

Australian Capital Territory

# Corrections Management (Detainee Trust Fund Management) Policy 2019 (No 2)

Notifiable instrument NI2019-313

made under the

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

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**1 Name of instrument**

This instrument is the *Corrections Management (Detainee Trust Fund Management) Policy 2019 (No 2)*.

**2 Commencement**

This instrument commences on the day after its notification day.

**3 Policy**

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

**4 Revocation**

This instrument revokes the *Corrections Management (Detainee Trust Fund Management) Policy 2019* [NI 2019-20].



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Executive Director  
ACT Corrective Services  
17 May 2019

# DETAINEE TRUST FUND MANAGEMENT

POLICY NO. F1

ACT CORRECTIVE SERVICES



**ACT**  
Government

Justice and Community Safety

## Contents

1	PURPOSE .....	4
2	SCOPE.....	4
3	DEFINITIONS .....	4
4	PRINCIPLES .....	4
5	USE OF DETAINEE TRUST FUNDS .....	5
6	DEPOSITS.....	5
7	WITHDRAWALS.....	6
8	ADMISSION .....	7
9	PURCHASES .....	7
10	AUTHORISED EXTERNAL PAYMENTS .....	8
11	SPECIAL EXTERNAL PAYMENT REQUESTS .....	9
12	MANAGEMENT OF DETAINEE EARNINGS.....	10
13	DISCHARGE AND TRANSFER.....	11
14	UNCLAIMED DETAINEE FUNDS .....	11
15	DEATH IN CUSTODY .....	12
16	COMPLAINTS .....	12
17	RELATED DOCUMENTS.....	12

## 1 PURPOSE

This policy establishes clear guidelines for the management of detainee trust fund accounts by ACT Corrective Services (ACTCS).

## 2 SCOPE

This policy applies to all ACTCS staff and all contracted service providers to correctional centres in the ACT.

Where required, Corporate Business Unit Heads will establish operational procedures to ensure their respective business unit meets and adheres to this policy.

## 3 DEFINITIONS

### **Trust Fund Accounts**

An account holding money belonging to a detainee on their behalf who is in the custody of ACTCS.

### **Holding Account**

A separate ledger within detainee trust fund accounts for all earnings and deposits above the maximum allowable balance in a detainee's trust fund.

### **Private Bank Account**

An account held by a detainee in a commercial banking institution.

### **External Payments**

Payments made by detainees from their trust fund account to maintain their personal financial and living affairs

### **Electronic Value Card**

A debit card that can be used to make purchases anywhere in Australia where Visa™ is accepted, including online and telephone purchases and ATM withdrawals.

## 4 PRINCIPLES

- 4.1 Detainees admitted to a correctional centre under section 30 of the *Corrections Management Act 2007 (ACT)* or section 64 of the *Crimes (Sentence Administration) Act 2005 (ACT)* are exempt from this policy as they are not able to be processed within the duration of their custody.
- 4.2 All detainee transactions are managed to ensure safety, security and good order of the correctional centre.

- 4.3 Detainee trust fund accounts are managed according to the requirements of the *Corrections Management Act 2007 (ACT)* and *Financial Management Act 1996 (ACT)*.
- 4.4 ACT correctional centres are cash-free, and detainees must not be allowed to retain cash.
- 4.5 ACTCS manages a trust fund for each detainee that holds their earnings, and receives deposits from the detainee, family and friends.
- 4.6 No interest will be accrued on detainee trust funds.
- 4.7 Detainee trust funds must be reconciled each business day and on discharge.
- 4.8 Up to a maximum of \$10,000 can be received into detainees' trust fund accounts.
- 4.9 ACTCS will establish processes to ensure that detainee trust fund advances do not go into arrears at any time or create hardship through accumulation of debt.

## 5 USE OF DETAINEE TRUST FUNDS

- 5.1 Detainee trust funds allow detainees to make regular purchases of basic goods for personal use or consumption and reasonable access to items not provided by the correctional centre.
- 5.2 The maximum allowable balance for a detainee's trust fund is \$1000.
- 5.3 Any incoming monies that would result in a detainee's trust fund being in excess of \$1000 must be diverted monthly to the detainee's holding account.
- 5.4 Detainees must receive a copy of their trust fund and holding account statements each week.

### **Holding accounts**

- 5.5 When there is a credit balance in a detainee's holding account, \$150 is transferred each week to the detainee's trust fund if the detainee has not received a deposit.
- 5.6 All records relating to deductions from a detainee's holding account must be stored in the detainee's trust fund records.

## 6 DEPOSITS

- 6.1 Detainees are eligible to receive up to a total of \$150 per week deposited into their trust fund via:
  - the ACTCS website: [http://cs.act.gov.au/detainee\\_payments](http://cs.act.gov.au/detainee_payments); and

- telephone banking: [1300 546 086](tel:1300546086).

- 6.2 Deposits are only accepted from family and/or friends using debit cards or bank account transfers.
- 6.3 Detainees can request up to \$150 per week from their external bank account be transferred to their trust fund.
- 6.4 All monies received on behalf of a detainee by the Head of Business Services must be deposited in that detainee’s trust fund, unless the deposit is managed under section 5.3 of this policy.

