



AN BILLE UM AN DLÍ COIRIÚIL (IMEACHTAÍ
CIORRAITHE COIL) (UIMH. 2), 1995
CRIMINAL LAW (INCEST PROCEEDINGS) (NO. 2) BILL,
1995

*Mar a leasáodh i gCoiste
As amended in Committee*

ARRANGEMENT OF SECTIONS

Section AND TO PROVIDE FOR RELATED MATTERS.

1. "Act of 1908".

2. Extent of application of section 5 of Act of 1908.

10 1. Application of section 6 of Criminal Law (Rape) Act, 1981,
Act, 1908. in certain cases.

4. Amendment of section 1 of Act of 1908.

5. Short title.

15 2.—(1) Subject to section 3 of this Act, notwithstanding section 5
of the Act of 1908, in any proceedings under that Act, the verdict or
decision, and the sentence (if any), concerned shall be announced in
public but anything likely to lead members of the public to identify a
person involved in the proceedings shall not be otherwise published.

20 (2) Nothing in the said section 1 shall be construed as prohibiting
the publication of reports of proceedings under the Act of 1908 that
do not identify, or include anything likely to lead members of the
public to identify, a person involved in the proceedings and do not
include information that the judge or the court has directed should
not be made public.

25 3.—(1) Where the same proceedings relate or, at any time, related
to both an offence under the Act of 1908 and an offence referred to
in section 10 of the Act of 1990—

(a) section 6 (inserted by the Act of 1990) of the Criminal Law
(Rape) Act, 1981, shall apply to the proceedings as if the
first-mentioned offence was an offence referred to in the
said section 10, and

30 (b) section 5 of the Act of 1908 shall not apply to those pro-
ceedings.

(2) In this section "the Act of 1990" means the Criminal Law
(Rape) (Amendment) Act, 1990.

[No. 15a of 1995]

ACTS REFERRED TO

- Criminal Law (Rape) Act, 1981 1981, No. 10
- Criminal Law (Rape) (Amendment) Act, 1990 1990, No. 32
- Punishment of Incest Act, 1908 1908, c. 45

The recent rulings give rise to two issues which are addressed by this section. There is a conflict between the provisions of the Criminal Law (Rape) Act, 1981 and the Criminal Law (Rape) (Amendment) Act, 1990. The possibility that in this conflict and the recent rulings it might be decided that charges of rape and incest should be tried separately even though they arise from the same set of facts. This would give rise to a number of difficulties. To remove any potential conflict and to ensure that a person may be tried for both offences in a single trial, the Bill provides that where incest and rape are charged together, the 1908 Act will not apply.

The second issue arising from the recent rulings is what should be the situation where a person is charged with both rape and incest and at a later stage the rape charge is not proceeded with. It would appear that the approach taken in the recent rulings is that if at any stage a rape charge is not proceeded with, section 6 of the 1981 Act as substituted by section 11 of the 1990 Act ceases to apply so that the proceedings must be *in camera* by virtue of section 5 of the Punishment of Incest Act, 1908. The effect of section 3 will be that even though the rape charge is not proceeded with, section 6 of the 1981 Act will continue to apply so that the press may continue to attend.

The section refers to section 6 of the Criminal Law (Rape) Act, 1981. This reference is necessary to maintain the provisions of the Act for the exclusion of the public and allowing the press to attend once a decision is made not to proceed with a rape charge.

There are other provisions of the Rape Act, 1981 which will continue to apply in cases where the original rape charge is subsequently not proceeded with. These apply automatically and do not require a specific reference. In particular section 7 of the 1981 Act (which provides for the anonymity of the complainant) continues to apply even if the rape charge is subsequently dropped and therefore will serve to protect the anonymity of the victim in cases where both rape and incest were charged originally.

Section 4
Section 4 provides for the short title.

Financial and Staffing Implications
The Bill has no financial or staffing implications. It will not involve any additional charge on the Exchequer.

An Roinn Dlí agus Cirt,
Máirtín, 1995.

0962



AN BILLE UM AN DLÍ COIRIÚIL (IMEACHTAÍ
CIORRAITHE COIL) (UIMH. 2), 1995

CRIMINAL LAW (INCEST PROCEEDINGS) (NO. 2) BILL,
1995

BILL

entitled

AN ACT TO AMEND THE PUNISHMENT OF INCEST ACT,
1908, AND TO PROVIDE FOR RELATED MATTERS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

10 1.—In this Act “the Act of 1908” means the Punishment of Incest “Act of 1908”.
Act, 1908.

