

THE INCEST (PUNISHMENT) ACT

Cap. 155.
Acts
1 of 1979,
1st Sch,
11 of 2004
6th Sch.

[29th July, 1948.]

1. This Act may be cited as the Incest (Punishment) Act.

Short title.

2.—(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 a misdemeanour and on conviction thereof before a Circuit Court shall be liable to imprisonment with hard labour for any term not exceeding five years, or if it is alleged in the indictment for such offence and proved that the female person is under the age of twelve years to imprisonment with hard labour for any term not exceeding sixteen years.

Incest by
male.

11/2004
Sixth
Schedule.

(2) It is immaterial that the carnal knowledge was had with the consent of the female person.

(3) If any male person attempts to commit any offence to which subsection (1) relates, he shall be guilty of a misdemeanour, and upon conviction thereof shall be liable to imprisonment with hard labour for any term not exceeding two years.

(4) On the conviction before any court of any male person of an offence under subsection (1) or subsection (3) against any female under eighteen years of age, it shall be in the power of the court to divest the offender of all authority over such female, and if the offender is the guardian of such female, to remove the offender from such guardianship, and in any such case to appoint any person or persons to be the guardian or guardians of such female during her minority or any less period:

1/1979
1st Sch.

Provided that the Supreme Court may at any time vary or rescind the order by the appointment of any other person as such guardian, or in any other respect.

Incest by
females of or
over sixteen.

3. Any female person of or above the age of sixteen years who with consent permits her grand-father, father, brother, or son, to have carnal knowledge of her (knowing him to be her grand-father, father, brother, or son, as the case may be) shall be guilty of a misdemeanour and on conviction thereof before a Circuit Court shall be liable to imprisonment with hard labour for any term not exceeding five years.

Test of
relationship.

4. 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.

5.—(1) 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.

(2) 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 section 47 or section 48 or section 50 of the Offences against the Person Act, 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 section 47 or section 48 or section 50 of the Offences against the Person Act, and he shall be liable to be punished accordingly.

(3) The wife or husband of a person charged with an offence against this Act may be called as a witness either for the prosecution or defence and without the consent of the accused.