



(8 Edw. 7) c. 45

PUNISHMENT OF INCEST ACT 1908

REVISED

Updated to 24 February 2023

This Revised Act is an administrative consolidation of the *Punishment of Incest Act 1908*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975* (3/1975) to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including the *Oil Emergency Contingency and Transfer of Renewable Transport Fuels Functions Act 2023* (2/2023), enacted 24 February 2023, and all statutory instruments up to and including the *Housing Loans (Amendment) Regulations 2023* (S.I. No. 76 of 2023), made 24 February 2023, were considered in the preparation of this Revised Act.

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Introduction

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was passed.

Related legislation

This Act is not collectively cited with any other Act.

Annotations

This Revised Act is not annotated and only shows textual amendments. An annotated version of this revision is also available which shows textual and non-textual amendments and their sources. It also shows editorial notes including statutory instruments made pursuant to the Act and previous affecting provisions.

Material not updated in this revision

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available.

Where legislation or a fragment of legislation is referred to in annotations, changes to this legislation or fragment may not be reflected in this revision but will be reflected in a revision of the legislation referred to if one is available.

A list of legislative changes to any Act, and to statutory instruments from 1972, may be found linked from the page of the Act or statutory instrument at www.irishstatutebook.ie.



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ARRANGEMENT OF SECTIONS

Section

1. Incest by males.
2. Incest by females of or over sixteen.
3. Test of relationship.
4. Prosecution of offences.
5. Proceedings to be held in camera. (*Repealed*)
6. Sanction of Attorney-General.
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CHAPTER XLV.

An Act to provide for the punishment of Incest. [21st December 1908.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Incest by males.
48 & 49 Vict. c.
69.

F1[1. (1) Any male person who has carnal knowledge of a female person, who is to his knowledge his grand-daughter, daughter, sister or mother, shall be guilty of an offence and shall be liable on conviction on indictment to **F2**[imprisonment for a term not exceeding 10 years].

(2) It shall not be a defence to proceedings for an offence under this section for the defendant to show that the carnal knowledge was had with the consent of the female person.]

(3) **F3**[...]

Incest by females
of or over
sixteen.

F4[2. Any female person of or above the age of 17 years, who with consent permits her grandfather, father, brother or son to have carnal knowledge of her (knowing him to be her grandfather, father, brother or son, as the case may be), shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for a term not exceeding 10 years.]

Test of
relationship.

3. In this Act the expressions "brother" and "sister," respectively, include half-brother and half-sister, and the provisions of this Act shall apply whether the relationship between the person charged with an offence under this Act and the person with whom the offence is alleged to have been committed, is or is not traced through lawful wedlock.

Prosecution of
offences.
22 & 23 Vict. c.
17.

4. — (1) An offence under this Act shall be deemed to be an offence within, and subject to, the provisions of the Vexatious Indictments Act, 1859, and any Act amending the same.

(2) A court of quarter sessions shall not have jurisdiction to enquire of, hear, or determine any indictment for an offence against this Act, or for an attempt to commit any such offence.

(3) If, on the trial of any indictment for rape, the jury are satisfied that the defendant is guilty of an offence under this Act, but are not satisfied that the defendant is guilty of rape, the jury may acquit the defendant of rape and find him guilty of an offence under this Act, and he shall be liable to be punished accordingly.

If, on the trial of any indictment for an offence under this Act, the jury are satisfied that the defendant is guilty of any offence under sections four or five of the Criminal Law Amendment Act, 1885, but are not satisfied that the defendant is guilty of an offence under this Act, the jury may acquit the defendant of an offence under this Act and find him guilty of an offence under sections four or five of the Criminal Law Amendment Act, 1885, and he shall be liable to be punished accordingly.

(4) Section 4 of the Criminal Evidence Act, 1898, shall have effect as if this Act were included in the schedule to that Act.

Proceedings to be held in camera. 5. F5[...]

Sanction of Attorney-General. 6. No prosecution for any offence under this Act shall be commenced without the sanction of His Majesty's Attorney-General, but this section shall not apply to any prosecution commenced by or on behalf of the Director of Public Prosecutions.

Extent. 7. This Act shall not extend to Scotland.

Short title and commencement. 8. This Act may be cited as the Punishment of Incest Act, 1908, and shall come into operation on the first day of January one thousand nine hundred and nine.