

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 5J: Power to make orders on sentencing etc.

57. Section 5J enables a court to make a female genital mutilation protection order in respect of a person who:
- has been convicted of an FGM offence,
 - has been acquitted of an FGM 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
 - has been found to be unfit for trial under section 53F of the Criminal Procedure (Scotland) Act 1995 where the court has determined that the person's actions constitute an FGM offence,
58. Subsection (3) provides that the court may make a female genital mutilation protection order on its own initiative or on a motion of the prosecutor.
59. Subsections (4) and (5) provide that a female genital mutilation protection order made under this section may be appealed as if it were a sentence and that, on such an appeal being made, the court may suspend the order pending disposal of the appeal. This means that the appeal is heard by the criminal court.
60. Subsection (6) provides that a female genital mutilation protection order made under this section is otherwise to be treated as if made in civil proceedings. This means that once the order is made it is brought within the ambit of the provisions on variation, discharge and extension of orders in the civil court.