



Prohibition of Female Genital Mutilation (Scotland) Act 2005

2005 asp 8

[^{F1}5J Power to make orders on sentencing etc.]

- (1) This section applies where a person is—
 - (a) convicted of an offence under section 1 or section 3,
 - (b) acquitted of such an offence by reason of the special defence set out in section 51A of the Criminal Procedure (Scotland) Act 1995 (criminal responsibility of persons with mental disorder), or
 - (c) found to be unfit for trial under section 53F of that Act and the court determines that the person's actions constitute such an offence.
- (2) The court (whether at first instance, on a remit from another court, or on appeal) may, instead of or in addition to dealing with the person in any other way, make a female genital mutilation protection order in respect of the person.
- (3) The court may make a female genital mutilation protection order—
 - (a) at its own instance, or
 - (b) on the motion of the prosecutor.
- (4) A female genital mutilation protection order made under subsection (2) may be appealed against as if the order were a sentence.
- (5) On such an appeal being made, the court may suspend the order appealed against pending the disposal of the appeal.
- (6) For the purposes of this Act (other than this section), a female genital mutilation protection order made under subsection (2) is to be treated as having been made by the sheriff in civil proceedings by virtue of section 5E(1).
- (7) In this section and in section 5K, “the court” means the High Court, the Sheriff Appeal Court or, as the case may be, the sheriff.]

Changes to legislation: *Prohibition of Female Genital Mutilation (Scotland) Act 2005, Section 5J is up to date with all changes known to be in force on or before 04 May 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*

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](#)