



Isle of Man

Ellan Vannin

AT 2 of 2010

**PROHIBITION OF FEMALE GENITAL
MUTILATION ACT 2010**



Isle of Man

Ellan Vannin

PROHIBITION OF FEMALE GENITAL MUTILATION ACT 2010

Index

Section	Page
1 Short title.....	5
2 Commencement	5
3 Interpretation.....	5
4 Offence of female genital mutilation.....	6
5 Amendment of section 4.....	6
6 Aiding and abetting female genital mutilation	7
6A Duty to notify police of female genital mutilation.....	7
6B Female genital mutilation protection orders	9
6C Extension of sections 4, 6 and 6A to extra-territorial acts	9
7 Penalties for offences.....	9
 SCHEDULE	 11
FEMALE GENITAL MUTILATION PROTECTION ORDERS	11
 ENDNOTES	 20
TABLE OF ENDNOTE REFERENCES	20



Isle of Man

Ellan Vannin

PROHIBITION OF FEMALE GENITAL MUTILATION ACT 2010

Received Royal Assent: 16 March 2010

Announced to Tynwald: 16 March 2010

Commenced: 1 July 2011

AN ACT to prohibit female genital mutilation; and for connected purposes.

1 Short title

The short title of this Act is the Prohibition of Female Genital Mutilation Act 2010.

2 Commencement

- (1) This Act, other than section 1 and this section, shall come into operation on such day as the Council of Ministers may by order appoint.¹
- (2) An order under subsection (1) may make such consequential, transitional or transitory provisions and savings as the Council of Ministers considers necessary in connection with any provision brought into force in the order.
- (3) Nothing in this Act affects any criminal liability that arises apart from this Act.

3 Interpretation

[S 2005/8/6 & S.I.1986/948]

In this Act —

“**permanent Manx resident**” [Repealed]²

“**Manx resident**” means a person who is settled in the Island (within the meaning of the Immigration Act 1971 (of Parliament) as that Act applies in the Island);³

“**United Kingdom national**” means an individual who is —

- (a) a British citizen within the meaning of the British Nationality Act 1981;

- (b) a British National (Overseas) within the meaning of the Hong Kong (British Nationality) Order 1986;
- (c) a British Overseas citizen within the meaning of the British Nationality Act 1981;
- (d) a person who is a British subject under that Act; or
- (e) a British protected person within the meaning of that Act.

4 Offence of female genital mutilation

[S 2005/8/1]

- (1) A person commits an offence if he or she does any of the acts mentioned in subsection (2) in relation to the whole or any part of the labia majora, labia minora, prepuce of the clitoris, clitoris or vagina of a woman or a girl.
- (2) Those acts are —
 - (a) excising it;
 - (b) infibulating it; or
 - (c) otherwise mutilating it.
- (3) But no offence under subsection (1) is committed by an approved person who performs —
 - (a) a surgical operation on a woman or a girl which is necessary for her physical or mental health; or
 - (b) a surgical operation on a woman or a girl who is in any stage of labour, for purposes connected with labour or birth.
- (4) The following are approved persons —
 - (a) in relation to an operation within subsection (3)(a), a registered medical practitioner;
 - (b) in relation to an operation within subsection (3)(b), a registered medical practitioner, a registered midwife, or a person undergoing a course of training with a view to becoming such a practitioner or midwife.
- (5) For the purposes of determining whether an operation is necessary for the mental health of a person, it is immaterial whether that or any other person believes that the operation is required as a matter of custom or ritual.

5 Amendment of section 4

[S 2005/8/2]

- (1) The Council of Ministers may by order amend section 4.
- (2) An order under subsection (1) shall not come into operation until it has been approved by Tynwald.

