



Female Genital Mutilation Act 2003

2003 CHAPTER 31

An Act to restate and amend the law relating to female genital mutilation; and for connected purposes. [30th October 2003]

BE IT ENACTED by the Queen'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:—

1 Offence of female genital mutilation

- (1) A person is guilty of an offence if he excises, infibulates or otherwise mutilates the whole or any part of a girl's labia majora, labia minora or clitoris.
- (2) But no offence is committed by an approved person who performs—
 - (a) a surgical operation on a girl which is necessary for her physical or mental health, or
 - (b) a surgical operation on a girl who is in any stage of labour, or has just given birth, for purposes connected with the labour or birth.
- (3) The following are approved persons—
 - (a) in relation to an operation falling within subsection (2)(a), a registered medical practitioner,
 - (b) in relation to an operation falling within subsection (2)(b), a registered medical practitioner, a registered midwife or a person undergoing a course of training with a view to becoming such a practitioner or midwife.
- (4) There is also no offence committed by a person who—
 - (a) performs a surgical operation falling within subsection (2)(a) or (b) outside the United Kingdom, and
 - (b) in relation to such an operation exercises functions corresponding to those of an approved person.

Status: Point in time view as at 03/05/2015.

Changes to legislation: There are currently no known outstanding effects for the Female Genital Mutilation Act 2003. (See end of Document for details)

- (5) For the purpose of determining whether an operation is necessary for the mental health of a girl it is immaterial whether she or any other person believes that the operation is required as a matter of custom or ritual.

Commencement Information

I1 S. 1 in force at 3.3.2004 by [S.I. 2004/286](#), [art. 2](#)

2 Offence of assisting a girl to mutilate her own genitalia

A person is guilty of an offence if he aids, abets, counsels or procures a girl to excise, infibulate or otherwise mutilate the whole or any part of her own labia majora, labia minora or clitoris.

Commencement Information

I2 S. 2 in force at 3.3.2004 by [S.I. 2004/286](#), [art. 2](#)

3 Offence of assisting a non-UK person to mutilate overseas a girl's genitalia

- (1) A person is guilty of an offence if he aids, abets, counsels or procures a person who is not a United Kingdom national or ^{F1}... United Kingdom resident to do a relevant act of female genital mutilation outside the United Kingdom.
- (2) An act is a relevant act of female genital mutilation if—
- (a) it is done in relation to a United Kingdom national or ^{F2}... United Kingdom resident, and
 - (b) it would, if done by such a person, constitute an offence under section 1.
- (3) But no offence is committed if the relevant act of female genital mutilation—
- (a) is a surgical operation falling within section 1(2)(a) or (b), and
 - (b) is performed by a person who, in relation to such an operation, is an approved person or exercises functions corresponding to those of an approved person.

Textual Amendments

F1 Word in [s. 3\(1\)](#) omitted (3.5.2015) by virtue of [Serious Crime Act 2015 \(c. 9\)](#), [ss. 70\(1\)\(a\)](#), [88\(4\)](#) (with [s. 86\(10\)](#))

F2 Word in [s. 3\(2\)\(a\)](#) omitted (3.5.2015) by virtue of [Serious Crime Act 2015 \(c. 9\)](#), [ss. 70\(1\)\(a\)](#), [88\(4\)](#) (with [s. 86\(10\)](#))

Commencement Information

I3 S. 3 in force at 3.3.2004 by [S.I. 2004/286](#), [art. 2](#)

[^{F3}3A Offence of failing to protect girl from risk of genital mutilation

- (1) If a genital mutilation offence is committed against a girl under the age of 16, each person who is responsible for the girl at the relevant time is guilty of an offence.

Status: Point in time view as at 03/05/2015.

Changes to legislation: There are currently no known outstanding effects for the Female Genital Mutilation Act 2003. (See end of Document for details)

This is subject to subsection (5).

