

Corrections Management (Discharge) Policy 2019

Notifiable instrument NI2019-734

made under the

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

1 Name of instrument

This instrument is the *Corrections Management (Discharge) 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.

4 Revocation

This policy revokes the *Corrections Management (Discharge) Operating Procedure 2010* [NI2010-548].



Jon Peach
Executive Director
ACT Corrective Services
14 November 2019

DISCHARGE

POLICY NO. D31

ACT CORRECTIVE SERVICES



ACT
Government

Justice and Community Safety

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1 PURPOSE

ACT Corrective Services (ACTCS) is committed to ensuring that consistent processes are applied when detainees are discharged from the custody of ACTCS.

This policy provides instructions on the lawful release of detainees from correctional centres.

2 SCOPE

This policy applies to all correctional centres in the ACT.

Where required, the General Manager Custodial Operations will establish operational procedures under this policy.

3 DEFINITIONS

Bail

An order under the *Bail Act 1992 (ACT)* for a person to be at liberty.

Business day

A day that is not:

- a. Saturday or Sunday; or
- b. a public holiday in the ACT.

Good Behaviour Order, Intensive Corrections Order, Drug and Alcohol Treatment Order

A court order signed by an offender to comply with certain conditions for a stated period.

Parole

A Sentence Administration Board order authorising an offender to be at liberty according to certain conditions for the remainder of their sentence.

Release on licence

A Sentence Administration Board order approved by the Executive under the *Crimes (Sentence Administration) Act 2005 (ACT)* authorising an offender serving a sentence of life imprisonment to be at liberty according to certain conditions.

Surety

A person mentioned in a bail undertaking who agrees to provide security for an offender to appear in future listings of their matter.

Time served

The completion of a sentence for which the detainee is in custody.

4 PRINCIPLES

- 4.1 Detainees will be released as early as practicable on their day of release in the interests of community reintegration ensuring sufficient time to access services and meet any reporting obligations.
- 4.2 Detainees will be made aware of their reporting obligations and any arrangements to which they will be subject in the community.
- 4.3 Prior to undertaking any actions under this policy, staff must be aware of the custodial status of the detainee and all current court orders.
- 4.4 Detainees will not be released from custody under section 5.1 where ACTCS has received a written notice under section 254(2) of the *Migration Act 1958 (Cth)* authorising ACTCS to keep a detainee in immigration detention under Division 7, Part 2, of the *Migration Act 1958 (Cth)* until custody is transferred to the Australian Border Force.
- 4.5 Sentence management will continue for offenders transferring to community orders in accordance with the *Sentence Management Policy*.
- 4.6 A copy of all documents under this policy must be stored on a detainee's electronic records system and custody file.

5 RELEASE TYPES

- 5.1 Detainees may be released from custody:
 - a. at the expiry of their sentence and where there is no other warrant or order authorising lawful custody of the detainee;
 - b. on bail under the *Bail Act 1992 (ACT)* while on remand;
 - c. on a grant of appeal of a sentence;
 - d. on acquittal and where there is no other warrant or order authorising lawful custody of the detainee;
 - e. according to a parole order issued by the Sentence Administration Board;
 - f. to be extradited to another jurisdiction in accordance with an order from the Magistrates Court;
 - g. on release from licence under the *Crimes (Sentence Administration) Act 2005 (ACT)*; or
 - h. for the transfer of custody to another jurisdiction.

6 EARLY RELEASE

- 6.1 Where a detainee has received a sentence of longer than six (6) months, they may apply in writing to the Executive Director for an early release from custody under section 31 of the *Crimes (Sentence Administration) Act 2005 (ACT)*:
- a. for a sentence less than one (1) year, on any day within seven (7) days of the end of sentence; or
 - b. for a sentence of greater than one (1) year, on any day within 14 days of the end of sentence.
- 6.2 When considering an application under section 6.1, the Executive Director may consider under section 31(3) of the *Crimes (Sentence Administration) Act 2005 (ACT)*:
- a. the detainee's conduct during their sentence;
 - b. any compassionate, health or employment-related circumstances of the detainee;
 - c. the management of the correctional centre; or
 - d. anything else the Executive Director considers appropriate.
- 6.3 The detainee will be informed in writing of the outcome of their application.
- 6.4 Where the Executive Director directs that a detainee be given early release under section 31 of the *Crimes (Sentence Administration) Act 2005 (ACT)*, the detainee will be discharged on the stated day in accordance with this policy.

Early release at end of sentence

- 6.5 As far as practicable, detainees will be discharged on the last business day before their release date under section 32 of the *Crimes (Sentence Administration) Act 2005 (ACT)*.
- 6.6 The Sentence Administration Section is responsible for:
- a. identifying detainees whose release date falls outside of a business day;
 - b. confirming the detainee's suitability for release in accordance with this policy; and
 - c. requesting custodial officers notify eligible detainees of their right to release on the last business day before their release date.
- 6.7 A detainee is considered to have requested early release under section 32 of the *Crimes (Sentence Administration) Act 2005 (ACT)* where no objection is received to the notification under section 6.7.