6 Aiding and abetting female genital mutilation

[S2005/8/3]

- (1) A person commits an offence if, within the Island, he or she aids, abets, counsels, procures or incites —
 - (a) a person to commit an offence under section 4;
 - (b) another person (“B”) to perform an act mentioned in section 4(2) in relation to the whole or any part of B’s own labia majora, labia minora, prepuce of the clitoris, clitoris or vagina; or
 - (c) a person who is not a United Kingdom national or a Manx resident to do a relevant act of genital mutilation outside the Island.⁴
- (2) An act is a relevant act of genital mutilation if it would constitute an offence under section 4 if the act were done in the Island.
- (3) But no offence is committed under subsection (1)(c) if the relevant act of genital mutilation —
 - (a) is an act mentioned in section 4(3); and
 - (b) is done by a person who, in relation to the act, is an approved person or provides services corresponding to those of an approved person.

6A Duty to notify police of female genital mutilation

P2003/31/5B and drafting

- (1) A person who works in a regulated profession in the Island must make a notification under this section (an “**FGM notification**”) if, in the course of his or her work in the profession, the person discovers that an act of female genital mutilation appears to have been carried out on —
 - (a) a woman; or
 - (b) a girl who is aged under 18.
- (2) For the purposes of this section, —
 - (a) a person works in a “**regulated profession**” if the person is —
 - (i) a health care professional;
 - (ii) a teacher; or
 - (iii) a social care worker; and
 - (b) a person “discovers” that an act of female genital mutilation appears to have been carried out on a woman or girl in either of the following 2 cases.
- (3) The first case is where the woman or girl informs the person that an act of female genital mutilation (however described) has been carried out on her.
- (4) The second case is where —

- (a) the person observes physical signs on the woman or girl appearing to show that an act of female genital mutilation has been carried out on her, and
 - (b) the person has no reason to believe that the act was, or was part of, a surgical operation within section 4(3)(a) or (b).
- (5) An FGM notification —
- (a) is to be made to the Chief Constable;
 - (b) must identify the woman or girl and explain why the notification is made;
 - (c) must be made before the end of one month from the time when the person making the notification first discovers that an act of female genital mutilation appears to have been carried out on the woman or girl;
 - (d) may be made orally or in writing.
- (6) The duty of a person working in a particular regulated profession to make an FGM notification does not apply if the person has reason to believe that another person working in that profession has previously made an FGM notification in connection with the same act of female genital mutilation.
- For this purpose, all persons falling within subsection (2)(a)(i) are to be treated as working in the same regulated profession.
- (7) A disclosure made in an FGM notification does not breach —
- (a) any obligation of confidence owed by the person making the disclosure; or
 - (b) any other restriction on the disclosure of information.
- (8) The Council of Ministers may by order amend this section for the purpose of adding, removing or otherwise altering the descriptions of persons regarded as working in a “regulated profession” for the purposes of this section.
- Tynwald procedure — approval required.
- (9) An order under subsection (8) may make such consequential, transitional or transitory provisions and savings as the Council of Ministers considers necessary.
- (10) In this section —

“**act of female genital mutilation**” means an act of a kind mentioned in section 4(2);

“**health care professional**” means a person registered in accordance with the *Health Care Professionals Act 2014*;

“**social care worker**” means a person within the meaning in section 139 of the *Regulation of Care Act 2013*;

“**teacher**” means a person —

- (a) appointed by the Department of Education, Sport and Culture in accordance with section 6 of the *Education Act 2001*;
- (b) performing an equivalent function or role to that of a person specified in paragraph (a); or
- (c) appointed by any person as a teaching assistant.⁵

6B Female genital mutilation protection orders

P2003/31/5A and drafting

The Schedule provides for the making of female genital mutilation protection orders.⁶

6C Extension of sections 4, 6 and 6A to extra-territorial acts

P2003/31/4 and drafting

- (1) Sections 4, 6 and 6A extend to any act done outside the Island by a United Kingdom national or Manx resident.
- (2) No offence under section 4 is committed by a person who —
 - (a) outside the Island, performs an action mentioned in subsection (3) of that section; and
 - (b) in relation to the action, provides services corresponding to those of an approved person.
- (3) If an offence under this Act is committed outside the Island —
 - (a) it may be treated as having been committed in the Island; and
 - (b) proceedings may be taken accordingly.⁷

