

# The M.P. Borstal Act, 1928

MADHYA PRADESH

India

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### Act 9 of 1928

- Published on 1 January 1928
- Commenced on 1 January 1928
- [This is the version of this document from 1 January 1928.]
- [Note: The original publication document is not available and this content could not be verified.]

The M.P. Borstal Act, 1928(No. 9 of 1928)Statement of Objects and Reasons. - The object of the Bill is to provide for the segregation of adolescent prisoners from those of more mature age and their subsequent training in separate institution. The danger arising from the collection of criminals of all ages has been recognised, and since 1911 such persons have been segregated in the province, first offenders in the Juvenile Jail at Narsinghpur and habituals in separate yards, in the Jubbulpore and Nagpur Central Jails. Special training has been given to these prisoners in the Narsinghpur Jail, a modified Borstal Institution, and the system of allowing certain of the inmates out on licence has been tried for some years. These releases were granted to enable the youths to enter the Service of institutions and individuals and to lead a life of freedom under supervision. The result has been only a partial success, however, as the scope for such licensed service particularly in institutions has been limited. It is hoped to improve the system and to work it on broader lines with the passing of this Bill. In existing conditions the system has two defects, the limited scope for employment in Narsinghpur and, the number of boys received With sentences too short to benefit it by the training offered at the Narsinghpur Juvenile Jail. The Bill empowers all Sessions Judges, Additional Sessions Judges, Magistrates (specially empowered under Section 30) and Magistrates of the first class to pass orders detaining youthful offenders in a Borstal Institution for a term of not less than two years instead of sentencing them in the ordinary way to imprisonment. It further empowers District Magistrates subject to an appeal to a Sessions Judge and all appellate Court, to substitute detention in a Borstal Institution, for a term of not less than two years, for a term of imprisonment and it empowers appellate Court to substitute for an order of detention in a Borstal Institution, a sentence of imprisonment for a like or less term. It also gives powers to order the removal of a youth, sentenced to the transportation or rigorous imprisonment whether before or after the passing of the Act, to a Borstal Institute; there to serve the whole or any part of the unexpired residue of the sentence. The local Government is empowered to transfer to jail all inmates who are found to be incorrigible or who have been convicted of the offence of escape or who are reported by the superintendent to be guilty of a major Borstal offence as defined under the rules. Provision is also made for the regulation and management of the institution and the appointment of a visiting committee, who will have powers to release on licence subject to the sanction of the Inspector General of Police, who will be the Director. An Act to make provision for the establishment and

regulation of Borstal Institutions in [Madhya Pradesh] [Substituted by Madhya Pradesh Act No. 23 of 1958.] and or the detention and training of adolescent offenders therein. Whereas it is expedient to make provision for the establishment and regulation of Borstal Institutions in [Madhya Pradesh] [Substituted by Madhya Pradesh Act No. 23 of 1958] for the detention and training of adolescent offenders therein; and whereas the previous sanction of the Governor General under sub-section (3) of Section 80-A of the Government of India Act has been obtained to the passing of this Act :It is hereby enacted as follows :

## **1. Short title, extent and commencement.**

(1) This Act may be called The [Madhya Pradesh] [Substituted by Madhya Pradesh Act No. 23 of 1958] Borstal Act, 1928. (2) [ It extends to and shall be in force in the whole of [Madhya Pradesh] [Substituted by Madhya Pradesh Act No. 23 of 1958].

