



# Serious Crime Act 2015

## 2015 CHAPTER 9

### PART 5

#### PROTECTION OF CHILDREN AND OTHERS

##### *Female genital mutilation*

#### **72 Offence of failing to protect girl from risk of genital mutilation**

- (1) The Female Genital Mutilation Act 2003 is amended as follows.
- (2) After section 3 insert—

##### **“3A Offence of failing to protect girl from risk of genital mutilation**

- (1) If a genital mutilation offence is committed against a girl under the age of 16, each person who is responsible for the girl at the relevant time is guilty of an offence.

This is subject to subsection (5).

- (2) For the purposes of this section a person is “responsible” for a girl in the following two cases.
- (3) The first case is where the person—
  - (a) has parental responsibility for the girl, and
  - (b) has frequent contact with her.
- (4) The second case is where the person—
  - (a) is aged 18 or over, and
  - (b) has assumed (and not relinquished) responsibility for caring for the girl in the manner of a parent.
- (5) It is a defence for the defendant to show that—

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*Status: This is the original version (as it was originally enacted).*

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- (a) at the relevant time, the defendant did not think that there was a significant risk of a genital mutilation offence being committed against the girl, and could not reasonably have been expected to be aware that there was any such risk, or
  - (b) the defendant took such steps as he or she could reasonably have been expected to take to protect the girl from being the victim of a genital mutilation offence.
- (6) A person is taken to have shown the fact mentioned in subsection (5)(a) or (b) if—
- (a) sufficient evidence of the fact is adduced to raise an issue with respect to it, and
  - (b) the contrary is not proved beyond reasonable doubt.
- (7) For the purposes of subsection (3)(b), where a person has frequent contact with a girl which is interrupted by her going to stay somewhere temporarily, that contact is treated as continuing during her stay there.
- (8) In this section—
- “genital mutilation offence” means an offence under section 1, 2 or 3 (and for the purposes of subsection (1) the prosecution does not have to prove which section it is);
  - “parental responsibility”—
  - (a) in England Wales, has the same meaning as in the Children Act 1989;
  - (b) in Northern Ireland, has the same meaning as in the Children (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I. 2));
  - “the relevant time” means the time when the mutilation takes place.”
- (3) In section 4 (extension of sections 1 to 3 to extra-territorial acts)—
- (a) in the heading, for “3” substitute “3A” and after “acts” insert “or omissions”;
  - (b) after subsection (1) insert—
- “(1A) An offence under section 3A can be committed wholly or partly outside the United Kingdom by a person who is a United Kingdom national or a United Kingdom resident.”
- (4) In section 5 (penalties for offences)—
- (a) for “A person guilty of an offence under this Act” substitute—
- “(1) A person guilty of an offence under section 1, 2 or 3”;
- (b) at the end insert—
- “(2) A person guilty of an offence under section 3A is liable—
  - (a) on conviction on indictment, to imprisonment for a term not exceeding seven years or a fine (or both),
  - (b) on summary conviction in England and Wales, to imprisonment for a term not exceeding 12 months or a fine (or both),
  - (c) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum (or both).”