

## Counter-Terrorism and Sentencing Bill

### Amendments to be moved in committee

Clause 32 page 28, line 22

add at end '(b) In subsection (1) at the end insert '( ) The regulations under section 35(1) of the Counter-Terrorism and Sentencing Act 2020 must include provision that the following must not be used in evidence against the released person in any proceedings for an offence—

(a) any statement made by the released person while participating in a polygraph session, or

(b) any physiological reaction of the released person while being questioned in the course of a polygraph examination.'

#### Effect

This amendment ensures that the results of any polygraph test must not be disclosed for use in a criminal prosecution.

#### Reason

The bill currently provides that the results of the polygraph test may not be used in evidence against the released person in any proceedings for an offence. This provides inadequate protection against disclosure. Changing the provision to a mandatory direction would ensure that any disclosure of polygraph results in a criminal process would be unlawful and consequently inadmissible in evidence.

## Counter-Terrorism and Sentencing Bill

### Amendments to be moved in committee

Clause 33, page 29, line 41

leave out 'may' and insert 'must'

#### Effect

This amendment ensures that the results of any polygraph test must not be disclosed for use in a criminal prosecution.

#### Reason

The bill currently provides that the results of the polygraph test may not be used in evidence against the released person in any proceedings for an offence. This provides inadequate protection against disclosure. Changing the provision to a mandatory direction would ensure that any disclosure of polygraph results in a criminal process would be unlawful and consequently inadmissible in evidence.

Counter-Terrorism and Sentencing Bill  
Amendments to be moved in committee

Clause 34, page 31, line 13

leave out 'may' and insert 'must'

Effect

This amendment ensures that the results of any polygraph test must not be disclosed for use in a criminal prosecution.

Reason

The bill currently provides that the results of the polygraph test may not be used in evidence against the released person in any proceedings for an offence. This provides inadequate protection against disclosure. Changing the provision to a mandatory direction would ensure that any disclosure of polygraph results in a criminal process would be unlawful and consequently inadmissible in evidence.

## Counter-Terrorism and Sentencing Bill

### Amendments to be moved in committee

Clause 35, page 33, line 8 after 'State'

insert 'after consulting  
with Scottish Ministers  
and the Department of  
Justice'

#### Effect

This amendment requires the Secretary of State to consult with the Scottish Ministers and Northern Ireland Department of Justice when making regulations under clause 35(1)

#### Reason

Under clause 35(1) the Secretary of State can make regulations to limit the power to include a terrorism-related polygraph condition in a release licence. This could affect licences granted in Scotland or Northern Ireland and it is therefore appropriate that the Secretary of State consult with the Devolved Administrations accordingly.

Counter-Terrorism and Sentencing bill  
Amendment to be moved in Committee

Clause 35, page 33, line 12 after 'State'

insert 'after consulting with  
Scottish Ministers and the  
Department of Justice'

Effect

This amendment requires the Secretary of State to consult with the Scottish Ministers and Northern Ireland Department of Justice when making regulations under clause 35(2)

Reason

Under clause 35(2) the Secretary of State can make regulations relating to the conduct of polygraph sessions. These sessions could be conducted in either Scotland or Northern Ireland and it is therefore appropriate that the Secretary of State should consult with the Devolved Administrations when proposing to make such regulations.

Counter-Terrorism and Sentencing bill  
Amendment to be moved in Committee

Clause 35, page 33, line 17 after

'qualifications' insert 'training'

Effect

This amendment adds 'training' to the list of contents in regulations made under clause 35(2).

Reason

Regulations under clause 35(2) enable the Secretary of State to make provision for the conduct of polygraph tests. Clause 35(3) specifies that such regulations can include qualifications and experience but omit 'training'. We believe that it is important that polygraph operators are properly trained and that a requirement for training should be included in any such regulations.

Counter-Terrorism and Sentencing bill  
Amendment to be moved in Committee

Clause 35, page 33, line 19 after 'keeping'

insert 'and confidentiality'

Effect

This amendment ensures that regulations under clause 35(2) include provision for confidentiality of polygraph records.

Reason

Regulations under clause 35(2) enable the Secretary of State to make provision for the conduct of polygraph tests. Clause 35(3)(b) specifies that such regulations can make provision about the keeping of polygraph records. We believe that it is important given the terms of clauses 33(5) and 34(5) that the records should also be kept confidential. This amendment will achieve that objective.

Counter-Terrorism and Sentencing bill  
Amendment to be moved in Committee

Clause 35, page 33, line 43 after 'State'

insert 'after consulting  
with Scottish Ministers  
and the Department of  
Justice'

Effect

This amendment ensures that approval by the Secretary of State of polygraph equipment under clause 35(7) should take place after consultation with the Scottish Ministers and the Northern Ireland Department of Justice.

Reason

The polygraph equipment which will be approved by the Secretary of State under clause 35(7) can be used in Scotland or Northern Ireland. It is appropriate therefore that the Secretary of state consults with the Scottish Ministers and the Northern Ireland Department of Justice before approving the equipment. This amendment ensures that such consultation will take place.