## **2. Definitions.**

- In this Act, unless there is anything repugnant in the subject or context, - (1) "Borstal Institution" means a place in which offenders may be detained under this Act and given such industrial training and other instruction and subject to such disciplinary and moral influences as will conduce to their reformation; (2) "detained" means detained in, and "detention" means detention in a Borstal Institution; (3) "inmate" means any person ordered to be detained; (4) "offence" means - (i) an offence punishable with transportation or rigorous imprisonment under the Indian Penal Code (XLV of 1860) other than - (a) an offence punishable with death; (b) an offence punishable under Chapter V-A, Chapter VI or Section 153-A of the said Code; (c) an offence committed in pursuance of political activities; (ii) an offence punishable with imprisonment under Public Gambling Act, 1867 (III of 1867); (iii) an offence punishable with imprisonment under the [Opium Act, 1878 (I of 1878)] [Now Repealed by Narcotic Drugs and Psychotropic Substances Act, 1985.]; (iv) an offence punishable with imprisonment under the Central Provinces and Berar Excise Act, 1915 (II of 1915); (v) [ an offence punishable with imprisonment under the [Dangerous Drugs Act, 1930 (II of 1930)] [Inserted by C.P. Act No. 11 of 1937.]; (5) "officer" means an officer of a Borstal Institution appointed in such manner as may be prescribed; (6) "prescribed" means prescribed by rules made by the State Government under the provisions of this Act; (7) "security for good behaviour" means security for good behaviour otherwise than for political activities under Section 109 or Section 110 of the [Criminal Procedure Code, 1898 (V of 1898)] [See now the Code of Criminal Procedure, 1973 (2 of 1974).]; (8) "Superintendent" means a Superintendent of a Borstal Institution appointed in such manner as may be prescribed.

## **3. Establishment of Borstal Institutions.**

(1) For the purposes of this Act the State Government may establish one or more Borstal Institutions. (2) For every Borstal Institution the State Government shall appoint a Superintendent and such other officers as may be necessary. (3) For every Borstal Institution a visiting committee shall be appointed in such manner as may be prescribed and shall consist of not less than five members.

#### **4. Borstal Institution open to inspection by members of Legislative Bodies.**

- A Borstal Institutions shall be liable to inspection between such times as the State Government may appoint by any member of the Legislative Assembly of the State or by any member of Parliament chosen to represent the whole or any part of the [State] [Substituted by Madhya Pradesh Act No. 23 of 1958.].

#### **5. Powers of Court to pass a sentence of detention in a Borstal Institution in the case of a convict under twenty one years of age in lieu of transportation or rigorous imprisonment.**

(1)When any male person not less than sixteen or more than twenty-one years of age is convicted of an offence by a Court of Session, a Magistrate specially empowered under Section 30 of the [Code of Criminal Procedure, 1898 (V of 1898)] [See now the Code of Criminal Procedure, 1973 (2 of 1974).], or a Magistrate of the first class and when by reason of his criminal habits or tendencies or association with persons of bad character it is expedient, in the opinion of the Judge or Magistrate, that he should be detained, such judge or Magistrate may, in lieu of passing a sentence of transportation or imprisonment, pass an order of detention for a term which shall not be less than two years and shall not exceed five years when the order is passed by a Court of Sessions or a Magistrate, specially empowered under Section 30 of the [Code of Criminal Procedure, 1898 (V of 1898)] [See now the Code of Criminal Procedure, 1973 (2 of 1974).], and shall not be less than two years nor exceed three years when the order is passed by a Magistrate of the first class not so empowered.(2)When any Magistrate, not empowered to pass such order, is of opinion that an offender convicted by him is a person in respect of whom such order should be passed in accordance with the provisions of sub-section (1), he shall without passing any sentence, record such opinion and submit his proceedings and forward the accused to the District Magistrate or Sub-Divisional Magistrate to whom he is subordinate.(3)The District Magistrate or Sub-Divisional Magistrate to whom the proceedings are so submitted may make such further enquiry (if any) as he may deem fit and pass such order for the detention of the offender or such other sentence or order, as he might have passed if the trial had been held by him from its commencement.

