

Corrections Management (Marriage and Civil Partnership) Policy 2019

Notifiable instrument NI2019–175

made under the

Corrections Management Act 2007, s14 (Corrections policies and operating procedures)

1 Name of instrument

This instrument is the *Corrections Management (Marriage and Civil Partnership) Policy 2019*.

2 Commencement

This instrument commences on the day after its notification day.

3 Policy

I make this policy to facilitate the effective and efficient management of correctional services.

3 Revocation

This policy revokes the *Corrections Management (Marriage and Civil Union) Policy 2018* [NI2018-70] and *Corrections Management (Marriage and Civil Partnerships) Procedure 2010* [NI2010-629].



Jon Peach
Executive Director
ACT Corrective Services
2 April 2019

MARRIAGE AND CIVIL PARTNERSHIP

POLICY NO. D16

ACT CORRECTIVE SERVICES



ACT
Government

Justice and Community Safety

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1 PURPOSE

ACT Corrective Services (ACTCS) is committed to ensuring that detainees are not deprived of the right to enter into marriage or civil partnership where they are legally able to do so and any resulting ceremony does not create a risk to safety, security or good order of a correctional centre.

This policy sets out the requirements for a detainee to marry or enter into a civil partnership while in custody.

2 SCOPE

This policy applies to all correctional centres in the ACT.

3 DEFINITIONS

Civil Partnership

As defined in the *Domestic Relationships Act 1994 (ACT)*.

Marriage

As defined in the *Marriage Act 1961 (ACT)*.

4 PRINCIPLES

- 4.1 The General Manager Custodial Operations (GMCO) will establish arrangements for the solemnisation of marriage or civil partnership in a correctional centre where such an arrangement is approved.
- 4.2 Only a Minister of Religion or Civil Celebrant qualified under the *Marriage Act 1961 (Cth)* can formalise a marriage or civil partnership.
- 4.3 Detainee applications to marry or enter into a civil partnership must be submitted no less than three (3) months in advance of the proposed date.
- 4.4 The GMCO will ensure that arrangements are in place for:
 - a. detainees to enter into marriage or civil partnership where they meet the legal and legislative requirements, unless there is a current Family Violence Order or Personal Protection Order between the parties; and
 - b. the registration of marriage is undertaken in accordance with the *Marriage Act 1961 (ACT)*.
- 4.5 Marriage or civil partnerships can take place between detainees, or between a detainee and a member of the public.

- 4.6 Any ceremony to register or celebrate a marriage or civil partnership will take place only within a correctional centre.
- 4.7 Marriage or civil partnership status does not entitle a detainee or their spouse to additional privileges in comparison to other detainees, including shared accommodation.
- 4.8 Any ring given to a detainee to symbolise the marriage or civil partnership must be a single circle of metal with no stone inserts.
- 4.9 The GMCO can restrict the use of correctional centre facilities and property in order to prevent any disruption to the security, good order and operations of the correctional centre, and to prevent any risks to public safety.

5 APPLICATIONS FOR A MARRIAGE OR CIVIL PARTNERSHIP

- 5.1 A detainee who wishes to enter into marriage or civil partnership must complete the relevant D16.F2: Marriage Request or D16.F1: Civil Partnership Request and provide it to their Sentence Management Officer.
- 5.2 Where both applicants are detainees, both must submit a request under section 5.1.
- 5.3 A detainee's Sentence Management Officer is responsible for providing the detainee with the following ACT Government applications:
 - a. for civil partnership, an Application to Register a Civil Partnership; or
 - b. for marriage, a Notice of Intended Marriage.
- 5.4 The GMCO will review all requests under section 5.1 and ensure a written response is provided to the detainee to confirm the outcome of the application and if it is approved.
- 5.5 When determining the outcome of an application under section 5.1, the GMCO will give consideration to the following:
 - a. any advice from the Chaplain, Intelligence and Integrity Unit, and detainee's Sentence Management Officer relating to the relationship being genuine and whether the two parties are sincere in their commitment to each other;
 - b. confirmation from the Intelligence and Integrity Unit, where requested, that a detainee has not previously attempted to change their legal name by other means, only to change their name by marriage; and

- c. any risks associated with detainees who are under sentence for sexual or family violence offences.
- 5.6 Where a detainee is on remand or has a short time to spend in custody, the detainee will be encouraged to postpone the solemnisation of their marriage or civil partnership until release.
- 5.7 The Chaplain of the correctional centre is responsible for determining eligibility for marriage in accordance with the Marriage Act 1961 (Cth) and will be consulted for each application.
- 5.8 Where necessary, the Chaplain will arrange for the detainee to meet with a religious leader of the appropriate faith or denomination:
 - a. for pre-marriage education sessions;
 - b. to discuss their future goals and expectations of the marriage; and
 - c. to acquire tools for sustaining a long healthy relationship.

6 DETAINEE RESPONSIBILITIES

- 6.1 A detainee seeking to marry or enter into a civil partnership is responsible for:
 - a. complying with the relevant legislative requirements;
 - b. the production of all necessary documents and the lodging of notices at the detainee's expense; and
 - c. all costs associated with the marriage or civil partnership, including any ceremony and/or change of name that occurs as a result.
- 6.2 A detainee is responsible for registering their relationship under the Domestic Relationships Act 1994 (ACT) or Births, Deaths and Marriages Registration Act 1997 (ACT).

7 MARRIAGE OR CIVIL PARTNERSHIP CEREMONIES

- 7.1 Where it has been approved for a detainee to hold a marriage or commitment ceremony, the GMCO will determine appropriate security arrangements for the ceremony and advise the detainee of their decision.
- 7.2 Only a limited number of family and kinship members can be eligible to attend a ceremony subject to the conditions of the Visits Policy, Searching Strategy, and any other conditions as determined by the GMCO.

- 7.3 When determining the suitability of external guests, the GMCO will receive advice from the Head of Security, and the Manager, Intelligence and Integrity Unit.
- 7.4 Where it is determined that a ceremony presents a risk to safety, security or good order at a correctional centre, or to public safety, the GMCO can refuse an external guest, or all guests, from attending.

8 RECORDS

- 8.1 The GMCO will maintain arrangements to ensure:
- a. that a copy of all records under this policy are stored in a detainee's electronic record system and in accordance with the requirements of the *Territory Records Act 2002 (ACT)*; and
 - b. records reflect any change to a detainee's name or next of kin following a marriage or civil partnership.

9 RELATED DOCUMENTS

- A – D16.F1: Civil Partnership Request
- B – D16.F2: Marriage Request
- C – Notice of Intended Marriage
- D – Application to Register a Civil Partnership
- E – Visits Policy
- F – Searching Strategy



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ACT Corrective Services
2 April 2019

Document details

Criteria	Details
Document title:	Corrections Management (Marriage and Civil Partnership) Policy 2019
Document owner/approver:	Executive Director, ACT Corrective Services
Date effective:	The day after the notification date
Review date:	Three years after the notification date
Compliance with law:	This policy reflects the requirements of the <i>Corrections Management (Policy Framework) Policy 2019</i>
Responsible officer:	General Manager Custodial Operations

Version Control			
Version no.	Date	Description	Author
V1	January-19	First Issued	S Hall