

PROHIBITION OF FEMALE GENITAL MUTILATION BILL 2009

Explanatory Memorandum

1. This Bill is promoted by Mr Quintin Gill MHK.
2. The Bill prohibits the genital mutilation of women and girls following the inter-agency statement published by 10 of the agencies of the United Nations in 2008 (“Eliminating female genital mutilation: an interagency statement by UNAIDS, UNDP, UNECA, UNESCO, UNFPA, UNHCHR, UNHCR, UNICEF, UNIFEM and WHO”).
3. *Clause 1* provides for the short title of the Bill, *clause 2* for its commencement and *clause 3* for the interpretation of key terms used in it.
4. *Clause 4* creates an offence of female genital mutilation.
5. *Clause 5* confers power on the Council of Ministers to make an order varying the ambit of section 4 of the resulting Act.
6. *Clause 6* deals with aiding and abetting female genital mutilation.
7. *Clause 7* specifies the penalty for an offence under any provision of the resulting Act.
8. It is not anticipated that the Bill will involve significant expenditure for the Isle of Man Constabulary or Government.
9. In the view of the member moving the Bill, its provisions are compatible with the Convention rights within the meaning of the Human Rights Act 2001.

Arrangement of Sections

Section

1. Short title
2. Commencement
3. Interpretation
4. Offence of female genital mutilation
5. Amendment of section 4
6. Aiding and abetting female genital mutilation
7. Penalties for offences

A BILL

to prohibit female genital
mutilation; and for connected
purposes.

BE it enacted, by the Queen’s Most Excellent Majesty, by and
with the advice and consent of the Council and Keys in
Tynwald assembled, and by the authority of the same, as follows:—

1. This short title of this Act is the Prohibition of Female Genital Mutilation Act 2009. Short title

5 **2.** (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. Commencement

(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.

10 (3) Nothing in this Act affects any criminal liability that arises apart from this Act.

3. In this Act —

“Manx resident” means a person who is resident in the Island;

“United Kingdom national” means an individual who is —

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

Interpretation

S 2005/8/6

[c. 61]

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[S.I. 1986/
948]

- (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 **5**
- (e) a British protected person within the meaning of that Act.

Offence of
female genital
mutilation

S 2005/8/1

4. (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. **10**

(2) Those acts are —

- (a) excising it;
- (b) infibulating it; or
- (c) otherwise mutilating it. **15**

(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. **20**

(4) The following are approved persons —

- (a) in relation to an operation within subsection (3)(a), a registered medical practitioner; **25**
- (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. **30**

(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.** (1) The Council of Ministers may by order amend section 4. Amendment
of section 4

S 2005/8/2
- (2) An order under subsection (1) shall not come into operation until it has been approved by Tynwald.
- 5** **6.** (1) A person commits an offence if, within the Island, he or she aids, abets, counsels, procures or incites — Aiding and
abetting female
genital mutilation

S2005/8/3
- (a) a person to commit an offence under section 4;
- 10** (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 permanent resident of the Island to do a relevant act of genital mutilation outside the Island.
- 15** (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 —
- 20** (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.
- 7.** A person guilty of an offence under this Act is liable — Penalties
for offences
- 25** (a) on conviction on information to custody for not more than 14 years or a fine or both; S 2005/8/5
- (b) on summary conviction to custody for not more than 6 months or a fine not exceeding £5,000 or both.

IN THE KEYS

Prohibition of Female Genital Mutilation

A BILL

*to prohibit female genital
mutilation; and for connected
purposes.*

Leave to introduce given in the House of Keys
on 27 January 2009.

MR. GILL

FEBRUARY 2009