#### **6. Detention in lieu of imprisonment for failing to give security.**

(1)When any male person not less than sixteen or more than twenty-one years of age has been ordered to give security for good behaviour and fails to give such security and when by reason of his criminal habits or tendencies or association with persons of bad character it is expedient, in the opinion of the Magistrate, that he should be detained, the Magistrate may issue a warrant directing such person to be detained in prison pending the orders of the Sessions Judge; and the proceedings shall be laid as soon as possible before the Sessions Judge.(2)The Sessions Judge, after examining such proceedings and requiring from the Magistrate any further information or evidence which he thinks necessary may pass an order of detention, for a term which shall not be less than two years and shall not exceed three years, or such other order as he thinks fit and as is according to law.(3)If security has been required in the course of the same proceedings from two or more persons, in

respect of any one of whom the proceedings are referred to the Sessions Judge under sub-section (1), such reference shall also include the case of any other such person, and the provisions of sub-sections (1) and (2) shall, in that event, apply to the case of such other person also.

## **7. Special power of District Magistrate.**

(1) When any male person, not less than Sixteen or more than twenty-one years of age, has been sentenced for an offence to rigorous imprisonment or transportation and when by reason of such person's criminal habits or tendencies or association with persons of bad character it is expedient, in the opinion of the District Magistrate, that he should be detained, the District Magistrate may order that such person shall, in lieu of undergoing imprisonment or transportation, be detained for a period of two years or if the unexpired term of his sentence of transportation or imprisonment exceeds two years, for a period equal to the unexpired term : Provided, however, that the period of detention shall in no case exceed five years. (2) When any male person, not less than sixteen or more than twenty-one years of age, having been ordered to give security for good behaviour and having failed to give such security is imprisoned under sub-section (1) of Section 123 of the [Code of Criminal Procedure, 1898 (V of 1898)] [See now the Code of Criminal Procedure, 1973 (2 of 1974).], and when by reason of Such person's criminal habits or tendencies Or association with persons of bad character it is expedient, in the opinion of the District Magistrate, that he should be detained, the District Magistrate, may order that the proceedings in this case shall be laid before the Sessions Judge and the provisions of sub-sections (2) and (3) of Section 6 shall apply as if the proceedings has been referred under that Section.

## **8. When action may not be taken under Section 7.**

- No order shall be made under the provisions of Section 7-(i) until the time allowed by law for the prisoner to appeal has expired or if an appeal has been preferred until such appeal has been finally decided; or (ii) if an application, made on appeal or otherwise to have the sentence altered into an order of detention, has been rejected by an appellate Court or the High Court; Or (iii) in the case of any person who has been sent to a reformatory school in accordance with the provisions of the Reformatory Schools Act, 1897 (VIII of 1897).

## **9. Application of the [Code of Criminal Procedure, 1898] [See now the Code of Criminal Procedure, 1973 (2 of 1974).] and the [Indian Limitation Act, 1908] [See now Limitation Act, 1963 (36 of 1963).] and provisions for appeal and revision.**

(1) Subject to the provisions of sub-section (2) of this Section, the provisions of the [Code of Criminal Procedure, 1898 (V of 1898)] [See now the Code of Criminal Procedure, 1973 (2 of 1974).], relating to appeal, reference and revision, and Articles 154 and 155 of the [Indian Limitation Act, 1908 (IX of 1908)] [See now Limitation Act, 1963 (36 of 1963).], shall apply in the case of an order of detention passed under Section 5 as if the order has been a sentence of imprisonment for the same period for which detention; was ordered. (2) Notwithstanding anything contained in Section 423 of the [Code of

