

# Female Genital Mutilation (Protection and Guidance) (Scotland) Bill

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## Groupings of Amendments for Stage 2

This document provides procedural information which will assist in preparing for and following proceedings on the above Bill. The information provided is as follows:

- the list of groupings (that is, the order in which amendments will be debated). Any procedural points relevant to each group are noted;
- the text of amendments to be debated on the day of Stage 2 consideration, set out in the order in which they will be debated. **THIS LIST DOES NOT REPLACE THE MARSHALLED LIST, WHICH SETS OUT THE AMENDMENTS IN THE ORDER IN WHICH THEY WILL BE DISPOSED OF.**

### Groupings of amendments

#### **Provision of support**

23

#### **Provision of legal advice**

24

#### **Applications by local authorities**

1, 2, 3, 18

#### **Anonymity**

25

#### **Minor and technical drafting changes**

4, 16, 17

#### **Appeals against FGMPOs made in criminal proceedings**

5, 6, 7

#### **Duration of orders**

8, 9, 10, 11

#### **Variation etc. of FGMPOs: further provision**

12, 13, 14, 15

#### **Referral to children's hearing**

19, 20, 21

#### **Power of summary sheriffs in relation to FGMPOs**

22

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### Amendments in debating order

#### Provision of support

**Oliver Mundell**

23 In section 1, page 2, line 9, at end insert—

- <( ) In discharging its responsibilities under subsections (4) and (5), the court may include in a female genital mutilation protection order a requirement to provide any practical support to a protected person, or any other persons to whom the order would apply, were the order made, for the purpose of reducing any ongoing risk to that person.>

#### Provision of legal advice

**Oliver Mundell**

24 In section 1, page 4, line 9, at end insert—

- <(5A) The Scottish Ministers must by regulations make arrangements for the provision of legal advice to support a person mentioned in subsections (2)(a) or (b) who is considering applying to the court for a female genital mutilation protection order.
- (5B) For the avoidance of doubt, subsection (5A) is without prejudice to the generality of—
- (a) Part 4 of the Legal Profession and Legal Aid (Scotland) Act 2007,
  - (b) any other existing statutory provision relating to legal aid.
- (5C) Regulations under subsection (5A) are subject to the negative procedure.>

#### Applications by local authorities

**Christina McKelvie**

1 In section 1, page 4, line 10, leave out from <the> to end of line 13 and insert <—

- (a) in the case of an application for a female genital mutilation protection order, the local authority in whose area—
  - (i) a person, who would be a protected person were such an order made, is present, or
  - (ii) a person, who would be a person falling within a description specified in such an order (as mentioned in section 5A(2)(a)(ii)) were the order made, is present or is likely to be present,
- (b) in any other case, the local authority in whose area—
  - (i) a protected person is present, or

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- (ii) a person falling within a description specified in such an order (as mentioned in section 5A(2)(a)(ii)) is present or is likely to be present.>

### Christina McKelvie

- 2 In section 1, page 4, line 19, after <made> insert <—  
(a)>

### Christina McKelvie

- 3 In section 1, page 4, line 22, at end insert—
  - <(b) where the application is made by a relevant local authority, it may be made to that sheriff or to the sheriff in whose sheriffdom the local authority is situated.>

### Christina McKelvie

- 18 In section 1, page 11, line 2, after <authority> insert <within the meaning of section 5C(6)(a)(i) or (b)(i)>

## Anonymity

### Oliver Mundell

- 25 In section 1, page 4, line 13, at end insert—
  - <5CA **Power to make orders for anonymity**
  - (1) The court must (unless the court considers there are exceptional circumstances not to do so), at the request of a person mentioned in subsection (2), make an order requiring measures to be taken to ensure that—
    - (a) the identity of the person is not disclosed,
    - (b) other information that may be likely to lead members of the public to identify the person is not disclosed,in relation to an application for a female genital mutilation protection order.
  - (2) A person mentioned in subsection (1) is—
    - (a) a person, mentioned in section 5C(2)(a), (b) or (f), applying for a female genital mutilation protection order,
    - (b) any other person who would be subject to the order applied for were the order to be made.
  - (3) The kinds of measures that may be required to be taken under subsection (1) in relation to a person are—
    - (a) the publication either during a specified time or the duration of a person's lifetime of—
      - (i) the person's name,
      - (ii) the person's address,
      - (iii) the name or the address of any parent or legal guardian of the person,