- (2) For the purposes of this section a person is “responsible” for a girl in the following two cases.
- (3) The first case is where the person—
 - (a) has parental responsibility for the girl, and
 - (b) has frequent contact with her.
- (4) The second case is where the person—
 - (a) is aged 18 or over, and
 - (b) has assumed (and not relinquished) responsibility for caring for the girl in the manner of a parent.
- (5) It is a defence for the defendant to show that—
 - (a) at the relevant time, the defendant did not think that there was a significant risk of a genital mutilation offence being committed against the girl, and could not reasonably have been expected to be aware that there was any such risk, or
 - (b) the defendant took such steps as he or she could reasonably have been expected to take to protect the girl from being the victim of a genital mutilation offence.
- (6) A person is taken to have shown the fact mentioned in subsection (5)(a) or (b) if—
 - (a) sufficient evidence of the fact is adduced to raise an issue with respect to it, and
 - (b) the contrary is not proved beyond reasonable doubt.
- (7) For the purposes of subsection (3)(b), where a person has frequent contact with a girl which is interrupted by her going to stay somewhere temporarily, that contact is treated as continuing during her stay there.
- (8) In this section—

“genital mutilation offence” means an offence under section 1, 2 or 3 (and for the purposes of subsection (1) the prosecution does not have to prove which section it is);

“parental responsibility”—

 - (a) in England Wales, has the same meaning as in the Children Act 1989;
 - (b) in Northern Ireland, has the same meaning as in the Children (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I. 2));

“the relevant time” means the time when the mutilation takes place.]

Textual Amendments

F3 S. 3A inserted (3.5.2015) by [Serious Crime Act 2015 \(c. 9\)](#), ss. 72(2), 88(4) (with s. 86(16)(17))

4 Extension of sections 1 to [F4 3A] to extra-territorial acts [F5 or omissions]

- (1) Sections 1 to 3 extend to any act done outside the United Kingdom by a United Kingdom national or ^{F6}... United Kingdom resident.

[^{F7}(1A) An offence under section 3A can be committed wholly or partly outside the United Kingdom by a person who is a United Kingdom national or a United Kingdom resident.]

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- (2) If an offence under this Act is committed outside the United Kingdom—
- (a) proceedings may be taken, and
 - (b) the offence may for incidental purposes be treated as having been committed, in any place in England and Wales or Northern Ireland.

Textual Amendments

- F4** Word in s. 4 heading substituted (3.5.2015) by [Serious Crime Act 2015 \(c. 9\)](#), **ss. 72(3)(a)**, 88(4)
- F5** Words in s. 4 heading inserted (3.5.2015) by [Serious Crime Act 2015 \(c. 9\)](#), **ss. 72(3)(a)**, 88(4)
- F6** Word in s. 4(1) omitted (3.5.2015) by virtue of [Serious Crime Act 2015 \(c. 9\)](#), **ss. 70(1)(b)**, 88(4) (with s. 86(10))
- F7** S. 4(1A) inserted (3.5.2015) by [Serious Crime Act 2015 \(c. 9\)](#), **ss. 72(3)(b)**, 88(4)

Commencement Information

- I4** S. 4 in force at 3.3.2004 by [S.I. 2004/286](#), **art. 2**

[^{F8}4A] Anonymity of victims

Schedule 1 provides for the anonymity of persons against whom a female genital mutilation offence (as defined in that Schedule) is alleged to have been committed.]

Textual Amendments

- F8** S. 4A inserted (3.5.2015) by [Serious Crime Act 2015 \(c. 9\)](#), **ss. 71(1)**, 88(4)

5 Penalties for offences

- [^{F9}(1) A person guilty of an offence under section 1, 2 or 3] is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding 14 years or a fine (or both),
 - (b) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum (or both).

- [^{F10}(2) A person guilty of an offence under section 3A is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding seven years or a fine (or both),
 - (b) on summary conviction in England and Wales, to imprisonment for a term not exceeding 12 months or a fine (or both),
 - (c) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum (or both).]

