

SIND ACT No. X OF 1955.¹

[THE SIND BORSTAL SCHOOLS ACT, 1955.]

[2nd May, 1955]

An Act to provide for the establishment of Borstal Schools in ~~the Province of Sind~~ ^{the} ~~Province of Sind~~.

WHEREAS it is expedient to provide for the establishment of Borstal Schools in ~~the Province of Sind~~; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Sind Borstal Schools Act, 1955.

Extent and commencement.

2. ³[(1) It extends to the whole ~~of the Province of Sind~~]

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

Definitions.

3. 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 ⁴[instructions] and are subjected to such disciplinary and moral influences as will conduce to their reformation and the prevention of crime ;

(b) ⁵"~~Inspector General~~ ^{Director}" means the ⁵[~~Inspector General~~ ^{Director}] of Prisons and includes any officer appointed by the Provincial Government to perform all or any of the duties imposed by this Act on the ⁵[~~Inspector General~~ ^{Director}]

(c) "prescribed" means prescribed by rules, made under this Act;

(d) "Code" means the Code of ⁶[Criminal] Procedure, 1898 (V of 1898).

Establishments of Borstal Schools.

4. (1) For the purpose of this Act, the Provincial 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 For Statement of Objects and Reasons, see S. G. G., 1955, Pt. IV, pp. 20 and 61 and for Proceedings in Assembly, see S. L. A. Debates, 1955, Vol. IV—Book No. 2, pp. 33—35.

⁴ Sub. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 5 of 1955), s. 7, Sch. III, for "instruction".

⁶ Subs. *ibid.* for "Civil".

² Subs. by Sind Act 14 of 1975, S. 2, for the word "Sind" which was previously Subs. by W.P.O. 1964, Art. 2, Sch. II, (1) for "Province of Sind".

³ Subs. *ibid.* for original sub. Section (1) as amended by W.P.O., 1964, Art. 2, Sch. II, (1).

⁵ Subs. by W.P. Ordinance 25 of 1962, S. 3 (1), Sch. I, for "Inspector-General".

5. Subject to any alterations, adaptations and exceptions made by this Act and the rules framed under it, the Prisons Act, 1894, and the Prisoners Act, 1900, and the rules framed thereunder shall apply in the case of every Borstal School established under this Act as if it were a prison and the inmates prisoners.

Applications of the Prisons Act, 1894, and the Prisoners Act, 1900.

6. 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 whether any previous conviction is proved against him or not, and it appears to the Court—

Courts may pass order for detention in a Borstal School.

(a) that the offender is not less than sixteen or in any district or place in which the Sind Children Act, 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 instruction 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, an order for the detention of the offender in a Borstal School established under this Act or subject to the provisions of section 14, in a Borstal School in any other province ~~for an Acceding State in Pakistan~~ for such term, not being less than three years nor more than five years, as the Court, subject to ²[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 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 and discipline as aforesaid.

7. The Provincial 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.

Power of Provincial Government to exempt.

8. The powers conferred on Courts by this Act shall be exercised only by the ~~Chief Court, a Court of Session, a District Magistrate, a Sub-Divisional Magistrate~~, a salaried Magistrate of the First Class and may be exercised by such Courts whether the case comes before them originally, or on appeal, or in revision.

Courts empowered to pass order for detention

1 Subs. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 5 of 1955), s. 7, Sch. III, for "conductive".

2 Subs. *ibid*, for "rule".

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3. ~~omitted~~ by Act XIV of 1955, s. 4(ii).

4. ~~omitted~~ by *ibid* s. 4(ii)

5. Subs. by *ibid* words omitted s. 5

6. ~~Subs~~ by Sindh ORD. No. XXVI of 2001 dt. 28-11-2001 (effect. 14-8-2001).

period of imprisonment or transportation undergone exceeds the period of imprisonment or transportation to which such person has been sentenced 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 ¹[shall] apply to such person accordingly.

12. (1) When an offender detained in a Borstal School escapes, or is reported to the Provincial Government by the ^{Director} ~~Inspector General~~ to be incorrigible or to exercise or to be likely to exercise a bad influence on the other inmates of the school, or to be more than twenty-one years of age, or where a licence granted under section 16 is revoked by the Provincial Government under clause (ii) of the proviso to sub-section (1) of section 17 or is, ³[in] the opinion of the Provincial Government, otherwise unsuitable for training in a Borstal School, the Provincial Government may commute the unexpired residue of the term of detention to such term of imprisonment of either description as the Provincial 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, in consequence of which the offender was ordered to be detained in a Borstal School or ordered to be transferred to and detained in such school by the ³~~Inspector General~~ ^{Director}.

