

## **EXPLANATORY MEMORANDUM**

### **The Female Genital Mutilation Protection Order (Relevant Third Party) Order (Northern Ireland) 2021**

**S.R. 2021 No. 297**

#### **1. Introduction**

- 1.1 This Explanatory Memorandum has been prepared by the Department of Finance (“the Department”) to accompany this Statutory Rule which is laid before the Northern Ireland Assembly.
- 1.2 The Statutory Rule is made under powers conferred by section 5A and paragraph 19(7) of Part 2 to Schedule 2 to the Female Genital Mutilation Act 2003 as inserted by Section 73 of the Serious Crime Act 2015. The Statutory Rule is subject to negative resolution procedure before the Assembly

#### **2. Purpose**

- 2.1 The purpose of the draft Rule is to specify Health and Social Care trusts in this jurisdiction as a relevant third party for the purposes of the Female Genital Mutilation Act 2003 (as amended by the Serious Crime Act 2015). This will allow Health and Social Care trusts, if they choose to do so, to make an application to the family court for a Female Genital Mutilation Protection Order (“FGM Protection Order”), without first having to apply for the leave of the court to do so.

#### **3. Background**

- 3.1 The 2003 Act (as amended by the 2015 Act) creates a new civil law measure – the FGM Protection Order – which enables a court to make an order with the purpose of protecting a girl or women against the commission of a genital mutilation offence or protect a girl or woman against whom such an offence has been committed. Applications can be made, without the leave of the court, by the victim or a relevant third party. A relevant third party is defined in subparagraph 2(7) of Part 2 to Schedule 2 of the 2003 Act as a person specified, or falling within a description of persons specified, by order made by the Department of Finance. Being able to apply for a FGM Protection Order, without first needing to seek leave of the court, should assist Health and Social Care trusts in taking steps to protect actual or potential victims of FGM.
- 3.2 This instrument specifies Health and Social Care trusts as relevant third parties for the purposes of the 2003 Act. Being specified as a relevant third party will make it more efficient for Health and Social Care trusts to apply for an FGM Protection Order, particularly in cases where time is of the essence, as there would be no requirement to seek the leave of the court before doing so.

#### **4. Consultation**

4.1 This is an uncontroversial and technical change to the law. No public consultation was considered necessary. A request to change the law was presented to the Department of Finance by officials in the Department of Health.

#### **5. Equality Impact**

5.1 Consideration has been given to human rights and equality issues in relation to the proposed rule. Given the minor and technical nature of the proposal, a full equality impact assessment was not considered necessary.

#### **6. Regulatory Impact**

6.1 No regulatory issues were identified and a full Regulatory Impact Assessment was not considered necessary

#### **7. Financial Implications**

7.1 There are no financial implications arising from this Statutory Rule

#### **8. Section 24 of the Northern Ireland Act 1998**

8.1 It is the view of the Department that these Regulations are compatible with section 24 of the Northern Ireland Act 1998