

Borstal Schools Act

Question 1) What is a Borstal School?

Answer : It is an institution (Place) established by the State Government for [Section 3 (a)] giving Industrial Training and other instructions to young offenders (convicts) in the age group of not more than 21 years. Such offenders are subjected to discipline and moral influences which will be conducive to their reformation and the prevention of crime.

Question 2) Where are the Borstal Schools in Maharashtra?

Answer : Maharashtra has only one Borstal School i.e. in Nashik. It is only for boys.

Question 3) Which convict may be sent to the Borstal School?

Answer :

- a) An offender who is found guilty of an offence for which he is liable to be sentenced to imprisonment or imprisonment for life.
- b) It is immaterial whether any previous conviction is proved against him or not.
- c) Regarding such offenders it appears to the Court that by reason of his criminal habits or tendency or association with persons of bad character, it is expedient that he should be subjected to detention for such term and under such instruction and discipline as appears most conducive to his reformation.

Question 4) Which authority can order an offender to be sent to Borstal School?

Answer :

- a) Metropolitan Magistrate.
- (Section 8) b) Judicial Magistrate First Class.
- c) Court of Session and d) High Court when the matter comes before them originally or in appeal or in revision.
- e) Any other Magistrate can refer the case (vide Section 9) to Chief Metropolitan Magistrate/ J.M.F.C. to pass such order.

Question 5) Whether the Court has to pass first sentence and then order the offender to be sent to Borstal School or pass such order without pronouncing the sentence?

Answer : After conviction, the Court has to order for detention of the offender in a [Section 6] Borstal School in lieu of sentencing him to imprisonment or imprisonment for life. Hence, sentence should not be pronounced by the Court.

Question 6) Is there any specific term for detention of offender in a Borstal School?

Answer : a) The offender should be not more than 21 years of age as on the date (Section 6) of order, when the Court considers sending to him to a Borstal School.
b) The detention should be for a term not less than 3 years and not more than 5 years.
c) No person shall be detained in the Borstal School after attaining the age of 23 years, or, in a particular case, if the State Government so directs, after he attains the age of 25 years.

Question 7) Whether the Court shall consider any report or representation before passing an order for detention of an offender in a Borstal School?

Answer : Before passing the order for detention in a Borstal School, the Court [Section 6] shall give an opportunity of being heard to the parents or guardians of the offender and shall consider any report or representation made to it as to suitability of sending the offender for treatment in such Borstal School. The Court shall be satisfied that the character, state of health and mental condition of the offender and other circumstances of the case, are such that the offender is likely to profit by such instruction and discipline in the Borstal School.

Question 8) Which types of cases are unsuitable for Borstal School detention?

Answer : Sexual perverts or lads, who have been convicted for sexual offences, (Para. 4 & 5 viz under section 354, 366, 376, 377, 493, 497 and 498, I.P.C. should not, of Chapter X, as a rule, be sent to the Borstal School. Cr.Manual)

Question 9) Is there any authority other than a Court competent to pass an order for sending young offender to a Borstal School?

Answer : (1)The Inspector General may order an young offender who is [Section 11(1)] undergoing an imprisonment or imprisonment for life. (In consequence of a sentencing) to be detained in a Borstal School by transferring him from prison. Such prisoner can be detained in the Borstal School in lieu of residue of his sentence/ imprisonment.

[Section 11 (2)] (2) Such a person transferred to a Borstal School vide section 11 (1) is deemed to be an offender ordered to be detained by a Court vide section 6.

Question 10) Prohibits detention of person in a Borstal School beyond his age of 23 [Section 17] years and in peculiar cases 25 years, when a life convict was transferred from a prison to Borstal School by an order passed by the Inspector of General (vide section 11) should such person be released or sent back to prison for the remaining period of his life?

Answer :

- a) Such offender has to be released. He can not be sent back to prison for undergoing the remaining period of imprisonment.
- b) The Bombay Borstal Schools Acts deals with a person who did not complete 21 years of age as on the date on which the question is considered by the Court whether he should be sent to a Borstal School or sentenced to imprisonment i.e. as on the date of order, (not date of the offence).
- c) Borstal School is a part of prison system falling under the Home Ministry where as the Home & under the Juvenile Justice Act falls under the Department of Women and Children Development.
- d) A person who did not complete 18 years of age as on the date of the offence has to be dealt with as per the provisions of the Juvenile Justice Acts, even if he attains majority during the pendency of the case.

Question 11) Whether a person ordered to be detained in a Borstal School is deemed to be prisoner?

Answer : The inmates of a Borstal School are prisoners principal is a Superintendent and Borstal School is a prison as per the Prisons Act, 1995 and Prisons Act 1900, the rules framed as there under.

Question 12) Whether an offender detained in a Borstal School by an order of Inspector General [vide section 11 (1)], can be sent back to prison due to the offenders misconduct or unsuitability for being trained in the School?

Answer : The Inspector of General may, on the recommendation of the Visiting Committee commute the unexpired term of detention to such a term of imprisonment as he may determine but not exceeding the original term of imprisonment and issue a warrant for confining in a prison. .,

Question 13) What about such transfer of incorrigibles etc. to the prison where the offender was detained by a Court order?

Answer : When such offender escapes or is reported to State Government by the Inspector of General to be incorrigible or exercise or likely to exercise bad influences on the inmates of the School or otherwise unsuitable for training in a Borstal Schools Act, the State Government commutes the unexpired residue of the term of detention to such a term of imprisonment as the State Government determines. But it shall not exceed the shorter of the two periods namely viz.

- a) The unexpired residue term of
- b) The maximum period of imprisonment prescribed for such offence.
- c) Such offenders may be confined within the state by a warrant under the hand of Secretary to the State Government.
- d) Such imprisonment shall be deemed to be a sentence by a competent Court of Jurisdiction.

Question 14) Whether the provisions of parole and furlough are applicable to the inmates detained in a Borstal School?

Answer : Rule 41 of the Maharashtra Borstal Schools Rules 1965 provides that rules 2 to 37 of the Bombay prison (Furlough and Parole Rules 1995 shall mutatis mutandis apply to such inmates.