Prohibition of Female Genital Mutilation (Scotland) Bill

[AS INTRODUCED]

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Prohibition of Female Genital Mutilation (Scotland) Bill

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An Act of the Scottish Parliament to restate and amend the law relating to female genital mutilation and to provide for extra-territorial effect; and for connected purposes.

1 Offence of female genital mutilation

(1) A person who excises, infibulates or otherwise mutilates the whole or any part of the labia majora, labia minora or clitoris of another person is guilty of an offence.

(2) No offence under subsection (1) is committed by an approved person who performs—

(a) a surgical operation on another person which is necessary for that other person’s physical or mental health; or

(b) a surgical operation on another person who is in any stage of labour or has just given birth, for purposes connected with the labour or birth.

(3) The following are, for the purposes of this Act, approved persons—

(a) in relation to an operation falling within paragraph (a) of subsection (2), a registered medical practitioner;

(b) in relation to an operation falling within paragraph (b) of that subsection, 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.

(4) 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.

2 Aiding and abetting female genital mutilation

(1) A person who aids, abets, counsels or procures—

(a) a person to commit an offence under section 1;

(b) another person to excise, infibulate or otherwise mutilate the whole or any part of that other person’s own labia majora, labia minora or clitoris; or

(c) a person who is not a United Kingdom national or permanent United Kingdom resident to do a relevant act of genital mutilation outside the United Kingdom, commits an offence.
(2) An act is a relevant act of genital mutilation if—
   (a) it is done to a United Kingdom national or permanent United Kingdom resident; and
   (b) it would, if done by such a person, constitute an offence under section 1.

(3) No offence under subsection (1)(c) is committed if the relevant act of genital mutilation—
   (a) is a surgical operation falling within section 1(2); and
   (b) is performed by a person who, in relation to the operation, is an approved person or provides services corresponding to those of an approved person.

3 Extension of sections 1 and 2 to extra-territorial acts
(1) Sections 1 and 2 extend to any act done outside the United Kingdom by a United Kingdom national or permanent United Kingdom resident.
(2) No offence under section 1 is committed by a person who—
   (a) outside the United Kingdom, performs a surgical operation falling within subsection (2) of that section; and
   (b) in relation to the operation, provides services corresponding to those of an approved person.
(3) If an offence under this Act is committed outside the United Kingdom—
   (a) it may be treated as having been committed in any place in Scotland; and
   (b) proceedings may be taken accordingly.

4 Penalties for offences
A person guilty of an offence under this Act is liable—
   (a) on conviction on indictment, to imprisonment for a term not exceeding 14 years or a fine (or both);
   (b) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum (or both).

5 Definitions
In this Act—
   “United Kingdom national” is an individual who is—
   (a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen;
   (b) a person who under the British Nationality Act 1981 (c.61) is a British subject; or
   (c) a British protected person within the meaning of that Act;
   “permanent United Kingdom resident” is an individual who is settled in the United Kingdom (within the meaning of the Immigration Act 1971 (c.77)).
6 **Repeal**

The Prohibition of Female Circumcision Act 1985 (c.38) is repealed.

7 **Short title and commencement**

(1) This Act may be cited as the Prohibition of Female Genital Mutilation (Scotland) Act 2004.

(2) This Act comes into force at the end of the period of two months beginning with the date of Royal Assent.
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Introduced by: Cathy Jamieson
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Supported by: Hugh Henry
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