

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 5F: Interim orders

37. Section 5F enables the court to make an interim version of a female genital mutilation protection order after either receiving an application under inserted section 5C or, where an application has not been made to it, where civil proceedings are already before it.
38. Subsections (2) and (3) set out that the court may make an interim order only where it considers it just, on the balance of convenience, to do so. In deciding whether to make an interim order, the court must have regard to all the circumstances including the risk of significant harm to a person if the order is not made immediately, the risk of a protected person being taken outside the UK for a purpose connected with FGM, and the risk that the person who applied for the order will be deterred or prevented from pursuing the application. This is not an exhaustive list.
39. Subsections (4) and (5) also enable an interim female genital mutilation protection order to be made in the absence of a person who is, or would be, a party to proceedings for the order, provided that they are subsequently given an opportunity to make representations about the interim order as soon as is just and convenient.
40. Subsection (6) provides that an interim female genital mutilation protection order has effect only for a fixed period specified in the order. An interim order ceases to have effect once a determination of the original application under inserted section 5C has been made or, where no application was made, on the determination of any court proceedings which came about from the opportunity given to parties who were absent when the order was made, to make representations about it.
41. Subsection (7) specifies that any references in the 2005 Act to female genital mutilation protection orders include references to interim female genital mutilation protection orders.