



Prohibition of Female Genital Mutilation (Scotland) Act 2005

2005 asp 8

[^{F1}5G] **Anonymity: proceedings relating to making of female genital mutilation protection order**

- (1) Where civil proceedings relating to the making of a female genital mutilation protection order are before the court, the court—
 - (a) must consider whether to make an order under subsection (2),
 - (b) may make such an order in accordance with subsection (4).
- (2) An order under this subsection (an “anonymity order”) may order any of the following—
 - (a) the withholding of—
 - (i) the name of a person who would be a protected person were the female genital mutilation protection order made,
 - (ii) the name of any other person,
 - (iii) other information,from the public in or in connection with proceedings before the court relating to the female genital mutilation protection order,
 - (b) the exclusion of the public from such proceedings before the court.
- (3) The court may make an anonymity order if it considers that it is just to do so having regard to all the circumstances, including the need to protect the health, safety and well-being of any person who would be a protected person were the female genital mutilation protection order made.
- (4) The court must, in complying with subsection (1)(a)—
 - (a) seek the views, so far as they are reasonably ascertainable, of—
 - (i) any person in respect of whom the court is considering making an anonymity order,
 - (ii) any person who would be a protected person were the female genital mutilation protection order made (if not a person mentioned in subparagraph (i)), and
 - (b) have regard to any such views (taking into account the person's age and understanding).

Changes to legislation: Prohibition of Female Genital Mutilation (Scotland) Act 2005, Section 5G 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

- (5) But the failure of a person mentioned in subsection (4)(a) to provide views is not to be taken as indicating that the person is opposed to an anonymity order being made.
- (6) Where the court makes an anonymity order under this section, the court must also consider whether to exercise its power under section 11 of the Contempt of Court Act 1981 (power to prohibit publication of names or other matters in connection with proceedings).
- (7) The power to make an anonymity order is without prejudice to any other functions the court has in relation to ordering that names or other information be withheld or that the public be excluded from proceedings.
- (8) Subsection (4) does not apply to proceedings relating to the making of an interim female genital mutilation protection order by virtue of section 5F.
- (9) The reference in subsection (1) to proceedings relating to the making of a female genital mutilation protection order includes reference to proceedings in which the court is considering whether to make such an order by virtue of section 5E(1).]

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\(1\)\(a\)](#)

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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](#)