## 7 WITHDRAWALS

- 7.1 Withdrawals from a detainee’s trust fund will not occur without the detainee’s signed authorisation, unless the withdrawal is authorised this section.

### Disciplinary breaches

- 7.2 ACTCS will withdraw up to \$500, or as prescribed under section 49 of the Corrections Management Regulation 2010, from a detainee’s trust fund following a disciplinary breach, if:
- the General Manager or delegate has provided written advice of a disciplinary decision ordering a financial penalty; and
  - the disciplinary process has been finalised according to the Discipline Policy.
- 7.3 All records relating to outcome to impose a financial penalty must be stored in the detainee’s trust fund records.

### Board

- 7.4 ACTCS deducts monies for board from earnings paid to a detainee who is participating in work outside a correctional centre.
- 7.5 Board monies are deducted from a detainee’s holding account according to the gratuities paid to the detainee.

Gratuities (equivalent weekly earnings)	Board deduction
<b>\$400 or less</b>	15% of earnings
<b>Over \$400</b>	20% of earnings

- 7.6 Board deductions for detainees participating in part-time work are calculated on a pro-rata basis.

7.7 Board monies will be deducted at the same rate of frequency as earnings are received.

Note: Weekly if paid weekly, fortnightly if paid fortnightly.

7.8 ACTCS conducts an annual audit of board each year.

#### **Incidental expenses**

7.9 ACTCS will recoup incidental expenses from earnings credited to detainees from art and craft sales or paid work outside a correctional centre.

7.10 Incidental expenses include, but are not limited to, public transport, work clothing and equipment, art and craft materials.

7.11 All incidental expenses must be linked to a detainee to enable cost recovery.

7.12 Receipts and *Detainee Request Forms* are used to calculate incidental expenses.

7.13 Incidental expenses will be deducted from a detainee's trust fund at the same rate of frequency as earnings are received.

## **8 ADMISSION**

8.1 All cash in a detainee's possession on admission into ACTCS custody is credited to their trust fund within two (2) business days.

8.2 A monetary advance is available to detainees on admission to a correctional centre. This advance is to fund essential items such as tobacco and telephone calls.

8.3 Detainees must authorise the advance under section 8.2 to be recovered by ACTCS when monies are deposited into their trust fund.

8.4 Detainees must be advised on admission that their trust fund is monitored by ACTCS.

## **9 PURCHASES**

#### **Buy-ups**

9.1 Correctional centres must facilitate a 'buy-ups' process for purchasing groceries, toiletries, stationery, clothing and miscellaneous items.

9.2 Buy-ups lists are printed and distributed to detainees each week.

9.3 The maximum value of a buy-ups order cannot exceed \$100 each week.

#### **Activities buy-ups**

9.4 Correctional centres must facilitate an 'activities buy-ups' process for purchasing clothing, fitness equipment and other activity-based items.

9.5 The maximum value of an activities buy-ups order cannot exceed \$150 each month.

#### **Canteen items**

9.6 Correctional centres must facilitate a canteen each week for detainees to purchase basic items including perishables and selected grocery items.

9.7 Canteen purchases are limited to a maximum of \$150 each week.

#### **Newsagency**

9.8 Detainees can purchase newsagency items including magazines and periodicals each week.

9.9 Newsagency items are restricted as deemed by the General Manager Custodial Operations.

9.10 The maximum value of newsagency purchases must not exceed \$50 each week.

#### **Phone credits**

9.11 Detainees can purchase phone credits each week by completing a request form.

9.12 The maximum value of phone credits that a detainee can purchase cannot exceed \$150 each week.

#### **Refunds**

9.13 Detainees can request refunds for disputed purchases using a *Detainee Request Form*. Detainees must attach relevant documentation to requests for a refund.

9.14 All refunds will be processed at the discretion of the Head of Business Services, and the detainee advised of the outcome.

## **10 AUTHORISED EXTERNAL PAYMENTS**

10.1 Authorised external payments allow detainees to maintain their personal financial and living affairs while in custody, including to maintain:

- a. rental agreements and other lodgings;
- b. restitution payments;
- c. payments to the Public Trustee; and
- d. tax payments.

10.2 Detainees can send up to the value of \$500 to family and friends.

10.3 External payments include payments from a detainee's private bank account while in custody (*F1.F3: Direct Debit Request Form*).

10.4 The following restrictions and conditions apply to authorised external payments:



- a. all external payment requests must be accompanied by documentation and include the reason for the payment/s (F1.F2: Detainee Request for Payment);
- b. detainees are not permitted to make external payments that are:
  - transactions in order to run a business;
  - any stock or share purchases or unauthorised sales;
  - entering into any loan or credit arrangements; or
  - any form of gambling.

