



Offender Management Act 2007

2007 CHAPTER 21

PART 3

OTHER PROVISIONS ABOUT THE MANAGEMENT OF OFFENDERS

Polygraph conditions for certain offenders released on licence

28 Application of polygraph condition

- (1) The Secretary of State may include a polygraph condition in the licence of a person to whom this section applies.
- (2) This section applies to a person serving a relevant custodial sentence in respect of a relevant sexual offence [^{F1}or a relevant terrorist offence] who—
 - (a) is released on licence by the Secretary of State under any enactment; and
 - (b) is not aged under 18 on the day on which he is released.
- (3) In this section “relevant custodial sentence” means—
 - (a) a sentence of imprisonment for a term of twelve months or more (including such a sentence imposed under section [^{F2}226A or] 227 of the Criminal Justice Act 2003 (c. 44) [^{F3}or under section 279 [^{F4}or 282A] of the Sentencing Code]);
 - (b) a sentence of detention in a young offender institution for a term of twelve months or more;
 - (c) a sentence of detention under section 90 of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) [^{F5}or under section 259 of the Sentencing Code];
 - (d) a sentence of detention under section 91 of the Powers of Criminal Courts (Sentencing) Act 2000 [^{F6}, or under section 250 of the Sentencing Code,] for a period of twelve months or more;
 - (e) a sentence of custody for life under section 93 or 94 of the Powers of Criminal Courts (Sentencing) Act 2000 [^{F7}or under section 272 or 275 of the Sentencing Code]; ^{F8}...
 - (f) a sentence of detention under section 226 [^{F9}, 226B] or 228 of the Criminal Justice Act 2003 [^{F10}or under section 254 or 258 of the Sentencing Code][^{F11}or

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(g) a sentence of detention under section 252A of the Sentencing Code.]

(4) In this section “relevant sexual offence” means—

- (a) an offence specified in Part 2 of Schedule 15 to the Criminal Justice Act 2003 (specified sexual offences);
- (b) an offence specified in paragraphs 1 to 21 of Schedule 16 to that Act (offences under the law of Scotland); or
- (c) an offence specified in Part 2 of Schedule 17 to that Act (offences under the law of Northern Ireland).

[^{F12}(4A) In this section “relevant terrorist offence” means—

- (a) an offence that is specified in Part 1 or 2 of Schedule 19ZA to the Criminal Justice Act 2003 (terrorism offences carrying restricted eligibility for release on licence),
- (b) a service offence as respects which the corresponding civil offence is so specified, or
- (c) an offence that was determined to have a terrorist connection.

(4B) In subsection (4A)—

- (a) in paragraph (b), “service offence” and “corresponding civil offence” have the same meaning as in the Counter-Terrorism Act 2008 (see section 95 of that Act);
- (b) paragraph (c) is to be read in accordance with section 247A(7A) of the Criminal Justice Act 2003 (meaning of offences determined to have a terrorist connection).]

(5) In section 250(4) of the Criminal Justice Act 2003 (licence conditions for prisoners serving sentences of imprisonment of twelve months or more etc), in paragraph (b)(i) after “Criminal Justice and Court Services Act 2000” there is inserted “ or section 28 of the Offender Management Act 2007 ”.

Textual Amendments

- F1** Words in s. 28(2) inserted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), ss. 32(2)(a), 50(2)(q)
- F2** Words in s. 28(3)(a) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), Sch. 21 para. 32(2); S.I. 2012/2906, art. 2(s)
- F3** Words in s. 28(3)(a) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 24 para. 263(a) (with Sch. 27); S.I. 2020/1236, reg. 2
- F4** Words in s. 28(3)(a) inserted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(2)(v), Sch. 13 para. 10
- F5** Words in s. 28(3)(c) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 24 para. 263(b) (with Sch. 27); S.I. 2020/1236, reg. 2
- F6** Words in s. 28(3)(d) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 24 para. 263(c) (with Sch. 27); S.I. 2020/1236, reg. 2
- F7** Words in s. 28(3)(e) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 24 para. 263(d) (with Sch. 27); S.I. 2020/1236, reg. 2
- F8** Word in s. 28(3) omitted (30.4.2021) by virtue of Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), Sch. 13 para. 24(a)
- F9** Word in s. 28(3)(f) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), Sch. 21 para. 32(3); S.I. 2012/2906, art. 2(s)

