

No. XVI.

LUNACY ACT
AMENDMENT.

An Act to amend the “Lunacy Act of 1878.” [19th December, 1881.]

Preamble.

WHEREAS the “Lunacy Act of 1878” requires amendment in certain particulars Be it therefore enacted by the Queen’s Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows:—

Option to Justices
in respect of remands
under sec. 6 of the
Principal Act.

1. The Justices before whom any person shall be brought to be dealt with under section six of the Principal Act may in lieu of a remand to the places provided by the Imperial Act eleventh and twelfth Victoria chapter forty-two as adopted by the “Justices Act of 1850” but in the same manner as provided thereby remand such person to any Reception House or Public Hospital set apart under sections forty-five and forty-eight of the Principal Act unless it shall appear that such person has been previously detained in any gaol on conviction for any offence.

Procedure where
persons charged with
offences are found to
be insane by a Jury
or acquitted on the
ground of insanity.

2. If any person indicted for any offence shall be insane and shall upon arraignment be found to be so by a Jury lawfully impanelled for that purpose so that such person cannot be tried upon such indictment or if upon the trial of any person so indicted such person shall appear to the Jury charged with such indictment to be insane it shall be lawful for the Court before which any such person shall be brought to be arraigned or tried as aforesaid to direct such finding to be recorded and thereupon to order such person to be kept in strict custody

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custody in such place and in such manner as to the Court may seem fit until he shall be dealt with as provided by section fifty-nine of the Principal Act And in all cases where it shall be given in evidence upon the trial of any person charged with any treason felony or misdemeanour that such person was insane at the time of committing such offence and such person is acquitted the Jury shall be required to find specially whether such person was insane at the time of the commission of such offence and to declare whether such person was acquitted by them on account of such insanity and if they shall find that such person was insane at the time of committing such offence the Court before whom such trial is had shall order such person to be kept in strict custody in such place and in such manner as to the Court may seem fit until the Governor's pleasure shall be known and it shall thereupon be lawful for the Governor to give such order for the safe custody of such person during his pleasure in such gaol or other place of confinement and in such manner as to the Governor shall seem fit and upon the receipt of certificates by two medical practitioners in the form of Schedule Two of the Principal Act accompanied by a statement of particulars in the form of Schedule Fourteen of the said Act the Governor by warrant under his hand may direct that such person be conveyed to and kept in a hospital for the criminal insane during the Governor's pleasure.

3. If any person while detained in any gaol for debt or in any gaol reformatory or industrial school or other place of confinement in consequence of any summary conviction or order by any Justice or Justices or in default of bail shall appear to be insane the Colonial Secretary may upon the receipt of certificates by two medical practitioners in the form of Schedule Two of the Principal Act accompanied by a statement of particulars in the form of Schedule Five of the said Act direct by order under his hand that such person be removed to and kept in such hospital for the insane or for the criminal insane as he may judge proper and appoint until it shall be duly certified by the Superintendent of such hospital and by the Inspector General or by the said Superintendent and two official visitors that such person has become of sound mind whereupon the Colonial Secretary shall if such person remains subject to be continued in custody issue his order to the Superintendent of such hospital directing that such person shall be removed to the gaol reformatory industrial school or other place from whence he has been taken or to some other gaol or place of confinement or if the period of detention or custody has expired that he shall be discharged.

Procedure in reference to certain persons under detention appearing insane.

Vide 3 and 4 Vic. c. 54 sec. 1 and 27 and 28 Vic. c. 29 s. 2.

4. If any person while imprisoned in any gaol prison or penal establishment under any sentence of hard labour or imprisonment imposed otherwise than on the conviction or order of Justices shall appear to be insane the Comptroller General of Prisons shall direct that such prisoner be placed under observation as in section sixty-seven of the Principal Act mentioned and the Colonial Secretary may upon the receipt of certificates by two medical practitioners in the form of Schedule Two of the said Act accompanied by a statement of particulars in the form of Schedule Fourteen of the said Act direct by order under his hand in the form of Schedule Fifteen of the said Act that such person be removed to and kept in a hospital for the criminal insane until it shall be duly certified by the medical officer of such hospital and by the Inspector General or by the said medical officer and two official visitors that such person has become of sound mind whereupon the Colonial Secretary shall if such person remain subject to be continued in custody issue his order to the Superintendent of such hospital directing that such person shall be removed to the gaol prison or penal establishment from whence he has been taken or to some other gaol prison or penal establishment or if the period of his imprisonment has expired that he shall be discharged.

Procedure on certain prisoners appearing to be insane.

Vide 6 and 7 Vic. c. 26 ss. 21 and 23 and 24 Vic. c. 75 s. 78 and preamble.

Metropolitan Magistrates.

Procedure on
prisoner under
sentence of death
appearing insane.
Vide 27 and 28 Vic.
c. 29 s. 2.

5. If it shall be made to appear to the Colonial Secretary by any means whatsoever that there is good reason to believe that any prisoner in confinement under sentence of death is then insane the Colonial Secretary may appoint two or more medical practitioners to inquire into the insanity of such prisoner and if on such inquiry such prisoner shall be found to be then insane the fact shall be certified in writing by such practitioners to the Colonial Secretary and on receipt of such certificate the said Colonial Secretary may by order under his hand direct that such prisoner be removed to and kept in a hospital for the criminal insane or other proper receptacle for insane prisoners until it be duly certified by the medical officer of such hospital or receptacle and by the Inspector General or by the said medical officer and two official visitors that such person has become of sound mind whereupon the Colonial Secretary shall issue his order that such person shall be removed to any prison or other place of confinement to undergo his sentence of death or to be dealt with according to law as if no such order for his removal to a hospital for the criminal insane had been issued.

Order for conveyance
of patient.

6. The person in charge of an insane patient during conveyance to any hospital or licensed house shall have an order in writing by the Justices who have examined the patient or by the Colonial Secretary or a request under section eight of the Principal Act duly signed and authenticated by a Justice or minister of religion authorized to celebrate marriage and shall produce the same when required to do so by any Justice.

Duration of order
for reception into
hospital.

7. No order for the reception of any patient into a hospital for the insane or licensed house shall remain in force after twenty-eight days from the date of the medical certificates which shall have been given under the provisions of the Principal Act in respect of such patient or the date of the last of them.

Repeal of portion of
the Principal Act.

8. Sections twelve fifty-eight sixty and eighty-three of the Principal Act are hereby repealed.

Short title &c.

9. This Act may be cited for all purposes as the "Lunacy Act Amendment Act 1881" and the expression "Principal Act" as used in this Act means the "Lunacy Act of 1878."
