

FEMALE GENITAL MUTILATION (PROTECTION AND GUIDANCE) (SCOTLAND) ACT 2020

EXPLANATORY NOTES

FEMALE GENITAL MUTILATION PROTECTION ORDERS

Section 1: Female genital mutilation protection orders

Inserted section 5B: Contents of orders

15. Subsection (1) provides that the court may make an order containing any terms that are considered appropriate for the purposes of the order.
16. Subsection (2) makes it clear that the terms of the order may relate to actions outwith Scotland and to persons who have subjected, or may attempt to subject, someone to an FGM offence and other persons involved in other respects. Subsection (7) provides examples of other involvement such as conspiring to commit an offence of FGM and aiding, abetting, counselling, procuring or inciting another person to commit such an offence.
17. The lists in subsections (2) and (7) are non-exhaustive and do not limit the broad scope of subsection (1). For example, a court might consider it appropriate to require a relevant local authority to do something under a female genital mutilation protection order.
18. Subsection (3) sets out the matters that an order may require a person to do or refrain from doing. The list is not exhaustive. It includes:
 - taking the protected person to a place of safety,
 - taking the protected person to any other place (for example, the court could require that the protected person be taken to a GP surgery or hospital),
 - refraining from violent, threatening or intimidating conduct,
 - refraining from taking a protected person to certain places, as the court specifies,
 - submitting documents to the court, including passports and travel documents.
19. Subsection (4) expressly indicates that, in addition to those matters, a court may require a Scottish public authority to consider what support and assistance the authority may be able, in exercise of its functions, to provide to the protected person or to another person.
20. Subsection (5) restricts the power in subsection (4) so that it can be exercised only on the request of a party to the proceedings in respect of the female genital mutilation protection order (or those who would have been a party to such proceedings, where an emergency or interim order is being made).

*These notes relate to the Female Genital Mutilation (Protection and Guidance)
(Scotland) Act 2020 (asp 9) which received Royal Assent on 24th April 2020*

21. Subsection (6) makes it clear that where a requirement is made under subsection (4), the authority to whom the requirement applies must, so far as reasonably practicable, provide such support and assistance as the authority considers appropriate. The provision of such support and assistance (as opposed to the consideration of such support and assistance) is therefore mandated by way of this subsection and not by way of the order.