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- F10** Words in s. 28(3)(f) inserted (1.12.2020) by virtue of [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 263\(e\)](#) (with [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2
- F11** S. 28(3)(g) and word inserted (30.4.2021) by [Counter-Terrorism and Sentencing Act 2021 \(c. 11\)](#), s. 50(1)(i), [Sch. 13 para. 24\(b\)](#)
- F12** S. 28(4A)(4B) inserted (29.6.2021) by [Counter-Terrorism and Sentencing Act 2021 \(c. 11\)](#), [ss. 32\(2\)\(b\)](#), 50(2)(q)

Modifications etc. (not altering text)

- C1** S. 28 applied (29.6.2021) by [1984 c. 47](#), [Sch. para. 2\(3C\)](#) (as inserted by [Counter Terrorism and Sentencing Act 2021 \(c. 11\)](#), s. 50(2)(r), [Sch. 11 para. 2](#))

Commencement Information

- I1** S. 28 in force at 19.1.2009 for specified purposes and with effect in accordance with art. 5 by [S.I. 2009/32](#), [arts. 3\(a\)](#), 4
- I2** S. 28 in force at 6.1.2014 in so far as not already in force by [S.I. 2013/1963](#), [art. 2\(1\)](#)

29 Effect of polygraph condition

- (1) For the purposes of section 28, a polygraph condition is a condition which requires the released person—
- (a) to participate in polygraph sessions conducted with a view to—
 - (i) monitoring his compliance with the other conditions of his licence; or
 - (ii) improving the way in which he is managed during his release on licence;
 - (b) to participate in those polygraph sessions at such times as may be specified in instructions given by an appropriate officer; and
 - (c) while participating in a polygraph session, to comply with instructions given to him by the person conducting the session (“the polygraph operator”).
- (2) A polygraph session is a session during which the polygraph operator—
- (a) conducts one or more polygraph examinations of the released person; and
 - (b) interviews the released person in preparation for, or otherwise in connection with, any such examination.
- (3) For the purposes of subsection (2), a polygraph examination is a procedure in which—
- (a) the polygraph operator questions the released person;
 - (b) the questions and the released person's answers are recorded; and
 - (c) physiological reactions of the released person while being questioned are measured and recorded by means of equipment of a type approved by the Secretary of State.
- (4) In subsection (1)(b) “appropriate officer” means an officer of a provider of probation services or an officer of a local probation board.
- (5) An appropriate officer giving instructions as mentioned in subsection (1)(b) must have regard to any guidance issued by the Secretary of State.
- (6) The Secretary of State may make rules relating to the conduct of polygraph sessions.
- (7) The rules may, in particular—
- (a) require polygraph operators to be persons who satisfy such requirements as to qualifications, experience and other matters as are specified in the rules;

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- (b) make provision about the keeping of records of polygraph sessions; and
- (c) make provision about the preparation of reports on the results of polygraph sessions.

[^{F13}(7A) Rules under subsection (6) may make—

- (a) different provision for different purposes or different areas;
- (b) incidental, supplemental, consequential, saving or transitional provision.]

(8) The power to make rules under subsection (6) is exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

F13 S. 29(7A) inserted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), ss. 32(3), 50(2) (q)

Commencement Information

- I3** S. 29 in force at 19.1.2009 for specified purposes and with effect in accordance with art. 5 by S.I. 2009/32, arts. 3(b), 4
- I4** S. 29 in force at 6.1.2014 in so far as not already in force by S.I. 2013/1963, art. 2(2)

30 Use in criminal proceedings of evidence from polygraph sessions

- (1) Evidence of any matter mentioned in subsection (2) may not be used in any proceedings against a released person for an offence.
- (2) The matters so excluded are—
 - (a) any statement made by the released person while participating in a polygraph session; and
 - (b) any physiological reactions of the released person while being questioned in the course of a polygraph examination.
- (3) In this section “polygraph examination” and “polygraph session” have the same meaning as in section 29.

Commencement Information

I5 S. 30 in force at 19.1.2009 by S.I. 2009/32, art. 2

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