



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 [^{F1}a relevant sexual offence][^{F1}an offence within subsection (3A)][^{F2}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—
 - [^{F3}(a) a life sentence within the meaning of Chapter 2 of Part 2 of the Crime (Sentences) Act 1997 (see section 34(2) of that Act), or]
 - [^{F3}(b) a fixed-term sentence within the meaning of Chapter 6 of Part 12 of the Criminal Justice Act 2003 (see section 237 of that Act) of a term of 12 months or more.]
- [^{F4}(3A) An offence is within this subsection if it is—
- (a) a relevant offence involving domestic abuse (see subsections (3B) and (3C)), or
 - (b) a relevant sexual offence (see subsection (4)).
- (3B) In this section “relevant offence involving domestic abuse” means—
- (a) an offence listed in subsection (3C) which involved behaviour by the offender amounting to domestic abuse within the meaning of the Domestic Abuse Act 2021 (see section 1 of that Act);

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- (b) an offence under section 39 of that Act (breach of domestic abuse protection order).

(3C) The offences are—

- (a) murder;
- (b) an offence under section 5 of the Protection from Harassment Act 1997 (breach of a restraining order);
- (c) an offence specified in Part 1 of Schedule 15 to the Criminal Justice Act 2003 (specified violent offences);
- (d) an offence under section 76 of the Serious Crime Act 2015 (controlling or coercive behaviour in an intimate or family relationship).]

(4) In this section “relevant sexual offence” [^{F5}means an offence specified in any one or more of—]

- [^{F5}(a) Schedule 3 to the Sexual Offences Act 2003 (sexual offences attracting notification requirements),]
- [^{F5}(b) Part 2 of Schedule 15 to the Criminal Justice Act 2003 (sexual offences under the law of England and Wales specified for certain purposes),]
- [^{F5}(c) paragraphs 1 to 21 of Schedule 16 to that Act (sexual offences under the law of Scotland specified for certain purposes), as that Schedule had effect immediately before its repeal on 14 July 2008, and]
- [^{F5}(d) Part 2 of Schedule 17 to that Act (sexual offences under the law of Northern Ireland specified for certain purposes), as that Schedule had effect immediately before its repeal on 14 July 2008.]

[^{F6}(4ZA) In determining for the purposes of subsection (4) whether an offence is specified in Schedule 3 to the Sexual Offences Act 2003, any limitation in that Schedule referring to the circumstances of a particular case (including the sentence imposed) is to be disregarded.]

[^{F7}(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) ^{F8}... or
- (c) an offence that was determined to have a terrorist connection.

(4B) In subsection (4A)—

- ^{F9}(a)
- (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).]

[^{F10}(4C) A sentence in respect of a service offence is to be treated for the purposes of this section as if it were a sentence in respect of the corresponding offence.

(4D) In subsection (4C)—

- (a) “service offence” means an offence under—
 - (i) section 42 of the Armed Forces Act 2006,
 - (ii) section 70 of the Army Act 1955 or the Air Force Act 1955, or
 - (iii) section 42 of the Naval Discipline Act 1957;
- (b) “corresponding offence” means—

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- (i) in relation to an offence under section 42 of the Armed Forces Act 2006, the corresponding offence under the law of England and Wales within the meaning of that section;
 - (ii) in relation to an offence under section 70 of the Army Act 1955 or the Air Force Act 1955, the corresponding civil offence within the meaning of that Act;
 - (iii) in relation to an offence under section 42 of the Naval Discipline Act 1957, the civil offence within the meaning of that section.
- (4E) Section 48 of the Armed Forces Act 2006 (supplementary provisions relating to ancillary service offences) applies for the purposes of subsection (4D)(b)(i) above as it applies for the purposes of the provisions of that Act referred to in subsection (3) (b) of that section.]
- (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) substituted (5.7.2021 in relation to specified areas for the specified period) by [Domestic Abuse Act 2021 \(c. 17\), ss. 76\(2\), 90\(6\)](#); S.I. 2021/797, regs. 2(1), 3 (with reg. 4(2))
- F2 Words in s. 28(2) inserted (29.6.2021) by [Counter-Terrorism and Sentencing Act 2021 \(c. 11\), ss. 32\(2\)\(a\), 50\(2\)\(q\)](#)
- F3 S. 28(3)(a)(b) substituted for s. 28(3)(a)-(g) (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\), ss. 146\(a\), 208\(5\)\(p\)](#)
- F4 S. 28(3A)-(3C) inserted (5.7.2021 in relation to specified areas for the specified period) by [Domestic Abuse Act 2021 \(c. 17\), ss. 76\(4\), 90\(6\)](#); S.I. 2021/797, regs. 2(1), 3 (with reg. 4(2))
- F5 Words in s. 28(4)(a)-(d) substituted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\), ss. 146\(b\), 208\(5\)\(p\)](#)
- F6 S. 28(4ZA) inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\), ss. 146\(c\), 208\(5\)\(p\)](#)
- F7 S. 28(4A)(4B) inserted (29.6.2021) by [Counter-Terrorism and Sentencing Act 2021 \(c. 11\), ss. 32\(2\)\(b\), 50\(2\)\(q\)](#)
- F8 S. 28(4A)(b) omitted (28.6.2022) by virtue of [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\), ss. 146\(d\), 208\(5\)\(p\)](#)
- F9 S. 28(4B)(a) omitted (28.6.2022) by virtue of [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\), ss. 146\(e\), 208\(5\)\(p\)](#)
- F10 S. 28(4C)-(4E) inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\), ss. 146\(f\), 208\(5\)\(p\)](#)

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\(1\)](#)

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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;
 - (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.
- [^{F11}(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

- F11** S. 29(7A) inserted (29.6.2021) by [Counter-Terrorism and Sentencing Act 2021 \(c. 11\)](#), ss. 32(3), 50(2) (q)

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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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[View outstanding changes](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 14(2)(da) inserted by [2015 c. 2 Sch. 3 para. 15](#)