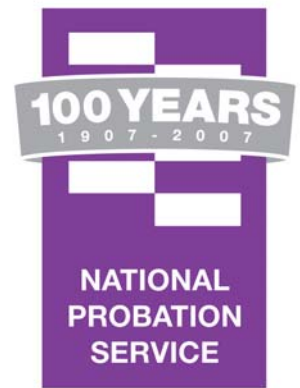


# Probation Circular



## PC28/2007 – DRUG TESTING ON LICENCE – REVISED LIST OF TRIGGER OFFENCES

**IMPLEMENTATION DATE:** 3 September 2007

**EXPIRY DATE:** September 2012

**TO:** Chairs of Probation Boards, Chief Officers of Probation, Secretaries of Probation Boards

**CC:** Board Treasurers, Regional Managers

**AUTHORISED BY:** Sarah Mann, Head of Interventions and Substance Abuse Unit

**ATTACHED:** Annex A: List of trigger offences

Annex B: Equality Impact Assessment Form

### RELEVANT PREVIOUS PROBATION CIRCULARS

PC34/2005, PC72/2005

### CONTACT FOR ENQUIRIES

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## PURPOSE

To advise Areas of changes to the trigger offences underpinning drug testing on licence under s.64 and schedule 6 of the Criminal Justice and Court Services Act 2000.

## ACTION

Chief Officers are asked to draw the changes to the attention of offender managers dealing with prolific and other priority offenders (PPOs).

## SUMMARY

The Fraud Act 2006 made changes to the trigger offences applicable to drug testing on licence with effect from 15 January 2007. The Act included a technical error that has now been corrected by means of legislation (the Criminal Justice and Court Services Act 2000 (Amendment) Order 2007, S.I. 2007/2171) that came into force on 1 August 2007.

The current list of trigger offences appears in Annex A. This supersedes lists given in the PCs referred to above.

## Main Changes

The Fraud Act repealed the offence of obtaining property by deception (Theft Act 1968 s.15) and created the offences of fraud (s.1); possession, etc, of articles for use in frauds (s.6); and making or supplying articles for use in frauds (s.7).

The technical error related to the treatment of attempted offences. The Fraud Act repealed the substantive offence of deception but not the attempted offence, and failed to create an attempted offence of fraud (s.1). This position has now been rectified. Attempted offences under sections 6 and 7 are **not** trigger offences.

Offenders currently serving sentences for obtaining property by deception (or the attempted offence) **cannot** be given a drug-testing licence condition, even where the offence pre-dated implementation of the Fraud Act.

**TRIGGER OFFENCES with effect from 1<sup>st</sup> August 2007**

1. Offences under the following provisions of the Theft Act 1968 are trigger offences:

- section 1 (theft)
- section 8 (robbery)
- section 9 (burglary)
- section 10 (aggravated burglary)
- section 12 (taking motor vehicle or other conveyance without authority)
- section 12A (aggravated vehicle-taking)
- section 22 (handling stolen goods) \*
- section 25 (going equipped for stealing, etc.)

2. Offences under the following provisions of the Misuse of Drugs Act 1971 are trigger offences if committed in respect of a specified Class A drug:

- section 4 (restriction on production and supply of controlled drugs)
- section 5(2) (possession of controlled drug)
- section 5(3) (possession of controlled drug with intent to supply)

3. Offences under the following provisions of the Fraud Act 2006 are trigger offences- \*\*

- section 1 (fraud)
- section 6 (possession etc. of articles for use in frauds)
- section 7 (making or supplying articles for use in frauds)

3A. An offence under section 1(1) of the Criminal Attempts Act 1981 is a trigger offence, if committed in respect of an offence under-

(a) any of the following provisions of the Theft Act 1968 \*

- section 1 (theft)
- section 8 (robbery)
- section 9 (burglary)
- section 22 (handling stolen goods, or

(b) section 1 of the Fraud Act 2006 (fraud) \*\*\*

4. Offences under the following provisions of the Vagrancy Act 1824 are trigger offences: \*

section 3 (begging)

section 4 (persistent begging)

\* Offences added to the trigger offences in Schedule 6 to the Criminal Justice and Court Services Act 2000 by The Criminal Justice and Court Services Act 2000 (Amendment) Order 2004, (S.I. 2004/1892), which came into force on 27<sup>th</sup> July 2004.

\*\* Offences added by the Fraud Act 2006, which came into force on 15 January 2007

\*\*\* Offence added by the Criminal Justice and Court Services Act 2000 (Amendment) Order 2007 (S.I. 2007/2171) which came into force on 1<sup>st</sup> August 2007

Annex B

## **Equality Impact Assessment**

Preliminary Screening

Statistics & Research

Gathering Evidence through Community Engagement

Assessment & Analysis

Action Plan

The EIA Report

<b>EQUALITY IMPACT ASSESSMENT</b>
NOMS
ISAU

**PRELIMINARY SCREENING**

<b>Date of Screening</b>	13/08/07
<b>Name of Policy Writer</b>	Robin Brennan
<b>Director General</b>	

<b>Drug Testing on licence – revised list of trigger offences</b>	
	This is a <b>change</b> to an existing policy

<b>Policy Aims, Objectives &amp; Projected Outcomes</b>
To notify NPS areas of changes to the trigger offences underpinning drug testing on licence under s64 and schedule 6 of the CJCSA 2000 – preventing NPS areas from drug testing those serving sentenced for obtaining property by deception (or the attempted offence).

Will the policy have an impact on national or local people/staff?	NO
Are particular communities or groups likely to have different needs, experiences and/or attitudes in relation to the policy	NO
Are there any aspects of the policy that could contribute to equality or inequality?	NO
Could the aims of the policy be in conflict with equal opportunity, elimination of discrimination, promotion of good relations?	NO
If this is an amendment of an existing policy, was the original policy impact assessed?	NO

If your answer to any of these questions is **YES, go on to the full EIA.**

If you have answered **NO to any particular questions**, please provide explanatory evidence.

If you have answered **NO to all of these questions** then you must also attach the following statement to all future submissions that are related to this policy and ensure it is signed off by senior management. You must also include this statement within any regulatory impact assessment that is related to this policy.

**“This policy was screened for impact on equalities on [13 August 2007]. The following evidence [this PC gives notification of an error to the trigger offence list only and does not alter the assessments carried out originally] has been considered. As a result of this screening, it has been decided that a full equality impact assessment is not required. “**