



Prohibition of Female Genital Mutilation (Scotland) Act 2005

2005 asp 8

[^{F1}5A Female genital mutilation protection orders

- (1) In this Act, a “female genital mutilation protection order” is an order made for one or more of the purposes mentioned in subsection (2).
- (2) The purposes are—
 - (a) to prevent, or reduce the likelihood of, an act of genital mutilation being performed on—
 - (i) a person identified in the order, or
 - (ii) any person falling within a description specified in the order,
 - (b) to protect a person, identified in the order, on whom such an act has been performed,
 - (c) to otherwise prevent, or reduce the likelihood of, an offence under section 1 or section 3 being committed.
- (3) A female genital mutilation protection order may be made—
 - (a) on an application made to a court under section 5C,
 - (b) in civil proceedings before a court by virtue of section 5E(1),
 - (c) in criminal proceedings before a court by virtue of section 5J(2).
- (4) In deciding, under or by virtue of a provision mentioned in subsection (3), whether to make a female genital mutilation protection order and, if so, what order to make, the court must have regard to all the circumstances including the need to secure the health, safety and well-being of any person who would be a protected person were the order made.
- (5) In ascertaining the well-being of such a person, the court must, in particular, have regard to the person's wishes and feelings (so far as reasonably ascertainable) to such extent as the court considers appropriate, taking into account the person's age and understanding.
- (6) Subsection (7) applies where a person who would be a protected person were a female genital mutilation protection order made is not ordinarily resident in Scotland.

Changes to legislation: Prohibition of Female Genital Mutilation (Scotland) Act 2005, Section 5A is up to date with all changes known to be in force on or before 07 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

(7) The court may make a female genital mutilation protection order under or by virtue of a provision mentioned in subsection (3) in relation to a person mentioned in subsection (6) only where the person is in Scotland when the order is applied for or, as the case may be, made.

(8) In this Act—

“an act of genital mutilation”—

(a) means an action mentioned in section 1(2) performed in relation to the whole or any part of a person's genitals mentioned in section 1(1), other than an action mentioned in section 1(4)—

(i) performed by an approved person, or

(ii) performed outside the United Kingdom by an approved person or by a person who provides services corresponding to those of an approved person,

(b) includes an action mentioned in section 1(2) performed by a person in relation to the whole or any part of that person's own genitals mentioned in section 1(1) but only in the circumstances mentioned in section 3(1)(b),

“protected person” means a person identified in the order as mentioned in subsection (2)(a)(i) or (b).]

Textual Amendments

- F1** [Ss. 5A-5R](#) inserted (25.4.2020 but only for the insertion of s. 5R(4)(b)(ii) for the purposes of making regulations and otherwise prosp.) by [Female Genital Mutilation \(Protection and Guidance\) \(Scotland\) Act 2020 \(asp 9\)](#), [ss. 1, 11\(1\)\(a\)](#)

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 5S inserted by [2020 asp 9 s. 2](#)
- s. 5T inserted by [2020 asp 9 s. 3](#)
- s. 7A inserted by [2020 asp 9 s. 6](#)
- s. 7B inserted by [2020 asp 9 s. 7](#)