Textual Amendments

- F9** Words in s. 5 substituted (3.5.2015) by [Serious Crime Act 2015 \(c. 9\)](#), **ss. 72(4)(a)**, 88(4)
- F10** S. 5(2) inserted (3.5.2015) by [Serious Crime Act 2015 \(c. 9\)](#), **ss. 72(4)(b)**, 88(4) (with s. 86(14)(15))

Commencement Information

- I5** S. 5 in force at 3.3.2004 by [S.I. 2004/286](#), **art. 2**

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6 Definitions

- (1) Girl includes woman.
- (2) A United Kingdom national is an individual who is—
 - (a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen,
 - (b) a person who under the British Nationality Act 1981 (c. 61) is a British subject, or
 - (c) a British protected person within the meaning of that Act.
- [^{F11}(3) A United Kingdom resident is an individual who is habitually resident in the United Kingdom.]
- (4) This section has effect for the purposes of this Act.

Textual Amendments

F11 S. 6(3) substituted (3.5.2015) by [Serious Crime Act 2015 \(c. 9\)](#), **ss. 70(1)(c)**, 88(4) (with s. 86(10))

Commencement Information

I6 S. 6 in force at 3.3.2004 by [S.I. 2004/286](#), **art. 2**

7 Consequential provision

- (1) The Prohibition of Female Circumcision Act 1985 (c. 38) ceases to have effect.
- (2) In paragraph 1(b) of the Schedule to the Visiting Forces Act 1952 (c. 67) (offences against the person in respect of which a member of a visiting force may in certain circumstances not be tried by a United Kingdom court), for paragraph (xi) there is substituted—

“(xi) the Female Genital Mutilation Act 2003;”.

Commencement Information

I7 S. 7 in force at 3.3.2004 by [S.I. 2004/286](#), **art. 2**

8 Short title, commencement, extent and general saving

- (1) This Act may be cited as the Female Genital Mutilation Act 2003.
- (2) This Act comes into force on such day as the Secretary of State may by order made by statutory instrument appoint.
- (3) An order under subsection (2) may include transitional or saving provisions.
- (4) This Act does not extend to Scotland.
- (5) Nothing in this Act affects any criminal liability arising apart from this Act.

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Changes to legislation: There are currently no known outstanding effects for the Female Genital Mutilation Act 2003. (See end of Document for details)

Commencement Information

18 S. 8 in force at 3.3.2004 by [S.I. 2004/286](#), **art. 2**

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[^{F12}SCHEDULE 1

ANONYMITY OF VICTIMS

Textual Amendments

F12 Sch. 1 inserted (3.5.2015) by [Serious Crime Act 2015 \(c. 9\)](#), ss. 71(2), 88(4) (with s. 86(15))

Prohibition on the identification of victims in publications

- 1
- (1) This paragraph applies where an allegation has been made that a female genital mutilation offence has been committed against a person.
 - (2) No matter likely to lead members of the public to identify the person, as the person against whom the offence is alleged to have been committed, may be included in any publication during the person's lifetime.
 - (3) For the purposes of this Schedule, any consent of the person to an act giving rise to the alleged offence is not to be taken as preventing that person from being regarded as a person against whom the alleged offence was committed.
 - (4) In any criminal proceedings before a court, the court may direct that the restriction imposed by sub-paragraph (2) is not to apply (whether at all in England and Wales and Northern Ireland, or to the extent specified in the direction) if the court is satisfied that either of the following conditions is met.
 - (5) The first condition is that the conduct of a person's defence at a trial of a female genital mutilation offence would be substantially prejudiced if the direction was not given.
 - (6) The second condition is that—
 - (a) the effect of sub-paragraph (2) is to impose a substantial and unreasonable restriction on the reporting of the proceedings, and
 - (b) it is in the public interest to remove or relax the restriction.
 - (7) A direction under sub-paragraph (4) does not affect the operation of sub-paragraph (2) at any time before the direction is given.
 - (8) In this paragraph “the court” means—
 - (a) in England and Wales, a magistrates' court or the Crown Court;
 - (b) in Northern Ireland, a magistrates' court, a county court or the Crown Court.