## 11 SPECIAL EXTERNAL PAYMENT REQUESTS

- 11.1 All payments other than in sections 9 and 10 are special external payments and managed under the Incentives and Earned Privileges Policy.
- 11.2 The following restrictions and conditions apply to special external payments:
  - a. the detainee must be eligible to make the payment under the Incentives and Earned Privileges Policy;
  - b. all requests must be made using a F1.F1: Detainee Request Form - Finance and include the reasons for the withdrawal;
  - c. applications for payments at and over \$500 require supporting documentary evidence;
  - d. the Intelligence and Integrity Unit must review all applications under this section and provide further information where necessary to the Head of Security.
- 11.3 Decisions to grant or deny special external payments will be made by the Head of Security on a case by case basis.
- 11.4 The Head of Security must consider the following before special payments are approved:
  - safety, security and good order of the correctional centre;
  - information provided by the Intelligence and Integrity Unit;
  - community safety; and
  - consistency with other like decisions.

## 12 MANAGEMENT OF DETAINEE EARNINGS

- 12.1 The General Manager Custodial Operations will maintain a schedule outlining the rate of remuneration for all relevant work and activities in a correctional centre under section 12.2.
- 12.2 Detainees will receive earnings:
- a. credited to a detainee as remuneration for work done in a correctional centre activity;
  - b. as a gratuity for participating in programs and/or educational and vocational courses offered by the correctional centre;
  - c. from the sale of arts and crafts under the *Art and Craft Policy*;
  - d. payable to a detainee participating in paid work outside a correctional centre; and/or
  - e. as an unemployment allowance for detainees who:
    - i. provide a medical certificate confirming they are temporarily or permanently medically unfit for work; or
    - ii. for whom a work activity is not currently available, including due to protection status, segregation or separate confinement; or
    - iii. are on remand and not receiving earnings under section 12.2(a)-12.2(b).
- 12.3 The Executive Director will conduct an annual review of remuneration rates in September of each year.
- 12.4 Detainee earnings must be paid into a detainee's trust fund according to section 5 of this policy.

### **Management of detainee earnings**

- 12.5 A detainee's eligible earnings will be confirmed and credited to their trust fund each week.
- 12.6 The maximum amount of remunerated hours for detainees participating in work according to sections 12.2(a)-12.2(b) is 42 hours each week.
- 12.7 Detainees earnings accrued under section 12.2 on a public holiday in the ACT will be remunerated at the same level as any other day.
- 12.8 The General Manager Custodial Operations will ensure that staff monitor and record a detainee's participation under section 12.2.

- 12.9 The Head of Business Services or delegate will confirm a detainee's earnings each week according to the number of activity hours recorded in the detainee's electronic record system.
- 12.10 Detainees will not receive earnings for any unauthorised absence from an activity under sections 12.2(a)-12.2(b).

### **13 DISCHARGE AND TRANSFER**

- 13.1 On discharge from a correctional centre, the total credit balance in the detainee's trust fund must be paid to the detainee, including any outstanding detainee earnings.
- 13.2 Outstanding buy-ups purchases, reparations, advance payments or financial penalties will be deducted from a detainee's trust fund.
- 13.3 ACTCS will deposit the credit trust fund balance to a detainee's nominated external bank account, except for:
- a. an Electronic Value Card with a maximum balance of \$500 and minimum balance of \$20.
- 13.4 All remaining funds under section 13.3 will be deposited into the detainee's private bank account.
- 13.5 Detainees with less than \$20 in their trust fund will not receive an Electronic Value Card on discharge and all monies will be transferred under section 13.4.
- 13.6 Under section 13.5, the detainee's Sentence Management Officer will facilitate alternative transport arrangements from the correctional centre to the nearest public transport interchange.

### **14 UNCLAIMED DETAINEE FUNDS**

- 14.1 Detainees have previously been released and left behind an amount of money in their trust fund which is transferred to an unclaimed funds ledger.
- 14.2 Where a detainee under section 14.1 re-enters custody, these unclaimed funds will be credited to the detainee's trust fund account.
- 14.3 A former detainee is entitled to claim monies held in trust for a period of six (6) years.
- 14.4 Funds that have not been claimed within six (6) years can only be claimed from the ACT Revenue Office.

## 15 DEATH IN CUSTODY

- 15.1 The release of trust fund monies belonging to a deceased detainee will be authorised by the General Manager Custodial Operations to the detainee's next of kin in accordance with the Death in Custody Policy.

## 16 COMPLAINTS

- 16.1 A detainee wanting to make a complaint relating to their trust fund or purchases must do so in writing according to the Detainee Handbook and Detainee Requests and Complaints Policy.
- 16.2 The Executive Director or delegate must ensure that complaints are investigated and responded to in a timely manner according to the Detainee Requests and Complaints Policy.

## 17 RELATED DOCUMENTS

- A – Annex A – Remuneration Rates
- B – F1.F1: Detainee Request Form - Finance
- C – F1.F2: Detainee Request for Payment
- D – F1.F3: Direct Debit Request Form
- E – Detainee Requests and Complaints Policy
- F – Regime Planning Policy
- G – Death in Custody Policy
- I – Detainee Request Form
- J – Discipline Policy
- K – Art and Craft Policy
- L – Detainee Work Policy



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17 May 2019

## Document details

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