Criminal Procedure, 1898 (V of 1898)] [See now the Code of Criminal Procedure, 1973 (2 of 1974).], when a person who at the time of his conviction was less than twenty-one years of age has been convicted of an offence, or when such person on being ordered to furnish security for good behaviour has failed to furnish such security, an appellate Court, or the High Court, in the exercise of its powers of revision, may, in pursuance of sub-section (1) and the provisions of the [Code of Criminal Procedure, 1898 (V of 1898)] [See now the Code of Criminal Procedure, 1973 (2 of 1974).], and after making such enquiry as it may deem fit, alter a sentence of imprisonment or an order of commitment to prison under Section 123 of the [Code of Criminal Procedure, 1898 (V of 1898)] [See now the Code of Criminal Procedure, 1973 (2 of 1974).], to an order of detention, if for reasons described in sub-section (1) of Section 5, it considers such alteration expedient, and may alter an order of detention to a sentence of imprisonment or an order of commitment to prison under Section 123 of the [Code of Criminal Procedure, 1898 (V of 1898)] [See now the Code of Criminal Procedure, 1973 (2 of 1974).], as the case may be :Provided that the sentence of imprisonment, order of commitment, or order of detention, shall not be in excess of the powers of the Trial Magistrate or Court.(3)Any person, who has been ordered to be detained in a Borstal Institution under the provisions of Section 7 for a period to expire after the term of imprisonment to which he was sentenced would expire, has the order not been passed may, subject to the provisions of sub-section (5), appeal to the Sessions Judge, and the Sessions Judge may either confirm the order or set it aside and restore the sentence of imprisonment or if the order is for more than two years reduce it to a term not shorter than two years nor shorter than the residue of imprisonment to which the offender was sentenced.(4)Any person ordered by a Sessions Judge under the provisions of sub-section (3), to be detained for a period to expire after the term of imprisonment to which he was sentenced would expire, had such order not been passed, may, subject to the provisions of sub-section (5), appeal within thirty days of the order to the High Court and the High Court may pass any such order as the Sessions Judge might have passed.(5)An appeal shall not lie under sub-section (3) or sub-section (4) against a conviction or any finding of fact but only on the ground that the order appealed against is illegal, or unduly severe.

## **10. No person who has been once detained to be detained again.**

- No person, who has been previously detained for the whole period prescribed in an order of detention or who has been transferred to jail under Section 19 of this Act, shall again be ordered to be detained.

## **11. Release on furnishing security.**

- Any person detained for failure to furnish security shall be released on furnishing such security.

## **12. Enquiry to be made regarding the age of the offender before passing an order of detention.**

(1)Before passing an order of detention under this Act, the Magistrate, District Magistrate or Court, as the case may be, shall enquire or cause enquiry to be made into the question of the age of the

offender and after taking such evidence (if any) as may be deemed necessary or proper shall record a finding thereon.(2)A similar enquiry shall be made and finding recorded by every Magistrate not empowered to pass an order of detention under this Act before submitting his proceedings and forwarding the accused to the District Magistrate as required by sub-section (2) of Section 5 of this Act.

### **13. Magistrate to give grounds of his opinion before ordering detention.**

(1)When any Magistrate, District Magistrate or Court orders an offender to be detained, he or it, as the case may be, shall record the grounds of his/its opinion that it is expedient that the offender be detained.(2)No order of detention shall be passed under sub-section (3) of Section 5, Section 6 or Section 7 unless the person to be detained has had an opportunity either personally or by pleader of showing cause against such order being made.

### **14. Power to release on licence.**

- Subject to any general or special directions of the State Government, the visiting committee with the sanction of the Inspector-General of Prisons may at any time after the expiration of one year of detention in the case of an inmate ordered to be detained for not more than three years and in any other case, of two years of detention, if satisfied that the inmate is likely to abstain from crime, and lead a useful and industrious life, by licence permit him to be discharged from the Borstal Institution on condition that he be placed under the supervision or authority of any person or secular institution or religious society (professing the same religion as the inmate) named in the licence who may be willing to take charge of him. A licence granted under this Section shall be in force until the term for which the inmate was ordered to be detained has expired unless sooner suspended, revoked or forfeited.[Directions Regarding The Release on Licence of Inmates From The Narsimhapur Borstal Institution, 1960] [Notification No. 21-III-Jail, published in Madhya Pradesh Rajpatra Part IV-Ga dated 12-2-1960.]In exercise of the powers conferred by Section 14 read with Section 16 of the Madhya Pradesh Borstal Act, 1928, and in supersession of all previous notifications on the subject the Section hereby issues the following directions regarding the release on licence of the inmates from the Narsimhapur Borstal Institution, namely :-

