

**THE PROHIBITION OF FEMALE GENITAL MUTILATION  
BILL, 2010**

**ARRANGEMENT OF CLAUSES**

*Clause*

**PART I — PRELIMINARY**

- 1—Short title.
- 2—Interpretation.

**PART II — OFFENCES**

- 3— Offence of female genital mutilation.
- 4— Aiding and abetting female genital mutilation.
- 5— Procuring a person to perform genital female mutilation in another country.
- 6— Use of premises to perform female genital mutilation.
- 7— Possession of tools or equipment.
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**PART III — MISCELLANEOUS**

- 9— Entry into premises.
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11—Extra-territorial jurisdiction.

12—Penalty for offences.



- (c) infibulation, which is the narrowing of the vaginal orifice with the creation of a covering seal by cutting and appositioning the labia minora or the labia majora, with or without excision of the clitoris,

but does not include a sexual reassignment procedure or a medical procedure that has a genuine therapeutic purpose;

“law enforcer” includes a police officer, a member of the provincial administration, a children officer and a probation officer; and

“sexual reassignment procedure” means any surgical procedure that is performed for the purposes of altering (whether wholly or partly) the genital appearance of a person to the appearance (as nearly as practicable) of the opposite sex to the sex of the person.

## **PART II - OFFENCES**

Offence of female genital mutilation.

3. (1) A person who performs female genital mutilation on another person commits an offence and shall be liable, on conviction, to imprisonment for a term not exceeding seven years, or to a fine not exceeding five hundred thousand shillings, or both..

(2) If in the process of committing an offence under subsection (1) a person causes the death of another, then that person shall on conviction be liable to imprisonment for life.

(3) 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.

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

- (a) in relation to an operation falling within paragraph (a) of subsection (3), a medical practitioner;
- (b) in relation to an operation falling within paragraph (b) of subsection (3), a medical practitioner, a registered midwife or a person undergoing a course of training with a view to becoming such a practitioner or midwife.

(5) In determining, for purposes of subsection (3)(a) of this section, whether or not any surgical procedure is performed on any person for the benefit of that person's physical or mental health, no account shall be taken of the effect on that person of any belief on the part of that person or any other person that the procedure is necessary or desirable as, or as part of, a cultural, religious, or other custom or practice.

(6) It is no defence to a charge under this section that the person on whom the act involving female genital mutilation was performed consented to that act, or that the person charged believed that such consent had been given.

(7) In this section—

“medical practitioner” means a person registered as

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- Cap. 253                   such under the Medical Practitioners and Dentists Act;
- Cap. 257                   “midwife” means a person registered as such under  
the Nurses Act.
- Aiding and abetting  
female genital  
mutilation.                   4. A person who aids, abets, counsels or procures—
- (a) a person to commit an offence under section 1; or
- (b) another person to perform female genital mutilation  
                                  on that other person,
- commits an offence.
- Procuring a person  
to perform genital  
female mutilation in  
another country.               5. A person commits an offence if the person takes  
another person from Kenya to another country, or arranges  
for another person to be brought into Kenya from another  
country, with the intention of having that other person  
subjected to female genital mutilation.
- Use of premises to  
perform female  
genital mutilation.           6. A person who knowingly allows any premises, for  
which that person is in control of, or responsible for, to be  
used for purposes of performing female genital mutilation  
commits an offence.
- Possession of tools  
or equipment.                 7. A person who is found in possession of a tool or  
equipment for a purpose connected with the performance of  
female genital mutilation, commits an offence
- Failure to report  
commission of  
offence.                       8. A person commits an offence if the person, being  
aware that an offence of genital female mutilation has been,  
is in the process of being, or intends to be, committed, fails  
to report accordingly to a law enforcer.

**PART III - MISCELLANEOUS**

- Entry into premises.           9. A law enforcer may, without a warrant, enter any

premises for the purposes of ascertaining whether there is or has been, on or in connection with such premises any contravention of this Act.

Measures by  
Government.

**10.** The Government shall take steps to the maximum of its available resources to—

- (a) protect women and girls from female genital mutilation;
- (b) provide support services to victims of female genital mutilation; and
- (c) undertake public education and sensitise the people of Kenya on the dangers and adverse effects of female genital mutilation.

Extra-territorial  
jurisdiction:

**11.** (1) A person who, while being a citizen of, or permanently residing in Kenya, commits an act outside Kenya which act would constitute an offence under section 3 had it been committed in Kenya, is guilty of such an offence and is liable to the same penalty prescribed for such offence under this Act.

(2) A person may not be convicted of an offence contemplated in subsection (1) if such a person has been acquitted or convicted in the country where that offence was committed.

Penalty for offences.

**12.** A person who commits an offence under this Act for which no offence is prescribed is liable, on conviction, to imprisonment for a term not exceeding seven years, or to a fine not exceeding five hundred thousand shillings, or both.