
EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Polygraph Rules 2009 (S.I. 2009/619) to reflect changes to the conduct of polygraph testing of offenders on licence. Since the conclusion of the 2009 pilot for sex offenders, polygraph testing has been fully implemented for sex offenders, and now applies to a wider cohort of offenders via the extension of section 28 of the Offender Management Act 2007 (c. 21) (“the 2007 Act”) to terrorist offenders by section 32 of the Counter-Terrorism and Sentencing Act 2021 (c. 11), and a pilot for domestic abuse offenders commenced by the Domestic Abuse Act 2021 (Commencement No. 1 and Saving Provisions) Regulations (S.I. 2021/797).

These changes to the Rules:

- reflect the structural, operational changes which have been made to the probation services since 2014, concluding with the formation of the new Probation Service in June 2021;
- reflect changes to the training program delivered by the American Polygraph Association, the preferred training provider for the Department;
- reflect changes and developments in best practice in polygraph session delivery;
- extend the length of time for polygraph examiners to be able to complete their mandatory continued professional development training, to reflect best practice and to improve flexibility for probation staff;
- clarify the frequency of mandatory reporting to the Secretary of State, normally conducted three times annually;
- clarify that polygraph supervisors whose only supervisory role is to review reports produced by examiners under rule 5(5) are not required to meet the qualification requirements for polygraph operators as set out in rule 3;
- clarify that the Rules apply to all relevant offenders as defined in section 28 of the 2007 Act; and
- clarify the process by which the polygraph supervisor must conduct a review, and next steps if a failure is identified.

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.