

Australian Capital Territory

Periodic Detention (Breath Test Procedure) Approval 2006 (No 1)*

Notifiable instrument NI2006–3

made under the

Periodic Detention Regulation 1995 s.7(2)(a) (Alcohol and Drug Testing — Act s.23)

1 Name of instrument

This instrument is the *Periodic Detention (Breath Test Procedure) Approval 2006 (No 1)*.

2 Commencement

This instrument commences on 14 January 2006.

3 Approval

I approve the procedures described in the schedule to this instrument as the procedures to be followed when carrying out a breath test for establishing the concentration of alcohol in a detainee's blood under section 23 of the *Periodic Detention Act 1995*.

Brett Phillips
Acting Chief Executive
Department of Justice and Community Safety
5 January 2006

*Name amended under Legislation Act, s 60

Breath Test Procedure

Periodic Detention Centre

Purpose

To describe the process involved where a detainee is required to submit to an alcohol screen by providing a breath sample pursuant to Section 23(1) of the PDC Act 1995

Scope

This process starts when a detainee is required to provide a sample of their breath and ends when appropriate action is taken based on the result of the breath test.

Policy

- A request or direction given by a custodial officer to a detainee to supply a breath sample is a lawful order.
- Detainees shall not be forewarned that they will be required to provide a sample of their breath.
- The taking of a breath sample shall only be authorised by the Duty Chief, Deputy Superintendent or Superintendent.
- Only an authorized Officer is to carry out alcohol testing with the Lion Alcometer SD-400
- Alcohol testing may take place at any time whilst a detainee is reporting for, or otherwise serving, a detention period.

Action and responsibility

Step	Action	Responsibility
Step 1	Prepare instrument for operational use	Authorised Officers
Step 2	Acquire and record information from detainee	Authorised Officers
Step 3	Obtain breath sample	Authorised Officers
Step 4	Read and interpret result	Authorised Officers
Step 5	Obtain further sample where the required volume of breath has not been expelled	Authorised Officers
Step 6	Afford the detainee 30 minutes, where the blood alcohol reading is equal or more then 0.02, before re-testing	Authorised Officers
Step 7	Prepare a statement in accordance with the PDC Act Section 23 (4)	Authorised Officers Custodial Officer 2
Step 8	Notify the detainee of a breach under section 22 (2) (a) of the PDC Act 1995	Custodial Officer 2
Step 9	Direct the detainee to sign the relevant paperwork	Custodial Officer 2
Step 10	Direct the detainee to leave the premises	Custodial Officer 2

Forms / templates

- [Statement](#)

References

- [PDC Act 1995](#)
- [PDC Regulations 1995](#)
- [PDC Standing Orders](#)

Detailed instructions

Step 1: **Prepare instrument for operational use**

Turn on the prescribed instrument and verify the correct calibration mode, time and date settings, battery status and remaining unused memory capacity.

Fit a new disposable mouthpiece to the instrument. Care should be taken to ensure that the mouthpiece is in no way contaminated by the operator prior to the collection of a breath sample.

A new disposable mouthpiece shall be fitted for each individual test.

Ensure that the sampling port of the instrument is not blocked in any way by foreign objects / matter.

Step 2: **Acquire and record information from detainee**

Ask the detainee if he/she has consumed any alcohol prior to the breath test being conducted and record the detainee's response.

Step 3: **Obtain breath sample**

Direct the detainee to provide a sample of his or her breath by exhaling into the receiver end of the disposable mouthpiece until directed to stop.

Step 4: **Read and interpret result**

Read the result of the analysis of the breath sample provided as shown on the display panel of the instrument.

Step 5: **Obtain further sample where the required volume of breath has not been expelled**

If the display panel indicates that the required volume of breath has not been expelled into the instrument – direct the detainee to provide a further sample of his or her breath by exhaling into the disposable mouthpiece.

Step 6: Afford the detainee 30 minutes, where the blood alcohol reading is equal or more than 0.02, before re-testing

Where the readout indicates the presence of alcohol greater than 0.02g per 100ml of blood, the detainee will be shown the result and offered a retest after a further 30 minutes has passed. The time and the result will be manually recorded against the detainee's name directly following a positive result. During the 30 minutes the detainee shall not consume any food or beverage orally and the detainee should not smoke. The detainee shall be separated from all other detainees whilst awaiting a breath retest. If the subsequent retest indicates a reading greater than 0.02g of alcohol per 100ml of blood the instrument will be connected to the authorised printer facility. A further breath sample will be taken and the result printed.

Step 7: Prepare a statement under the PDC Act Section 23 (4)

Complete a statement, using the template, containing the following information:

- The name of the detainee; and
- The date and time when the test was carried out; and
- Any observations by the officer about the detainee; and
- The result of the test; and
- The name of the officer who carried out the test.

Attach the printout obtained from the alcohol screen instrument.

Step 8: Notify the detainee of a breach under section 22 (2) (a) of the PDC Act 1995

Get the attention of the detainee and say:

"It has been determined that your blood alcohol level is equal to, or above, the prescribed limit. Therefore, I now formally advise that you have been breached under section 22 (2) (a) of the PDC Act 1995. Under the Act you are to be taken to have failed to report for this detention period.

Step 9: Direct the detainee to sign the relevant paperwork

Direct the detainee to read the statement. If the detainee is unable to read the document, an officer shall read it out loud.

Direct the detainee to sign the Statement.

Supply the detainee with a copy of the Statement.

Step 10: Direct the detainee to leave the premises

Get the attention of the detainee and say:

"I now direct you to leave the premises. If you re-enter the premises before this Sunday 5pm you will be considered a trespasser".