#### **1.**

(1)At every meeting of the Visiting Committee, the Superintendent of the Borstal Institution shall bring before the Committee all inmates who are eligible for being discharged on licence.(2)The Superintendent shall cause to be prepared a list of persons or secular institutions or religious societies that are desirous of taking over charge of such inmates, and in order to enable him to do this he should, if he thinks necessary, consult the District Magistrate and the Members of the Visiting Committee.(3)No official of the Borstal Institution shall be eligible to obtain such inmates on licence. The number of inmates licensed [to one person, excepting a Government or Private Institution] [Substituted by Notification No. 2224-1426 (62)-III-Jail, published in Madhya Pradesh Rajpatra Part IV (Ga), dated 18-10-1963.] shall not exceed two, the second being licensed to him only if there be no other suitable applicant.(4)Any application for an inmate on licence should be

made in writing to the Superintendent of the Borstal Institution. It should state the nature of the work he will be required to do and the wages it is proposed to give him.(5)The Superintendent of the Borstal Institution shall then detail an inmate for the purpose for among those passed by the Visiting Committee at their last meeting and approved by the Inspector General of Prisons and shall report his action at the next meeting of the Committee.(6)The licence referred to in direction 1 (1) shall be in Form A appended to these directions.

**2. When inmates have been sent out on licence, the Superintendent of the Borstal Institution shall call for a report from the guardians every three months and shall place these reports before the Visiting Committee at their next meeting.**

**3. Should the report of the guardian on an inmate be unsatisfactory or should the Visiting Committee for other reasons deem such a course desirable, they may, with the approval of Inspector General of Prisons, cancel the licence at any time. The Superintendent of Borstal Institution shall then arrange with the District Magistrate of the district in which the inmate is licensed for the return of the inmate to the Borstal Institution.**

**4. The original licence shall be delivered to the guardian and a copy shall be given to the inmate whom it concerns. A register of licences shall be maintained by the Superintendent of Borstal Institution.**

**5. Inmates absent on licence shall be exempted wearing Borstal clothing.**

**6. It shall be the duty of the Superintendent of the Borstal Institution to give notice to any guardian-**

(a)when an inmate's licence is cancelled or is about to terminate.(b)when the period for which he can be detained is about to expire.

**7. On an inmate under licence escaping for the supervision of his guardian, the latter shall give immediate notice to the District Magistrate and the District Superintendent of Police of the district and the Superintendent of the Borstal Institution to which the inmate belongs, so that immediate steps may be taken for the recapture of the inmate and his return to the Borstal Institution. Any inmate who escapes while on licence shall never be employed again outside the Borstal Institution during any further period of detention nor shall he ever be licensed to any person again.**

[8. Inmates allowed out on licence as above, excepting those allowed on licence out of the Narsimhapur Town] [Amended by Notification No. 2224-1462-(62)-III Jail, published in Madhya Pradesh Rajpatra Part IV (Ga) dated 18-10-1963.] shall attend the regular annual inspection of the Inspector General of Prisons. Note. - The word "guardian" in these Directions refers to a person, secular institution or religious society mentioned in the licence.

## **15. Absence under licence to be counted towards period of detention.**

- The time during which an inmate is absent under licence from a Borstal Institution shall be reckoned as part of the period of detention.

## **16. Form of licence.**

- Every licence granted under the provisions of Section 14 shall be in such form and shall contain such conditions as the State Government may, by general or special order, direct.

## **17. Suspension and revocation of licences.**

- Subject to any general or special directions of the State Government, a licence granted under Section 14 may be suspended for a period not exceeding three months by the Superintendent or revoked at any time by the visiting committee on the recommendation of the Inspector-General of Prisons. When the licence of any inmate has been suspended or revoked he shall return to the Borstal Institution and if he fails to do so he may be arrested without warrant and taken to the institution.