7 Penalties for offences

[S 2005/8/5 and drafting]

A person guilty of an offence under —

- (a) section 4 (offence of genital mutilation) or 6 (aiding or abetting genital mutilation) is liable —
 - (i) on conviction on information to custody for not more than 14 years or a fine or both;
 - (ii) on summary conviction to custody for not more than 6 months or a fine not exceeding £5,000 or both; and
- (b) section 6A (duty to notify police of female genital mutilation) is liable —
 - (i) on conviction on information to custody for not more than 2 years or a fine or both;
 - (ii) on summary conviction to 12 months' custody, a fine not exceeding level 5 or both.⁸

SCHEDULE⁹

[Section 6B]

FEMALE GENITAL MUTILATION PROTECTION ORDERS**1 Power to make FGM protection order**

P2003/31/Sch2/1

- (1) The court may make an order (an “**FGM protection order**”) for the purposes of —
 - (a) protecting a woman or girl against the commission of a genital mutilation offence; or
 - (b) protecting a girl against whom any such offence has been committed.
- (2) In deciding whether to exercise its powers under this paragraph and, if so, in what manner, the court must have regard to all the circumstances, including the need to secure the health, safety and well-being of the woman or girl to be protected.
- (3) An FGM protection order may contain —
 - (a) such prohibitions, restrictions or requirements; and
 - (b) such other terms,as the court considers appropriate for the purposes of the order.
- (4) The terms of an FGM protection order may, in particular, relate to —
 - (a) conduct outside the Island as well as (or instead of) conduct within the Island;
 - (b) respondents who are, or may become, involved in other respects as well as (or instead of) respondents who commit or attempt to commit, or may commit or attempt to commit, a genital mutilation offence against a woman or girl;
 - (c) other persons who are, or may become, involved in other respects as well as respondents of any kind.
- (5) For the purposes of sub-paragraph (4) examples of involvement in other respects are —
 - (a) aiding, abetting, counselling, procuring, encouraging or assisting another person to commit, or attempt to commit, a genital mutilation offence against a woman or girl;
 - (b) conspiring to commit, or to attempt to commit, such an offence.
- (6) An FGM protection order may be made for a specified period or until varied or discharged (see paragraph 6).

2 Applications and other occasions for making orders

P2003/31/Sch2/2

- (1) The court may make an FGM protection order —
 - (a) on an application being made to it; or
 - (b) without an application being made to it but in the circumstances mentioned in sub-paragraph (6).
- (2) An application may be made by —
 - (a) the woman or girl who is to be protected by the order; or
 - (b) a relevant third party.
- (3) An application may be made by any other person with the leave of the court.
- (4) In deciding whether to grant leave, the court must have regard to all the circumstances including —
 - (a) the applicant's connection with the woman or girl to be protected;
 - (b) the applicant's knowledge of the circumstances of the woman or girl.
- (5) An application under this paragraph may be made in other family proceedings or without any other family proceedings being commenced.
- (6) The circumstances in which the court may make an order without an application being made are where —
 - (a) any other family proceedings are before the court (“**the current proceedings**”),
 - (b) the court considers that an FGM protection order should be made to protect a woman or girl (whether or not a party to the proceedings); and
 - (c) a person who would be a respondent to any proceedings for an FGM protection order is a party to the current proceedings.
- (7) In this paragraph —

“**family proceedings**” has the same meaning as in section 138 of the *Matrimonial Proceedings Act 2003*, but also includes, —

 - (a) proceedings under the inherent jurisdiction of the High Court in relation to adults;
 - (b) proceedings in which the court has made an emergency protection order under section 42 of the *Children and Young Persons Act 2001* which includes an exclusion requirement (as defined in section 43 of that Act); and
 - (c) proceedings in which the court has made an order under section 49 of the *Children and Young Persons Act 2001* (recovery of abducted person);

“**relevant third party**” means a person specified, or falling within a description of persons specified, by order made by the Council of Ministers (and such order may, in particular, specify the Department of Home Affairs).