2.—(1) Subject to *section 3* of this Act, notwithstanding section 5 of the Act of 1908, in any proceedings under that Act, the verdict or decision, and the sentence (if any), concerned shall be announced in public but anything likely to lead members of the public to identify a person involved in the proceedings shall not be otherwise published. Extent of application of section 5 of Act of 1908.

(2) Nothing in the said section 5 shall be construed as prohibiting the publication of reports of proceedings under the Act of 1908 that do not identify, or include anything likely to lead members of the public to identify, a person involved in the proceedings and do not include information that the judge or the court has directed should not be made public.

25 3.—(1) Where the same proceedings relate or, at any time, related to both an offence under the Act of 1908 and an offence referred to in section 10 of the Act of 1990— Application of section 6 of Criminal Law (Rape) Act, 1981, in certain cases.

(a) section 6 (inserted by the Act of 1990) of the Criminal Law (Rape) Act, 1981, shall apply to the proceedings as if the first-mentioned offence was an offence referred to in the said section 10, and

30 (b) section 5 of the Act of 1908 shall not apply to those proceedings.

(2) In this section “the Act of 1990” means the Criminal Law (Rape) (Amendment) Act, 1990.

Amendment of section 1 of Act of 1908.

4.— Section 1 of the Act of 1908 is hereby amended—

- (a) in subsection (1), by the substitution of “felony” for “misdemeanour”, and
- (b) by the deletion of subsection (3).

Short title.

5.—This Act may be cited as the Criminal Law (Incest Proceedings) Act, 1995.

BILL

enacted

AN ACT TO AMEND THE PUNISHMENT OF INCEST ACT, 1908, AND TO PROVIDE FOR RELATED MATTERS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

10 1.—In this Act “the Act of 1908” means the Punishment of Incest Act, 1908.

12 2.—(1) Subject to section 3 of this Act, notwithstanding section 2 of the Act of 1908, in any proceedings under that Act, the verdict or decision, and the sentence (if any), concerned shall be announced in public but anything likely to lead members of the public to identify a person involved in the proceedings shall not be otherwise published.

20 (2) Nothing in the said section 2 shall be construed as prohibiting the publication of reports of proceedings under the Act of 1908 that do not identify, or include anything likely to lead members of the public to identify, a person involved in the proceedings and do not include information that the judge or the court has directed should not be made public.

25 3.—(1) Where the same proceedings relate or, at any time, related to both an offence under the Act of 1908 and an offence referred to in section 10 of the Act of 1990—

(a) section 6 (inserted by the Act of 1990) of the Criminal Law (Rape) Act, 1981, shall apply to the proceedings as if the first-mentioned offence was an offence referred to in said section 10, and

30 (b) section 2 of the Act of 1908 shall not apply to those proceedings.

(2) In this section “the Act of 1990” means the Criminal Law (Rape) (Amendment) Act, 1990.

0903

AN BILL UM AN DIL COIRIÚIL
CIORAITHE COIL
LAW & ORDER (INCEST PROCEEDINGS)
BILL

(as amended in Committee)

(mar a leasúidh i gCoitin)

An Act to amend the Punishment of Incest Act, 1908, and to provide for related matters.
An Act to amend the Punishment of Incest Act, 1908, agus do dhéanamh tionscail i dtionscail ritha gaolmhara.

Section

1. "Act of 1908"

2. Exclusion of public from hearing of proceedings
of 1908.

3. Anonymity of persons charged with offences under the
Act and of persons who are charged by Senator Maurice Manning

4. Provisions in relation to evidence

5. Provisions in relation to enforcement

6. Provisions in relation to the Act of 1908
7. Short title

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Amendment of section 1 of Act of 1908.

4.— Section 1 of the Act of 1908 is hereby amended—

AN BILLE UM AN DLÍ COIRIÚIL
(IMEACHTAÍ CIORRAITHE COIL)
(UIMH. 2), 1995

CRIMINAL LAW (INCEST PROCEEDINGS)
(NO. 2) BILL, 1995

(b) by the deletion of subsection (3).

Short title.

5.— This Act may be cited as the Criminal Law (Incest Proceedings) Act, 1995.

BILLE

BILL

(mar a leasaíodh i gCoiste)

(as amended in Committee)

dá ngairtear

entitled

Acht do leasú an *Punishment of Incest Act, 1908*, agus do dhéanamh socrú i dtaobh nithe gaolmhara.

An Act to amend the *Punishment of Incest Act, 1908*, and to provide for related matters.

An Seanadóir Muiris Ó Mainnín a thólaic

Presented by Senator Maurice Manning

Ordaíodh ag Seanad Éireann a chlóbhualadh, 5 Aibreán, 1995

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