## **18. Penalty for escape.**

(1) If any inmate escapes from a Borstal Institution before the expiry of the period for which he was ordered to be detained, or if any inmate absent on licence from a Borstal Institution escapes from the supervision or authority of any servant of the Government or any secular institution or person or religious society in whose charge he was placed, or fails on the suspension or revocation of his licence to return to the Borstal Institution, he may, on conviction by a Magistrate, be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both, or may be ordered to be detained, for a term which may extend to two years, in addition to the residue of detention, and his licence shall be forfeited with effect from the date of his escape or failure to return, as the case may be. (2) An offence under this Section shall be deemed to be a cognizable offence within the definition of that term in the [Code of Criminal Procedure, 1898 (V of 1898)] [See now the Code of Criminal Procedure, 1973 (2 of 1974)].

## **19. Incurrigibles.**

- When an inmate is reported to the State Government by the visiting committee to be incurrigible or to be exercising a bad influence on the other inmates of the institution or is sentenced to



imprisonment under Section 18 or Section 22 of this Act, or is reported by the Superintendent to have committed an offence which has been declared to be a major Borstal Institution offence by rules made by the State Government in pursuance of the provisions of clause (14) of Section 33 of this Act, the State Government may commute the residue of detention to such term of imprisonment of either description not exceeding such residue as the State Government may direct, and may order the transfer of the inmate to any jail in the State in order to complete the said term of imprisonment.

## **20. Inmates appointed officers to be public servants.**

- Inmates who have been appointed as officers shall be deemed to be public servants within the definition of that term in the Indian Penal Code, 1860 (XLV of 1860).

## **21. Extra-mural custody, control and employment of inmates.**

- An inmate when being taken to or from any Borstal Institution in which he may be lawfully detained or whenever he is working outside or he is otherwise beyond the limits of any such Borstal Institution, in or under the lawful custody or control of an officer belonging to such Borstal Institution, shall be deemed to be under detention and shall be subject to all the same incidents as if he were actually in a Borstal Institution.

## **22. Penalty for introduction or removal of prohibited articles into or from Borstal Institution and communication with inmates.**

- Whoever, contrary to any rule under Section 33, introduces or removes, or attempts by any means whenever to introduce or remove into or from any Borstal Institution, or supplies attempts to supply to any inmate outside the limits of such institution any prohibited article, and every officer of a Borstal Institution who, contrary to any such rule, knowingly suffers any such article to be introduced into or removed from any Borstal Institution, to be possessed by any inmate, or to be supplied to any inmate outside the limits of Borstal Institution. and whoever, contrary to any such rule, communicates or attempts to communicate with any inmate. and whoever abets any offence made punishable by this Section, shall, on conviction before a Magistrate, be liable to imprisonment of either description for a term not exceeding six months, or to fine not exceeding two hundred rupees, or to both.

## **23. Power to arrest for offences under Section 22.**

- When any person in the presence of any officer of a Borstal Institution, commits any offence specified in Section 22, and refuses on demand of such officer to state his name and residence, or gives a name or residence which such officer knows, or has reason to believe, to be false, such officer may arrest him, and shall without unnecessary delay make him over to a Police Officer, and there upto such police officer shall proceed as if the offence had been committed in his presence.

## **24. Publication of penalties.**

- The Superintendent shall cause to be affixed, in a conspicuous place outside the Borstal Institution, a notice in English and the vernacular setting forth the acts prohibited under Section 22 and the penalties incurred by their commission.

## **25. Officers in charge of Borstal Institutions to detain persons, duly committed to their custody.**

- The Officer in charge of a Borstal Institution shall receive and detain any person duly committed to his custody under this Act according to the directions contained in the order by which such person has been committed or until such person is discharged or removed in due course of law.

## **26. Officers in charge of Borstal Institutions to return orders etc., after execution or discharge.**

- The Officer in charge of Borstal Institution shall forthwith, after the execution of every such order as aforesaid or after the discharge of the person committed thereby return such order to the Magistrate, District Magistrate or Court by which the same was issued or made together with a certificate, endorsed thereon and signed by him, showing how the same has been executed, or why the person committed thereby has been discharged from detention before the execution thereof.