Penalty for breaching prohibition imposed by paragraph 1(2)

- 2
- (1) If anything is included in a publication in contravention of the prohibition imposed by paragraph 1(2), each of the persons responsible for the publication is guilty of an offence.
 - (2) A person guilty of an offence under this paragraph is liable—
 - (a) on summary conviction in England and Wales, to a fine;
 - (b) on summary conviction in Northern Ireland, to a fine not exceeding level 5 on the standard scale.
 - (3) The persons responsible for a publication are as follows—

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| <i>Type of publication</i> | <i>Persons responsible</i> |
|-------------------------------|--|
| Newspaper or other periodical | Any person who is a proprietor, editor or publisher of the newspaper or periodical. |
| Relevant programme | Any person who— (a) is a body corporate engaged in providing the programme service in which the programme is included, or (b) has functions in relation to the programme corresponding to those of an editor of a newspaper. |
| Any other kind of publication | Any person who publishes the publication. |

- (4) If an offence under this paragraph is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—
- (a) a senior officer of a body corporate, or
 - (b) a person purporting to act in such a capacity,
- the senior officer or person (as well as the body corporate) is guilty of the offence and liable to be proceeded against and punished accordingly.
- (5) “Senior officer”, in relation to a body corporate, means a director, manager, secretary or other similar officer of the body corporate; and for this purpose “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.
- (6) Proceedings for an offence under this paragraph—
- (a) if alleged to have been committed in England and Wales, may not be instituted except by, or with the consent of, the Attorney General;
 - (b) if alleged to have been committed in Northern Ireland, may not be instituted except by, or with the consent of, the Director of Public Prosecutions for Northern Ireland.

Offence under paragraph 2: defences

- 3 (1) This paragraph applies where a person (“the defendant”) is charged with an offence under paragraph 2 as a result of the inclusion of any matter in a publication.
- (2) It is a defence for the defendant to prove that at the time of the alleged offence, the defendant was not aware, and did not suspect or have reason to suspect, that—
- (a) the publication included the matter in question, or
 - (b) the allegation in question had been made.
- (3) It is a defence for the defendant to prove that the publication in which the matter appeared was one in respect of which the victim had given written consent to the appearance of matter of that description.
- (4) The defence in sub-paragraph (3) is not available if—
- (a) the victim was under the age of 16 at the time when her consent was given, or
 - (b) a person interfered unreasonably with the peace and comfort of the victim with a view to obtaining her consent.

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- (5) In this paragraph “the victim” means the person against whom the female genital mutilation offence in question is alleged to have been committed.

Special rules for providers of information society services

- 4 (1) Paragraph 2 applies to a domestic service provider who, in the course of providing information society services, publishes prohibited matter in an EEA state other than the United Kingdom (as well as to a person, of any description, who publishes prohibited matter in England and Wales or Northern Ireland).
- (2) Proceedings for an offence under paragraph 2, as it applies to a domestic service provider by virtue of sub-paragraph (1), may be taken at any place in England and Wales or Northern Ireland.
- (3) Nothing in this paragraph affects the operation of any of paragraphs 6 to 8.
- 5 (1) Proceedings for an offence under paragraph 2 may not be taken against a non-UK service provider in respect of anything done in the course of the provision of information society services unless the derogation condition is met.
- (2) The derogation condition is that taking proceedings—
- (a) is necessary for the purposes of the public interest objective,
 - (b) relates to an information society service that prejudices that objective or presents a serious and grave risk of prejudice to that objective, and
 - (c) is proportionate to that objective.
- (3) “The public interest objective” means the pursuit of public policy.
- 6 (1) A service provider does not commit an offence under paragraph 2 by providing access to a communication network or by transmitting, in a communication network, information provided by a recipient of the service, if the service provider does not—
- (a) initiate the transmission,
 - (b) select the recipient of the transmission, or
 - (c) select or modify the information contained in the transmission.
- (2) For the purposes of sub-paragraph (1)—
- (a) providing access to a communication network, and
 - (b) transmitting information in a communication network,
- include the automatic, intermediate and transient storage of the information transmitted so far as the storage is solely for the purpose of carrying out the transmission in the network.
- (3) Sub-paragraph (2) does not apply if the information is stored for longer than is reasonably necessary for the transmission.
- 7 (1) A service provider does not commit an offence under paragraph 2 by storing information provided by a recipient of the service for transmission in a communication network if the first and second conditions are met.
- (2) The first condition is that the storage of the information—
- (a) is automatic, intermediate and temporary, and
 - (b) is solely for the purpose of making more efficient the onward transmission of the information to other recipients of the service at their request.