Early release under a Commonwealth sentence

- 6.8 Detainees sentenced for a Commonwealth offence must apply to the Federal Attorney-General for early release under section 19AP or 19AL of the Crimes Act 1914 (Cth).
- 6.9 Where the Attorney-General has authorised early release of a detainee under section 19AP or 19 AL of the Crimes Act 1914 (Cth), the detainee will be released on the stated date in accordance with this policy.

7 RELEASE PREPARATION

- 7.1 Operational procedures will be established for the release from custody of detainees by the Court Transport Unit.

Two weeks prior

- 7.2 Where a sentenced detainee due for release has a registered victim under the No-Contact List Policy, the Victim Liaison Officer will contact the victim in advance and advise them of the date of release and any conditions that apply to the detainee.
- 7.3 A detainee's Sentence Management Officer will confirm that the detainee has arranged transport and accommodation.
- 7.4 A detainee's Sentence Management Officer will complete a Release Plan for the detainee, including bank account and other details for the transfer of funds (Detainee Trust Fund Management Policy).

One week prior

- 7.5 The Sentence Administration Section will provide a list of all detainees due for release in the following week to the Deputy General Manager Custodial Operations and Admissions Supervisor each Thursday.
- 7.6 As far as practicable, detainees will be seen by their health care provider to provide continuity of care transition and receive medications where appropriate.

Day before release

- 7.7 At least 24 hours prior to release, the Sentence Administration Section will verify the detainee's eligibility and legal entitlement for release (D31.F1: Discharge Checklist).
- 7.8 Any irregularities under section 7.7 must be referred to the relevant Court Registrar for clarification.

- 7.9 Community supervision orders, other orders or reporting notices must be attached to the D31.F1: Discharge Checklist.
- 7.10 The D31.F1: Discharge Checklist must be provided to the Admissions Supervisor with:
- a. all relevant documentation; and
 - b. a Sentence Administration Section letter to the detainee confirming the lawful authority under which they are being released.
- 7.11 Where a notice of Child Sex Offender Registration (CSOR) orders has been received, the Sentence Administration Section will:
- a. ensure that a copy is attached to the D31.F1: Discharge Checklist for providing to the detainee; and
 - b. contact the ACT Policing CSORT to advise that the detainee is due for release.

Bail

- 7.12 Where the Sentence Administration Section has received confirmation from the court that a detainee has met the requirements for bail, the processes in sections 7.7-7.10 will be completed as soon as possible.
- 7.13 Where a detainee has been bailed outside of business hours, the D31.F1: Discharge Checklist must be completed by the Admissions Supervisor.

8 DISCHARGE PROCESS

- 8.1 On the day of release, a detainee will be escorted to Admissions and the following processes completed:
- a. confirmation of the detainee's identity;
 - b. all standard issue property under the Detainee Property Policy returned and personal clothing provided to the detainee;
 - c. all personal property returned to the detainee and property inventory signed by the detainee to acknowledge receipt of all items; and
 - d. Electronic Value Card provided to the detainee in accordance with the Detainee Trust Fund Management Policy.
- 8.2 The Admissions Supervisor will ask the detainee if they have any complaints relating to their time in custody. Where a detainee wishes to make a formal complaint, this will be provided to the Team Leader, Compliance, for processing under the Detainee Requests and Complaints Policy.

- 8.3 The Security Unit may conduct an exit interview with a detainee immediately prior to discharge to discuss their time in custody.
- 8.4 The detainee may be asked to sign any bail or surety documentation.
- 8.5 The detainee will be requested to provide their future address. The address must be added to the detainee's electronic record system.
- 8.6 The following documents must be provided to the Officer-in-Charge to be checked against the detainee's *D31.F1: Discharge Checklist* for verification:
- a. a copy of the detainee's *Episode Summary Report*;
 - b. copies of all warrants and custody orders relating to the detainee's current imprisonment;
 - c. copies of all completed bail documents from ACT Courts and Tribunal;
 - d. copies of any documents under sections 7.9, and 7.11 where applicable.
- 8.7 The Officer-in-Charge will ensure that all processes have been completed under this policy and satisfy themselves that:
- a. all documentation is complete and correct; and
 - b. there are no other orders authorising lawful custody of the detainee.
- 8.8 The Officer-in-Charge will:
- a. explain the conditions of any order to the detainee;
 - b. sign any bail or surety documentation; and
 - c. sign the *D31.F1: Discharge Checklist* to authorise the detainee's release.
- 8.9 A copy of any documents under section 8.6(c) must be provided to:
- a. the detainee;
 - b. the issuing court; and
 - c. a copy placed on the detainee's electronic record system and custody file.
- 8.10 The detainee will be escorted to the gate and released following a photographic identity check.

9 RELATED DOCUMENTS

- A – D31.F1: Discharge Checklist
- B – Detainee Property Policy
- C – No-Contact List Policy
- D – Detainee Trust Fund Management Policy
- E – Sentence Management Policy

- F – Detainee Requests and Complaints Policy



Jon Peach
 Executive Director
 ACT Corrective Services
 14 November 2019

Document details

Criteria	Details
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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			
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