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- (iv) the identity of any school or other educational establishment attended by the person,
  - (v) the identity of any place of work of the person,
  - (vi) any still or moving picture of the person,
  - (b) that the person may use a pseudonym,
  - (c) that the person is not to be asked questions of any specified description that might lead to the identification of the person,
  - (d) that the person is not screened to any specified extent,
  - (e) that the person's voice is subjected to modulation to any specified extent,
  - (f) if appropriate, not disclosing in connection with a female genital mutilation protection order within the meaning of sections 5C and 5E, any information that might enable the person to be identified to any other party to the proceedings (or to the legal representative of any other party to the proceedings).
- (4) In deciding the measures, the court must have regard to the person's wishes and feelings (so far as reasonably ascertainable) to such an extent as the court considers appropriate, taking into account the person's age and understanding.
- (5) In this section, "specified" means specified in the order concerned.>

### **Minor and technical drafting changes**

#### **Christina McKelvie**

- 4 In section 1, page 6, line 23, leave out <an application has been made to it> and insert <application has been made>

#### **Christina McKelvie**

- 16 In section 1, page 10, line 33, leave out <that section> and insert <subsection (1) or (5) of section 5J>

#### **Christina McKelvie**

- 17 In section 1, page 10, line 37, leave out <that section> and insert <subsection (2) or (7) of section 5K>

### **Appeals against FGMPOs made in criminal proceedings**

#### **Christina McKelvie**

- 5 In section 1, page 6, line 42, at end insert—
- <( ) A female genital mutilation protection order made under subsection (2) may be appealed against as if the order were a sentence.
  - ( ) On such an appeal being made, the court may suspend the order appealed against pending the disposal of the appeal.>

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### **Christina McKelvie**

- 6 In section 1, page 7, line 1, leave out <and Part 5 of the Courts Reform (Scotland) Act 2014 (civil appeals)>

### **Christina McKelvie**

- 7 In section 1, page 7, line 3, leave out <for all purposes>

### **Duration of orders**

### **Christina McKelvie**

- 8 In section 1, page 7, line 20, leave out <or extended under section 5K>

### **Christina McKelvie**

- 9 In section 1, page 7, line 28, leave out <But>

### **Christina McKelvie**

- 10 In section 1, page 7, line 29, leave out from <different> to <persons> in line 31 and insert <one or more periods are specified in the order>

### **Christina McKelvie**

- 11 In section 1, page 7, line 35, at end insert—

- <( ) References in this section and in sections 5J and 5K to an order which specifies a period for which it is to have effect include references to—
- (a) an order varied under section 5J to specify such a period or to shorten a period previously specified, and
  - (b) an order extended under section 5K.>

### **Variation etc. of FGMPOs: further provision**

### **Christina McKelvie**

- 12 In section 1, page 9, line 42, after <order> insert <, with the modification that the reference to a person who would be a protected person were the order made is to be read as including a reference to a person who is a protected person under the order>

### **Christina McKelvie**

- 13 In section 1, page 10, line 5, after <order> insert <, with the modification that references to a person who would be a protected person were the order made are to be read as including references to a person who is a protected person under the order>

### **Christina McKelvie**

- 14 In section 1, page 10, line 13, leave out <section 5F applies as it applies> and insert <subsections (2) to (5) of section 5F apply as they apply>

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### Christina McKelvie

- 15 In section 1, page 10, line 21, at end insert—
- <( ) the reference to a person who would be a protected person were the order made is to be read as including a reference to a person who is a protected person under the order.>

### Referral to children’s hearing

#### Christina McKelvie

- 19 In section 8, page 15, line 26, after <makes> insert <, varies, discharges or extends>

#### Christina McKelvie

- 20 In section 8, page 15, line 27, leave out <or, as the case may be, 5F> and insert <, 5F, 5J(5) or, as the case may be, 5K(7)>

#### Christina McKelvie

- 21 In section 8, page 15, line 28, leave out <orders and interim orders> and insert <, vary, discharge or extend orders>

### Power of summary sheriffs in relation to FGMPOs

#### Christina McKelvie

- 22 After section 8, insert—
- <Jurisdiction of summary sheriff in relation to female genital mutilation protection orders**
- In schedule 1 of the Courts Reform (Scotland) Act 2014 (civil proceedings in relation to which summary sheriff has competence), after paragraph 5 insert—
- “Female genital mutilation protection orders*
- 5A Proceedings for or in relation to—
- (a) a female genital mutilation protection order (within the meaning of section 5A(1) of the Prohibition of Female Genital Mutilation (Scotland) Act 2005),
  - (b) an interim female genital mutilation protection order under section 5F(1) of that Act.”.>

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