¹ ~~of Sind~~ ² ~~Province~~ (2) Such offender may be confined in any prison within ⁴~~the Province~~ by warrant under the hand of Chief Secretary or a Secretary to the Provincial 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.

13. (1) Every offender ordered to be detained in a Borstal School shall be detained in such Borstal School as the Provincial Government may, by general or special order, or in the prescribed manner, appoint for the 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 Provincial

Provincial Government to determine the Borstal School in which a person shall be detained and may order removal.

¹ Ins. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 5 of 1955), s. 7, Sch. III.

² Sub. ^{ibid.} for "is"

³ Sub. by W.P. Ordinance 25 of 1962, s. 35(2) Sch. I, for "Inspector General"

⁴ Sub. by Sind Ordinance 5 of 1955, s. 7, Sch. III, for "is"

⁵ Sub. by Sind Act 14 of 1975, s. 2, for the word "Sind" which was previously sub. by W.P. A.O., 1964, Art. 2, Sch., Pt. IV (D), for "the Province"

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 Provincial Government may order the removal of any offender from any one Borstal School to any other Borstal School, established under this Act or to a Borstal School in any other Province ~~for an Acceding State in Pakistan~~ provided that the whole period of his detention in a Borstal School shall not be increased by such removal.

Power to order detention in, or removal of offenders to, a Borstal School in another Province.

14. (1) No order for the detention in or transfer or removal to a Borstal School in any other province ~~for an Acceding State in Pakistan~~ shall be passed except with the previous concurrence of the officer in charge of such Borstal School:

Provided that the Provincial ~~or State~~ Government of the said province ~~or State~~ under any law in force therein or by general or special order, has consented, or is empowered to receive such offender for detention in such Borstal School.

Powers to accept transfers of offenders from another Province to a Borstal school in the Province.

(2) The officer in charge of a Borstal School established under this Act may, subject to the rules made in this behalf, give effect to any order for the detention therein of any person passed by any authority under any enactment in force in any other Province ~~for an Acceding State in Pakistan~~. A person detained in such Borstal School under this provision shall be deemed to be an offender ordered to be detained under the provisions of section 6 and the provisions of this Act shall apply to such person accordingly.

Removal of person detained in civil hospital in Province for medical treatment.

15. (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 Province~~ ^{Sindh} 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.

Power to release on licence.

16. (1) Subject to the prescribed conditions, the ~~Inspector-General~~ ^{S. 10} 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

1. Supplied by W. P. Laws (Adapt) order 1963, for the Province.
2. Omitted by Sind Act XIV of 1971 S. 6.
3. Omitted by ibid S. 7.
4. Omitted by ibid S. 7.
5. Subs by W. P. Ordinance 25 of 1962 S. 3(1), Sch. 5, for Inspector General?

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) servant of ~~the Crown~~, ^{Director} ~~the Crown~~,
- (b) secular institution,
- (c) religious society, or
- (d) responsible person, as may be approved by the ^{Director} ~~Inspector-General~~ and willing to take charge of the offender :

Provided that no such order of issuing licence shall be made unless a solvent surety for a sum not exceeding one thousand rupees is tendered by the offender or his parent or guardian.

(2) The ^{Director} ~~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 17 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).

(3) 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 Borstal School, unless sooner revoked.

(4) 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 purpose of computing his term of detention in such school, be deemed to be part of that detention.

17. (1) Subject to the prescribed conditions, the ^{Director} ~~Inspector-General~~ may at any time, and in the case of request made by the institution, society or person under whose supervision and authority the offender has by licence been permitted to live, shall, after considering the report of the Investigating Committee submitted to him under section 21 revoke a licence granted under section 16 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 : Revocation of licence.

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 ^{Director} ~~Inspector-General~~ shall forward the report of the Investigating Committee to the Provincial Government and the Provincial Government may—

- (i) direct the ^{Director} ~~Inspector-General~~ to revoke the licence as provided in this sub-section, or

(ii) itself revoke the licence and commute the un-expired 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 revoked from the date on which he has so removed himself.

(3) On the revocation of a licence under sub-section (2), the period beginning from the date on which the offender removed himself from the 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.

Subsequent supervision.

18. (1) When the ³ ~~[Inspector General]~~ ^[Director] and the Visiting Committee report that the conduct or 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 Provincial 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 ³ ~~[Inspector General]~~ ^[Director] subject to rules made under this Act, may direct.

