprisonment, under this section shall not exceed one year.

(3) The provisions of sub-section (2) of Section 12 shall apply when an offender is directed to undergo imprisonment under sub-section (2) of this section.]

1. Substituted by the Adaptation of Laws Order, 1950.
2. Substituted by Bombay 39 of 1948. s.9.
3. Substituted by the Adaptation of Laws Order. 1950.

17. Period of detention. :-

No person shall be detained in a Borstal school after he has, in the opinion of the ¹[State Government], attained the age of twenty-three years, or, if in any particular case the ² [State Government] so directs, after he has attained the age of twenty-five years.

1. Substituted by the Adaptation of Laws Order. 1950.
2. Substituted by the Adaptation of Laws Order, 1950.

17A. Period of detention. :-

17B. Investigating Committee to investigate into complaints against offenders discharged on probation, etc. :-

(1) The ¹[State Government] may, by notification in the Official Gazette, appoint an Investigating Committee.

(2) The Inspector General may, by an order in writing, require any offender

(a) who is discharged on licence under Section 15 or who is placed under supervision under Section 16 , and who is reported by the authority, institution, society or person under whose supervision he has been permitted to live or has been directed to remain, to be of bad behaviour, or

(b) who has broken any of the conditions of the licence granted to him under Section 14 , to appear before the Investigating Committee within such time and at such place as may be specified in the order.

(3) The Investigating Committee shall examine offender and after making such enquiry as it think fit into his conduct submit its report to the Inspector General. If the Investigating Committee reports

that the conduct of such offender has been such that he is unfit for further detention in a Borstal school and in every case where an offender had been directed to remain under supervision under Section 16 , the Inspector General shall forward a copy of the report of the Investigating Committee to the ²[State Government].

(4) The offender shall during the period of the proceedings under this section be detained in a Borstal school or in a special ward, or such other suitable part of a prison as the Inspector General may by general or special order direct.

(5) If the offender fails to appear before the Investigating Committee in accordance with the order made under sub-section (2) or escapes while detained under sub-section (4), he may, on the requisition of the Inspector General or any officer authorised by him in this behalf, be arrested by any officer of police without warrant and without an order of a Magistrate and brought before the Investigating Committee or sent under custody to the place of detention under sub-section (4), as the case may be.

(6) The period beginning from the date on which the order under sub-section (2) is passed by the Inspector General and ending with the day on which an order is passed by the Inspector General under Section 15 or by the ³ [State Government] under Section 15 or Section 16 , as the case may be, shall be excluded In computing the total terms of his detention in a Borstal school or in computing the period of one year referred to in Section 16 .]

1. Substituted by the Adaptation of Laws Order, 1956.

2. Substituted by the Adaptation of Lam ORDER. 1950.

3. Substituted by the Adaptation of Laws ORDER, 1950.

18. Arrest of offender escaping from Borstal school, or escaping from supervision. :-

Any offender who, in contravention of the provisions of this Act. has escaped from a Borstal school ¹[or has escaped from a civil hospital to which he was removed for treatment under Section 13B] or has escaped from the supervision of any authority, institution, society or person under whose supervision he has been directed to remain, or has been permitted to live by, licence under Section 14 . *[or has committed a breach of any of the conditions imposed under section 17A] may be arrested by any officer of Police without warrant and without the order of a Magistrate and sent back to the Borstal school ² (or to the civil hospital] or to such authority,

institution, society or person, as the case may be.

1. Inaertod by Bombay 38 of 1948.

2. Inserted by Bombay 30 of 1948.

19. Rules. :-

(1) The ¹[State Government] may make rules for the regulation and management of any Borstal school and for the carrying into effect of the provisions of this Act

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for or determine

(a) the control and management of Borstal school established under this Act;

(b) the appointment, powers and duties of officials in such schools;

(c) the constitution, powers and duties of visiting committees;

(d) the classification, control, discipline, training instruction and treatment of offenders ordered to be detained in a Borstal school and for the temporary detention of such offenders until arrangements can be made for sending them to such school;

(e) the regulation of visits to. and communication with, offenders detained in such school:

(f) the restriction or prohibition of the supply to, or possession by, offenders detained in such school of any specified articles or kinds of articles;

(g) the period for which offenders or any class or classes of offenders may. within the limits fixed by this Act, be ordered to be detained in such school;

(h) the class or classes (if any) of offenders who shall not be ordered to be detained in such school;

²[(hh) the removal of offenders to Borstal schools in other ³[States] in India and the reception and detention in a Borstal school established under this Act of offenders transferred from other ⁴[States];

(i) the form and conditions of licences granted under Section 14 ;

(j) the supervision of offenders after the expiration of the term of their detention;

(k) the transfer of incorrigible offenders from a Borstal school to prison;

⁵{(1) the conditions on which an offender may be discharged under Section 17A;]

⁶[(m) die constitution, procedure powers and duties of the Investigating Committee.]

(3) The making of rules under this section shall be subject to the condition of previous publication. Such rules shall be laid ⁷[before the Legislature of the State] for the one month previous to the next session thereof and shall be liable to be rescinded or modified ⁸[by a resolution passed by the Legislature]. If any rule is modified the ⁹[State Government] may accept the modification and re-issue the rule accordingly or may rescind the rule.

1. Substituted by the Adaptation of Laws Order. 1950.
2. Clause (hh) was Inserted by Bombay 2 of 1950.
3. Substituted by the Adaptation of Laws Order, 1950.
4. Substituted by the Adaptation of Laws Order, 1950.
5. Inserted by Bombay 3 of 1934.
6. Inserted by Bombay 39 of 1948.
7. Substituted by the Adaptation of Laws Order, 1960.
8. These words were inserted by the Adaptation of Indian Lands Order in Council.
9. Substituted by the Adaptation of Laws Order. 1950.

20. Removal of disqualification. :-

The ¹ [State Government] may, on the recommendation of the Inspector General and the Visiting Committee, or otherwise remove any disqualification incurred by an offender ordered to be detained in a Borstal school on account of such detention.

1. Substituted by the Adaptation of Laws Order, 1950.

21. Removal of disqualification. :-