
STATUTORY INSTRUMENTS

2022 No. 462

**PREVENTION AND
SUPPRESSION OF TERRORISM**

**The Terrorism Prevention and Investigation
Measures (Polygraph) Regulations 2022**

<i>Made</i>	- - - -	<i>19th April 2022</i>
<i>Laid before Parliament</i>		<i>21st April 2022</i>
<i>Coming into force</i>	- -	<i>12th May 2022</i>

The Secretary of State, in exercise of the powers conferred by paragraph 10ZA(2) of Schedule 1 to the Terrorism Prevention and Investigation Measures Act 2011⁽¹⁾, makes the following Regulations:

Citation, commencement, extent and interpretation

1.—(1) These Regulations may be cited as the Terrorism Prevention and Investigation Measures (Polygraph) Regulations 2022 and come into force on 12th May 2022.

(2) These Regulations extend to England and Wales, Scotland and Northern Ireland.

(3) In these Regulations—

“the TPIM Act 2011” means the Terrorism Prevention and Investigation Measures Act 2011;

“comparison question” means a question asked for the purpose of establishing a baseline response, to which the relevant individual’s responses to the relevant questions will be compared;

“intelligence services” means the Security Service, the Secret Intelligence Service and Government Communications Headquarters;

“polygraph measure” means a measure imposed under paragraph 10ZA of Schedule 1 to the TPIM Act 2011;

“polygraph operator” means any person appointed to conduct polygraph examinations;

“polygraph provider” means a person who has contracted with the Secretary of State to provide polygraph services;

(1) [2011 c.23](#). Paragraph 10ZA(2) of Schedule 1 were inserted by the Counter-Terrorism and Sentencing Act 2021 ([c.11](#)), section 38(1).

“polygraph supervisor” means a person appointed by the polygraph provider to review polygraph sessions;

“post-test interview” means any interview conducted by the polygraph operator with the relevant individual during a polygraph session, following the completion of any polygraph examination;

“pre-test interview” means any interview conducted by the polygraph operator with the relevant individual during a polygraph session, prior to the start of any polygraph examination;

“relevant individual” means a person to whom a polygraph measure applies, by virtue of section 2(1) and section 3 of the TPIM Act 2011;

“relevant question” means a question asked for the purpose of monitoring compliance with the relevant individual’s other terrorism prevention and investigation measures as defined in the TPIM Act 2011 or assessing whether variation of those other measures is necessary for purposes connected with preventing or restricting the individual’s involvement in terrorism-related activity.

Application

2. A polygraph session carried out pursuant to a polygraph measure must comply with the requirements of these Regulations.

Qualifications of polygraph operators

3.—(1) A polygraph operator will be suitably qualified if the polygraph operator has—

- (a) completed a polygraph training programme accredited by the American Polygraph Association, and
- (b) carried out a minimum of 20 polygraph examinations reviewed by a polygraph supervisor.

(2) A polygraph operator will cease to be suitably qualified unless they attend at least 30 hours of continuing development training in each two year period, starting from the date these Regulations come into force.

(3) The continuing development training referred to in paragraph (2) must cover new developments, techniques or methods in the field of polygraphy.

Polygraph operator independence

4. A polygraph operator who is also a police officer, probation officer or therapist must not conduct a polygraph session on a relevant individual in whose management, supervision or treatment they have been involved.

Polygraph session requirements

5.—(1) Prior to the start of each polygraph session, a police officer must explain to the relevant individual—

- (a) the requirements of and arrangements for the polygraph session, and
- (b) that anything disclosed during the session will be communicated to the Secretary of State and may be shared with the police or intelligence services.

(2) After explaining the matters in paragraph (1) above to the relevant individual, the police officer must provide their written confirmation to the polygraph operator that they have done so.

(3) The polygraph operator must attach the confirmation provided under paragraph (2) to the report of the polygraph session.

- (4) A polygraph session must be conducted by a suitably qualified polygraph operator.
- (5) A polygraph session must be electronically recorded by the polygraph operator using audio-visual recording equipment.
- (6) A polygraph session must include a pre-test interview, one or more polygraph examinations and a post-test interview.
- (7) A polygraph examination must include two or more comparison questions and at least two, but not more than four, relevant questions.
- (8) In setting the questions, where it is reasonably practicable to do so, the polygraph operator must liaise with the Secretary of State and take the views of the Secretary of State into account when formulating the questions.
- (9) The polygraph operator must compile a report of each polygraph session that they conduct, to include—
 - (a) all relevant questions and answers during the polygraph examination;
 - (b) the polygraph operator’s conclusions, and
 - (c) any disclosures made by the relevant individual during the polygraph session.

