

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 5G: Anonymity: proceedings relating to making of female genital mutilation protection order

42. This section requires the court, when dealing with civil proceedings relating to the making of a female genital mutilation protection order (that is, proceedings on an application under inserted section 5C or proceedings under inserted section 5E), to consider whether an anonymity order should be made. The court is also given the power to make such an order.
43. Subsection (2) sets out what an anonymity order is. An anonymity order is an order requiring measures to be taken to ensure that the identity of the person, who would be a protected person were the female genital mutilation protection order made, is not disclosed and that other information (for example details of another person) is not disclosed. An anonymity order may also protect the identity of another person (perhaps a relative of the protected person) and may also be used to exclude the public from any proceedings relating to the female genital mutilation protection order.
44. Subsection (3) provides that the court may make an anonymity order only if it considers it just to do so taking into consideration all the circumstances including the need to protect the health, safety and well-being of someone who would be a protected person if the female genital mutilation protection order were made.
45. Subsection (4) sets out that, in considering whether to make an anonymity order, the court must seek the views of any person in respect of whom the court is considering making the anonymity order and of the protected person (if different) and to have regard to those views to the extent the court considers it appropriate, taking into account the person's age and understanding.
46. Subsection (5) makes it clear that a person's failure to provide views when sought by the court under subsection (4) should not be taken as an indication of that person's opposition to an anonymity order being made.
47. Subsection (6) obliges the court to also consider exercising its existing powers under section 11 of the Contempt of Court Act 1981 (which allows the court to impose reporting restrictions).
48. Subsection (7) emphasises that nothing in this section overrides any existing power the court has to provide for anonymity.

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

49. Subsection (8) disapplies the requirement to seek views in subsection (4) in cases where the making of an interim female genital mutilation protection order is being considered.
50. Subsection (9) has the effect of requiring the court to consider making an anonymity order where an application for a female genital mutilation protection order has not been received, but the court is considering whether or not to grant a female genital mutilation protection order under inserted section 5E.