Tynwald procedure – negative

3 Power to make order in criminal proceedings

P2003/31/Sch2/3

The court before which there are criminal proceedings for a genital mutilation offence may make an FGM protection order (without an application being made to it) if –

- (a) the court considers that an FGM protection order should be made to protect a woman or girl (whether or not the victim of the offence in relation to the criminal proceedings); and
- (b) a person who would be a respondent to any proceedings for an FGM protection order is a defendant in the criminal proceedings.

4 Offence of breaching order

P2003/31/Sch2/4

- (1) A person who without reasonable excuse does anything that the person is prohibited from doing by an FGM protection order commits an offence.
- (2) In the case of an FGM protection order made by virtue of paragraph 5(1), a person commits an offence under this paragraph only in respect of conduct engaged in at a time when the person was aware of the existence of the order.
- (3) Where a person is convicted of an offence under this paragraph in respect of any conduct, the conduct is not punishable as a contempt of court.
- (4) A person cannot be convicted of an offence under this paragraph in respect of any conduct which has been punished as a contempt of court.
- (5) A person guilty of an offence under this paragraph is liable –
 - (a) on conviction on information, to custody for not more than 5 years, or a fine, or both;
 - (b) on summary conviction, to custody for not more than 12 months, or a fine, or both.
- (6) A reference in any Manx legislation to proceedings under this Schedule, or to an order under this Schedule, does not include a reference to proceedings for an offence under this paragraph or to an order made in proceedings for such an offence.

5 Ex parte orders

P2003/31/Sch2/5

- (1) The court may, in any case where it is just and convenient to do so, make an FGM protection order even though the respondent has not been given such notice of the proceedings as would otherwise be required by rules of court.
- (2) In deciding whether to exercise its powers under sub-paragraph (1), the court must have regard to all the circumstances including —
 - (a) the risk to the woman or girl, or to another person, of becoming a victim of a genital mutilation offence if the order is not made immediately;
 - (b) whether it is likely that an applicant will be deterred or prevented from pursuing an application if an order is not made immediately; and
 - (c) whether there is reason to believe that —
 - (i) the respondent is aware of the proceedings but is deliberately evading service; and
 - (ii) the delay involved in effecting substituted service will cause serious prejudice to the woman or girl to be protected or (if different) an applicant.
- (3) The court must give the respondent an opportunity to make representations about an order made by virtue of sub-paragraph (1).
- (4) The opportunity must be —
 - (a) as soon as just and convenient; and
 - (b) at a hearing of which notice has been given to all the parties in accordance with rules of court.

6 Variation and discharge of orders

P2003/31/Sch2/6

- (1) The court may vary or discharge an FGM protection order on an application by —
 - (a) any party to the proceedings for the order;
 - (b) the woman or girl being protected by the order (if not a party to the proceedings for the order); or
 - (c) any person affected by the order.
- (2) In the case of an order made in criminal proceedings under paragraph 3, the reference in sub-paragraph (1)(a) to a party to the proceedings for the order is to be read as a reference to the prosecution and the defendant.

- (3) In addition, the court may vary or discharge an FGM protection order made by virtue of paragraph 2(1)(b) or 3 even though no application under sub-paragraph (1) above has been made to the court.
- (4) Paragraph 5 applies to a variation of an FGM protection order as it applies to the making of such an order (and references in that paragraph to the making of an FGM protection order are to be read accordingly).