Polygraph supervisor

- 6.—(1) A polygraph supervisor must review the polygraph sessions in accordance with the Schedule.
- (2) A polygraph supervisor must meet the qualification requirements for polygraph operators in regulation 3 (except where that supervisor’s only role is the review of reports produced during polygraph sessions under regulation 5(9), pursuant to paragraph 2(b) of the Schedule).
- (3) A polygraph supervisor must meet each polygraph operator whose sessions are reviewed by that polygraph supervisor at least once every six months beginning with the date these Regulations come into force to discuss the work of that polygraph operator.

Reports of polygraph session reviews

- 7.—(1) The polygraph provider is required to prepare a report for the Secretary of State at least every 12 months from the date these Regulations come into force.
- (2) The report must include—
 - (a) the total number of polygraph session reviews conducted by polygraph supervisors during the period covered by the report;
 - (b) an overview of reviews conducted during the period covered by the report;
 - (c) details of any polygraph sessions not conducted in accordance with these Regulations or with the contract between the polygraph provider and the Secretary of State, and
 - (d) details of any remedial action taken to address any non-compliance with these Regulations or the contract between the polygraph provider and the Secretary of State, or an explanation for any decision not to take remedial action to address non-compliance.

19th April 2022

Damian Hinds
Minister of State
Home Office

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE

Regulation 6

Reviews by the Polygraph Supervisor

1. The polygraph supervisor must review every polygraph session (or part thereof) conducted by polygraph operators under these Regulations, starting from the date these Regulations come into force.
2. For each review the polygraph supervisor must—
 - (a) examine charts produced during the polygraph session, and
 - (b) examine the report of the polygraph session.
3. Each review of a polygraph session by the polygraph supervisor must consider—
 - (a) the question formulation by the polygraph operator. In particular, the polygraph supervisor should assess—
 - (i) whether the polygraph operator liaised with the Secretary of State and the views of the Secretary of State were taken into account when the questions were formulated;
 - (ii) whether the questions were based on factors relating to the assessment, treatment or management of the relevant individual, and
 - (iii) whether the questions asked were sufficiently clear to allow for a polygraph indication of deception;
 - (b) the technique of the polygraph operator. In particular, the polygraph supervisor should assess whether the following met the applicable standards of the American Polygraph Association—
 - (i) the analysis by the polygraph operator of the physiological responses of the relevant individual; and
 - (ii) the assessments of truth or deception by the polygraph operator;
 - (c) whether the polygraph session was conducted in accordance with these Regulations and with the contract between the polygraph provider and the Secretary of State; and
 - (d) whether the polygraph session met the standards of good polygraphy practice of the American Polygraph Association.
4. If the polygraph supervisor identifies a failure when considering the matters in paragraph 3 of this Schedule, the polygraph supervisor must—
 - (a) record that failure as part of the review;
 - (b) inform the polygraph provider and the polygraph operator who conducted the polygraph session as soon as is reasonably practicable;
 - (c) propose appropriate remedial action to that polygraph operator, and
 - (d) arrange for additional sessions conducted by that polygraph operator to be reviewed, if the review indicates a concern about practice.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations to govern the conduct of polygraph examinations in relation to individuals who are subject to a Terrorism Prevention and Investigation Measures notice.

Regulation 2 specifies that these Regulations apply to all polygraph sessions conducted pursuant to a polygraph measure imposed under paragraph 10ZA(1) of Schedule 1 to the Terrorism Prevention and Investigation Measures Act 2011 (c. 23).

Regulation 3 sets out requirements as to qualifications, experience and continuing development training for polygraph operators, who are responsible for carrying out polygraph examinations.

Regulation 4 prohibits polygraph operators who are also police officers, probation officers or therapists from conducting polygraph examinations on individuals whom they have managed, supervised or treated.

Regulation 5 requires a police officer to explain to the individual being examined how any information they give during the session may be used. It also requires the police officer to provide to the relevant polygraph operator their written confirmation that they have provided this explanation. Regulation 5 also specifies who may conduct polygraph sessions and that polygraph sessions must be recorded by the polygraph operator, requires a session to include both interviews and polygraph examinations, and restricts the type of questions that can be asked during a polygraph examination. It also requires polygraph operators to maintain reports of the session.

Regulation 6 and the Schedule specify the qualifications for a polygraph supervisor, and require that the supervisor reviews the polygraph sessions and regularly meets polygraph operators to discuss their work.

Regulation 7 requires the polygraph provider to provide reports to the Secretary of State and sets out what those reports should contain.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.