## **27. Powers for officers in charge of Borstal Institutions to give effect to orders of certain Courts.**

- The officer in charge of a Borstal Institution shall give effect to any order for the detention of any person passed or issued, (a) by any Court or Tribunal in any [State or Union Territory] [Substituted by Madhya Pradesh A.L.O. 1956 for 'Part A State or Part C State'.] [xxx] [The Word 'or' omitted by Madhya Pradesh Act No. 23 of 1958.] [x x x] [Clause (b) omitted by Madhya Pradesh Act No. 23 of 1958.]

## **27A. [ Powers of State Government. [Inserted by C.P. & Berar Act No. 14 of 1942.]**

(1) The State Government may, by general or special order, provide for the removal of any person ordered to be detained to any Borstal Institution or school in any other State with the consent of the Government of that State. (2) The State Government may likewise provide, by general or special order, for the detention in a Borstal Institution of any person from any Borstal Institution or school in any other State. (3) The provisions of this Act shall apply to any person detained in accordance with the provisions of sub-section (2) or of Section 27.]

## **28. Warrant of officers of such Courts to be sufficient authority.**

- Any order under the official signature of an officer of, and under the seal of, such Court or Tribunal as is referred to in Section 27, shall be sufficient authority for detaining any person, in pursuance of the order passed upon him.

## **29. Procedure where officer in charge of Borstal Institution doubts the legality of order sent to him for execution.**

(1) Where an officer in charge of a Borstal Institution doubts the legality of an order sent to him for execution or the competency of the person whose official seal or signature is affixed thereto to pass the order, he shall refer the matter to the State Government by whose order on the case he and all other public officers shall be guided as to the future disposal of the inmate. (2) Pending reference made under sub-section (1), the inmate shall be detained in accordance with the order.

## **30. Lunatic inmates how to be dealt with.**

- [(1) Where it appears to the State Government that any person detained under any order is of unsound mind, the State Government may order his removal to an asylum or other place of safe custody within the State, there to be kept and treated as the State Government directs, during the remainder of the term for which he has been ordered to be detained, or, if on the expiration of that term it is certified by a medical officer that it is necessary for the safety of the inmate or others that he should be further detained under medical care or treatment, then until he is discharged according to law. (2) Where it appears to the State Government that an inmate so kept and treated has become of sound mind, the State Government shall, by a warrant directed to the person having charge of the inmate, if still liable to be detained, remand him to the Borstal Institution from which he was removed or to another Borstal Institution within the State, or, if he is no longer liable to be detained, order him to be discharged.] [Substituted by Madhya Pradesh Act No. 11 of 1968.] (3) The provisions of Section 31 of the Indian Lunacy Act, 1912 (V of 1912), shall apply to every person confined in an asylum under sub-section (1) after the expiration of the term for which he was ordered to be detained; and the time during which an inmate is confined in an asylum under that sub-section shall be reckoned as part of the term of detention which he may have been ordered to undergo. (4) In any case in which the State Government is competent under subsection (1) to order the removal of an inmate to an asylum or other place of safe custody within the State, the State Government may order the removal to any such asylum or place within any other State by agreement with the State Government of such other State and the provisions of this Section respecting the custody, detention, remand and discharge of an inmate removed under sub-section (1) shall so far as they can be made applicable apply to an inmate removed under this sub-section.

## **31. [ Application to Borstal Institution of certain provisions of the Prisons Act, 1894 and Prisoners (Attendance in Courts) Act, 1955. [Substituted by Madhya Pradesh Act No. 11 of 1968.]**

- Subject to the provisions of clause (13) of Section 33 of this Act, the provisions of Section 12 Chapter XI of the Prisons Act, 1894 (IX of 1894) and the provisions of the Prisoners (Attendance in Courts) Act, 1955 (XXXII of 1955) shall apply as far as may be to Borstal Institutions established under this Act, and all references to prisoners, prison, imprisonment or confinement in Section 12 and Chapter XI of the Prisons Act, 1894 (IX of 1894), and the provisions of the Prisoners (Attendance in Courts) Act, 1955 (XXXII of 1955) and the rules made thereunder shall be construed as referring to inmate, Borstal Institution and detention.]