7 **Arrest under warrant**

P2003/31/Sch2/7

- (1) An interested party may apply to the relevant judge for the issue of a warrant for the arrest of a person if the interested party considers that the person has failed to comply with an FGM protection order or is otherwise in contempt of court in relation to such an order.
- (2) The relevant judge must not issue a warrant on an application under sub-paragraph (1) unless —
 - (a) the application is substantiated on oath; and
 - (b) the relevant judge has reasonable grounds for believing that the person to be arrested has failed to comply with the order or is otherwise in contempt of court in relation to the order.
- (3) In this paragraph “**interested party**”, in relation to an FGM protection order, means —
 - (a) the woman or girl being protected by the order;
 - (b) (if a different person) the person who applied for the order; or
 - (c) any other person;

but no application may be made under sub-paragraph (1) by a person falling within paragraph (c) without leave of the relevant judge.

8 **Remand: general**

P2003/31/Sch2/8

- (1) The court before which an arrested person is brought by virtue of a warrant under paragraph 7 may, if the matter is not then disposed of immediately, remand the person concerned.
- (2) Paragraphs 9 to 14 contain further provision about the powers of a court to remand under this paragraph.
- (3) Sub-paragraph (4) applies if a person remanded under this paragraph is granted bail under paragraphs 10 to 14.
- (4) The person may be required by the relevant judge to comply, before release on bail or later, with such requirements as appear to the judge to be necessary to secure that the person does not interfere with witnesses or otherwise obstruct the course of justice.

9 Remand: medical examination and report

P2003/31/Sch2/9

- (1) Any power to remand a person under paragraph 8(1) may be exercised for the purpose of enabling a medical examination and report to be made if the relevant judge has reason to consider that a medical report will be required.
- (2) If such a power is so exercised, the adjournment must not be for more than 4 weeks at a time unless the relevant judge remands the accused in custody.
- (3) If the relevant judge remands the accused in custody, the adjournment must not be for more than 3 weeks at a time.
- (4) Sub-paragraph (5) applies if there is reason to suspect that a person who has been arrested under a warrant issued on an application under paragraph 7(1) is suffering from mental disorder within the meaning of the *Mental Health Act 1998*.
- (5) The relevant judge has the same power to make an order under section 24(2) of the *Criminal Jurisdiction Act 1993* (power to adjourn for reports) as the court has under section 24 of that Act in the case of an accused person referred to in that section.

10 Remand: further provision

P2003/31/Sch2/10

- (1) Where a court has power to remand a person under paragraph 8, the court may remand the person in custody or on bail.
- (2) If remanded in custody, the person is to be committed to custody to be brought before the court —
 - (a) at the end of the period of remand; or
 - (b) at such earlier time as the court may require.
- (3) The court may remand a person on bail —
 - (a) by taking from the person a recognisance (with or without sureties) conditioned as provided in paragraph 11; or
 - (b) by fixing the amount of the recognisances with a view to their being taken subsequently in accordance with paragraph 14 and, in the meantime, committing the person to custody as mentioned in sub-paragraph (2).
- (4) Where a person is brought before the court after remand the court may further remand the person.
- (5) In this paragraph and in paragraphs 11 to 14, references to “the court” include a reference to a judge of the court or, in the case of proceedings in a court of summary jurisdiction, a justice of the peace.

11 Remand on bail

P2003/31/Sch2/11

- (1) Where a person is remanded on bail, the court may direct that the person's recognisance be conditioned for his or her appearance —
 - (a) before the court at the end of the period of remand; or
 - (b) at every time and place to which during the course of the proceedings the hearing may from time to time be adjourned.
- (2) Where a recognisance is conditioned for a person's appearance as mentioned in sub-paragraph (1), the fixing of any time for the person next to appear is to be treated as a remand.
- (3) Nothing in this paragraph deprives the court of power at any subsequent hearing to remand a person afresh.

12 Remand: limit

P2003/31/Sch2/12

- (1) The court may not remand a person for a period exceeding 8 clear days unless —
 - (a) the court adjourns a case under paragraph 9(1); or
 - (b) the person is remanded on bail and both that person and the other party to the proceedings (or, in the case of criminal proceedings, the prosecution) consent.
- (2) If sub-paragraph (1)(a) applies, the person may be remanded for the period of the adjournment.
- (3) Where the court has power to remand a person in custody, the person may be committed to the custody of a constable if the remand is for a period not exceeding 3 clear days.