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- (3) The second condition is that the service provider—
- (a) does not modify the information,
 - (b) complies with any conditions attached to having access to the information, and
 - (c) if sub-paragraph (4) applies, promptly removes the information or disables access to it.
- (4) This sub-paragraph applies if the service provider obtains actual knowledge that—
- (a) the information at the initial source of the transmission has been removed from the network,
 - (b) access to it has been disabled, or
 - (c) a court or administrative authority has ordered the removal from the network of, or the disablement of access to, the information.
- 8 (1) A service provider does not commit an offence under paragraph 2 by storing information provided by a recipient of the service if—
- (a) the service provider had no actual knowledge when the information was provided that it was, or contained, a prohibited publication, or
 - (b) on obtaining actual knowledge that the information was, or contained, a prohibited publication, the service provider promptly removed the information or disabled access to it.
- (2) Sub-paragraph (1) does not apply if the recipient of the service is acting under the authority or control of the service provider.

Interpretation

- 9 (1) In this Schedule—
- “domestic service provider” means a service provider established in England and Wales or Northern Ireland;
- “the E-Commerce Directive” means Directive [2000/31/EC](#) of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce);
- “female genital mutilation offence” means—
- (a) an offence under section 1, 2, 3 or 3A;
 - (b) an offence of attempt or conspiracy to commit any such offence;
 - (c) an offence under Part 2 of the Serious Crime Act 2007 (encouraging or assisting crime) in relation to any such offence;
- “information society services”—
- (a) has the meaning given in Article 2(a) of the E-Commerce Directive (which refers to Article 1(2) of Directive [98/34/EC](#) of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations), and
 - (b) is summarised in recital 17 of the E-Commerce Directive as covering “any service normally provided for remuneration, at a distance, by means of electronic equipment for the processing (including digital compression) and storage of data, and at the individual request of a recipient of a service”;

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“non-UK service provider” means a service provider established in an EEA state other than the United Kingdom;

“programme service” has the same meaning as in the Broadcasting Act 1990 (see section 201(1) of that Act);

“prohibited material” means any material the publication of which contravenes paragraph 1(2);

“publication” includes any speech, writing, relevant programme or other communication (in whatever form) which is addressed to, or is accessible by, the public at large or any section of the public;

“recipient”, in relation to a service, means a person who, for professional ends or otherwise, uses an information society service, in particular for the purposes of seeking information or making it accessible;

“relevant programme” means a programme included in a programme service;

“service provider” means a person providing an information society service.

- (2) For the purposes of the definition of “publication” in sub-paragraph (1)—
- (a) an indictment or other document prepared for use in particular legal proceedings is not to be taken as coming within the definition;
 - (b) every relevant programme is to be taken as addressed to the public at large or to a section of the public.
- (3) For the purposes of the definitions of “domestic service provider” and “non-UK service provider” in sub-paragraph (1)—
- (a) a service provider is established in a particular part of the United Kingdom, or in a particular EEA state, if the service provider—
 - (i) effectively pursues an economic activity using a fixed establishment in that part of the United Kingdom, or that EEA state, for an indefinite period, and
 - (ii) is a national of an EEA state or a company or firm mentioned in Article 54 of the Treaty on the Functioning of the European Union;
 - (b) the presence or use in a particular place of equipment or other technical means of providing an information society service does not, of itself, constitute the establishment of a service provider;
 - (c) where it cannot be determined from which of a number of establishments a given information society service is provided, that service is to be regarded as provided from the establishment at the centre of the service provider's activities relating to that service.]

Status:

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Changes to legislation:

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