## 32.

[x x x] [Omitted by Madhya Pradesh Act No. 11 of 1968.]

## 33. Power to make rules under the Act.

- The State Government may make rules after previous publication consistent with this Act-(1)for the regulation, management and classification of Borstal Institutions established under this Act, and the description and construction of wards, cells and other places of detention;(2)for the regulation by number or otherwise of the inmates to be detained in each class of institution;(3)for defining the powers and duties of the Inspector General of Prisons;(4)for the Government of Borstal Institution and the appointment, guidance, control, punishment and dismissal of Superintendents and other officers employed in Borstal Institutions and for the defining of their responsibilities, duties, disabilities and powers;(5)for the maintenance of records, and the preparation and submission of reports;(6)for the selection and appointment of inmates as inmate officers and their punishment, reduction and dismissal and for defining the duties and powers of such officers;(7)for the temporary detention of inmates until arrangements can be made for their admission to Borstal Institution;(8)for the admission, removal and discharge of inmates, and for the disposal of their effects during their detention;(9)for feeding, clothing and bedding of inmates;(10)for the custody, discipline, grading, treatment, education, training and control of inmates;(11)for the employment of inmates and the disposal of the proceeds of their labour;(12)for the treatment of sick inmates;(13)for defining the acts which shall constitute Borstal Institution offences;(14)for determining the classification of Borstal Institution offences into major and minor offences;(15)for fixing the punishments admissible under this Act which shall be awardable on commission of Borstal Institution offences or classes thereof;(16)for declaring the circumstances in which acts constituting both a Borstal Institution offence and an offence under the Indian Penal Code (XLV of 1860) may or may not be dealt with as a Borstal Institution offence;(17)for the award of marks and the shortening of periods of detention;(18)for regulating the use of arms against any inmate or body of inmates and the use of fetters in the case of an outbreak or attempt to escape;(19)for defining the circumstances and regulating the conditions under which inmates in danger of death may be released;(20)for regulating the transfer from one part of the whole of India [xxx] [Omitted by Madhya Pradesh Act No. 23 of 1958] to another of inmates whose terms of detention is about to expire;(21)for defining articles the introduction or removal of which into or out of Borstal Institution without due authority is prohibited;(22)for the classification and the separation of inmates;(23)for rewards for good conduct;(24)for regulating the transfer of inmates from one Borstal Institution to another or to a hospital, or asylum, and from a Borstal Institution to a prison, or from a prison to a Borstal

Institution;(25)for the treatment, transfer and disposal of criminal lunatics or recovered criminal lunatics confined in Borstal Institutions;(26)for regulating the transmission of appeals and petitions from inmates and their communications with their relatives and friends;(27)for the appointment and guidance of visitors of Borstal Institutions;(28)for prescribing conditions on which licences may be granted7 suspended, revoked or cancelled;(29)for the appointment, powers, and control of parole officers;(30)for defining the powers and duties of visiting committees; and(31)generally for all purposes consistent with this Act.

### **34. Power of the State Government to vary age Limit and to apply the Act to females.**

- The State Government after giving by notification in the official Gazette not less than three months notice of its intention to do so, may, by like notification,-(1)direct that the provisions of Sections 5, 6 and 7 shall, extend to persons not above such age, between twenty-one and twenty-three, as may be specified in the direction and upon such direction being notified the said Sections shall, whilst the direction is in force, have effect as if the specified age were substituted for "twenty one".(2)direct that the provisions of Sections 5, 6 and 7 shall extend to females and upon such direction being notified the said Sections shall, whilst the direction is in force, have effect as if the word "male" were omitted.

### **35. [ [Sections 35 and 36 Omitted by Madhya Pradesh Act No. 11 of 1968.]**

Omitted.

### **36.**

Omitted.]