13 Remand: in a person's absence

P2003/31/Sch2/13

- (1) If the court is satisfied that a person who has been remanded is unable by reason of illness or accident to appear before the court at the end of the period of remand, the court may further remand the person in his or her absence.
- (2) The power in sub-paragraph (1) may, in the case of a person who was remanded on bail, be exercised by enlarging the person's recognisance and those of any sureties to a later time.
- (3) Where a person remanded on bail is bound to appear before the court at any time and the court has no power to remand the person under sub-paragraph (1), the court may, in the person's absence, enlarge the person's recognisance and those of any sureties for the person to a later time.

- (4) The enlargement of a person's recognisance is to be treated as a further remand.
- (5) Paragraph 12(1) (limit of remand) does not apply to the exercise of the powers conferred by this paragraph.

14 Remand: amount

P2003/31/Sch2/14

- (1) This paragraph applies where under paragraph 10(3)(b) the court fixes the amount in which the principal and the sureties (if any) are to be bound.
- (2) The recognisance may afterwards be taken by a person specified by the court (with the same consequences as if it had been entered into before the court).

15 Contempt proceedings

P2003/31/Sch2/15

The powers of the court in relation to contempt of court arising out of a person's failure to comply with an FGM protection order, or otherwise in connection with such an order, may be exercised by the relevant judge.

16 Other protection or assistance against female genital mutilation

P2003/31/Sch2/16 and drafting

- (1) Nothing in this Schedule affects any other protection or assistance available to a woman or girl who is or may become the victim of a genital mutilation offence.
- (2) In particular, it does not affect —
 - (a) the inherent jurisdiction of the High Court;
 - (b) any criminal liability;
 - (c) any civil remedies under the *Protection from Harassment Act 2000*;
 - (d) any right to an occupation order or a non-molestation order under section 104 of the *Matrimonial Proceedings Act 2003*;
 - (e) any protection or assistance under the *Children and Young Persons Act 2001*; or
 - (f) any claim in tort.

17 Interpretation

P2003/31/Sch2/17 and drafting

- (1) In this Schedule —

“**the court**”, except as provided in sub-paragraph (2), means the Civil Division of the High Court;

“**FGM protection order**” means an order under paragraph 1;

“**genital mutilation offence**” means an offence under section 4 or 6;

“**the relevant judge**”, in relation to an FGM protection order, means —

- (a) where the order was made by the Civil Division of the High Court, a judge of that court;
 - (b) where the order was made by a court in criminal proceedings under paragraph 3 —
 - (i) a judge of that court; or
 - (ii) a judge of the High Court.
- (2) Where the power to make an FGM protection order is exercisable by a court in criminal proceedings under paragraph 3, references in this Schedule to “the court” (other than in paragraph 2) are to be read as references to that court.
- (3) In paragraph (b)(i) of the definition of “relevant judge” in sub-paragraph (1), the reference to a judge of the court that made the order includes, in the case of criminal proceedings in a court of summary jurisdiction, a reference to a justice of the peace.

ENDNOTES**Table of Endnote References**

¹ ADO (whole Act): 1/7/2011 (SD339/11).

² Definition of “permanent Manx resident” repealed by Sexual Offences and Obscene Publications Act 2021 s 227.

³ Definition of “Manx resident” inserted by Sexual Offences and Obscene Publications Act 2021 s 227.

⁴ Para (c) amended by Sexual Offences and Obscene Publications Act 2021 s 227.

⁵ S 6A inserted by Sexual Offences and Obscene Publications Act 2021 s 227.

⁶ S 6B inserted by Sexual Offences and Obscene Publications Act 2021 s 227.

⁷ S 6C inserted by Sexual Offences and Obscene Publications Act 2021 s 227.

⁸ S 7 substituted by Sexual Offences and Obscene Publications Act 2021 s 227.

⁹ Sch inserted by Sexual Offences and Obscene Publications Act 2021 s 227.