(2) The Provincial Government may, after considering the report of the Investigating Committee forwarded to it under section 21, direct that the offender who is under supervision in accordance with sub-section (1) shall—

(a) again be forwarded ² [to] 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.

Period of detention.

19. No person shall be detained in a Borstal School after he has, in the opinion of the Provincial Government attained the age of twenty-three years, or, if in any particular case the Provincial Government so directs, after he has attained the age of twenty-five years.

¹ Subs. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 5 of 1955), s. 7, Sch. III, for "supervisions".

² Subs. *ibid.* for "in".

³ Subs. by V.P. Ordinance 15 of 1962, s. 3(1), Sch. I, for "Inspector General".

20. The Provincial Government may at any time order any person detained in a Borstal School to be discharged from such school, either absolutely or on such conditions as may be imposed. Discharge from Borstal School.

21. (1) The Provincial Government may, by notification in the *Official Gazette*, appoint an Investigating Committee. Investigating Committee to investigate into complaints against offenders discharged on probation.

(2) The ~~Inspector General~~ ^{Director} may, by an order in writing, require any offender—

(a) who is discharged on licence under section 16 or who is placed under supervision under section 18, 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 16, 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 the offender and after making such inquiry as it thinks fit into his conduct submit its report to the ~~Inspector General~~ ^{Director}. If the Investigating Committee report 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 has been directed to remain under supervision under section 18, the ~~Inspector General~~ ^{Director} shall forward a copy of the report of the Investigating Committee to the Provincial 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~~ ^{Director} 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~~ ^{Director} 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~~ ^{Director} and ending with the day on which an order is passed by the ~~Inspector General~~ ^{Director}

1. Subs by W.P. Ordinance 25 of 1967, S.3(1), Sch I, for "Inspector General".

under section 17 or by the Provincial Government under section 17 or 18, as the case may be, shall be excluded in computing the total term of his detention in a Borstal School or in computing the period of one year referred [to] in section 18.

Arrest of
offender
escaping
from Borstal
School, or
escaping
from super-
vision.

22. Any offender who, in contravention of the provisions of this Act, has escaped from a Borstal School, or has escaped from a Civil Hospital to which he was removed for treatment under section 15 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 16 or has committed a breach of any of the conditions imposed under section 20 may be arrested by any Officer of Police without warrant, and without the order of a Magistrate and sent back to the Borstal School or to the civil hospital or to such authority, institution, society or person, as the case may be. In that case the ³[Inspector-~~General~~ *Director*] may take such action as he deems fit under the 2 * * * Code against the surety.

Removal of
disqualifica-
tion.

23. The Provincial Government may, on the recommendation of the ²[~~Inspector-General~~ *Inspector*] 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.

Appeal and
revision.

24. For the purposes of appeal and revision under the Code, an order of detention under section 6 of this Act shall be deemed to be a sentence of imprisonment for the same period.

Rules.

25. (1) The Provincial Government may make rules for the regulation and management of any Borstal School and for the carrying into effect 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) control and management of Borstal Schools 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 arrangement can be made for sending them to such school ;

¹ Ins. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 and 5 of 1955), s. 7, Sch. III.

² The words "Criminal Procedure" rep. by *ibid*, s. 6, Sch. II.

³ Rule by W.P. Ordinance 25 of 1962. S. 3 (1), Sch. I for 'Inspector-General'.

(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 ;

(i) the removal of offenders to Borstal Schools in other Provinces in Pakistan and the reception and detention in a Borstal School established under this Act of offenders transferred from other Provinces ;

(j) the form and conditions of licences granted under section 16 ;

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

(l) the transfer of incorrigible offenders from a Borstal School to prison ;

(m) the conditions on which an offender may be discharged under section 20 ;

(n) the constitution, procedure, powers and duties of the Investigating Committee.

(3) Rules made under this Act shall be published in the *Official Gazette* and shall be subject to the condition of previous publication. Such rules shall be laid on the table of the Sind Legislative Assembly during the Session of the Assembly next following and shall be liable to be rescinded or modified, by a resolution of the [said] Assembly and the rescission or modification so made shall after publication in the *Official Gazette* be deemed to have come into force.

Sind XVII
of 1929.

2 [26. ^{Substituted by S. 8 of 1929} The Sind Borstal Schools Act, 1929, is hereby repealed.] Repeal

1 Subs. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 5 of 1955), s. 7, Sch. III, for "Sind".

2. Subs. by Sind Act 14 of 1925, S. 8 for original Section 26.