

Australian Capital Territory

Corrections Management (Work Release) Policy 2012

Notifiable instrument NI2012-279

made under the

***Corrections Management Act 2007*, section 14(1) (Corrections policies and operating procedures)**

1 Name of instrument

This instrument is the *Corrections Management (Work Release) Policy 2012*.

2 Commencement

This instrument commences on the day after it is notified.

3 Policy

I make the

WORK RELEASE POLICY

attached to this instrument, to facilitate the effective and efficient management of correctional services.

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Executive Director
ACT Corrective Services
29 May 2012

ACT Corrective Services
All Facilities and Operations

WORK RELEASE POLICY

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Purpose

To give eligible detainees the opportunity to engage in paid employment in the community prior to being discharged from custody, with the objectives of enhancing post release employment prospects and assisting in achieving a successful transition from custody to community living.

Authority

Legislation

Corrections Management Act 2007, Chapter 13, sections 217, 218, 219; Chapter 9, sections 98(2b) and 83; and Chapter 6, section 44(1)
Human Rights Act 2004

Policy

Principles

Provide eligible detainees with an opportunity to engage in paid employment within the community prior to discharge from custody to aid the transition and support other rehabilitative and re-integrative activity to support the reduction of re-offending risk.

Enable detainees participating in work release to acquire or enhance vocational skills.

Give participating detainees an opportunity to earn funds whilst in custody to discharge debt and acquire savings; thus improving post release prospects.

Recognise the disadvantage in an open and competitive employment market faced by people in custody applying for work by permitting a limited period of unpaid 'work experience' with strict controls being applied to prevent exploitation.

Work release is a privilege and not an entitlement. Strict selection and participation criteria are imposed to protect the interests of the community and to maintain the integrity of the sentence imposed by the court.

Principals of participating work sites must agree to comprehensive security screening and must also agree to ongoing co-operation with ACT Corrective Services in relation to terms and conditions of detainee employment.

Scope

The Work Release Program is potentially available to any detainee serving a determinate sentence who has no outstanding warrants or court engagements. However, it is subject to strict entry criteria and is only available to detainees during the latter portion of their period in custody.

Eligibility

Detainees being considered for the Work Release Program will be required to attain the necessary Minimum Security rating applicable to being accommodated in the Transitional Release Centre (TRC) and, although nearing their earliest release from custody date, have sufficient residual time available to undertake the necessary assessments and participate for a minimum of three months before being eligible for discharge.

An AMC detainee residing other than in the Transitional Release Centre may be approved to participate in the Work Release Program. This can occur for operational reasons or due to a bed shortage in the TRC.

Before being considered for Work Release a detainee must have completed any case plan elements relating to risk of re-offending and transition from custody.

Detainees with outstanding warrants or incomplete court engagements are ineligible for consideration for the Work Release program.

Only detainees assessed as posing minimal risk of failing to fully comply with the terms and conditions of the program will be selected to enter and continue to participate in the program. A risk/benefit analysis must also indicate sufficient program participation benefits to outweigh the security risks involved.

The safety and well being of the community and the integrity of the program will be the dominant considerations.

Applying for Work Release

Only applications from potentially eligible detainees will be accepted for consideration. The assigned TRC Case Officer should review an application to ensure the eligibility criteria are potentially met and should take advice from the TRC Manager in this regard. Only complying applications are to be scheduled for a Sentence Planning Group assessment.

Assessment

The detainee case plan will have previously identified work release as a transitional and re-integrative goal and the detainee encouraged to apply for the program at the

appropriate time using the prescribed form. Sentence Planning Group committees considering applications for work release and relocation to the Transitional Release Centre will be supplemented by the presence of the Transitional Release Centre Manager or Case Officer. The Committee will consider the detainee in terms of the program eligibility criteria and the security aspects of transition to the TRC.

SPG recommendations for entry to the TRC and Work Release are to be forwarded to the Deputy Superintendent who will add any security related intelligence information available. Approval to relocate to the TRC and undertake further Work Release assessment is given by the Superintendent. The documentation must include the assessments undertaken to date and the deliberations of the SPG to provide a sound basis for further assessments within the TRC before a detainee is permitted to commence work release.

New receptions to the TRC for Work Release will undertake a comprehensive induction and assessment program designed to both prepare them to successfully engage in work release and to assess the nature and level of risks they might pose to the community and the integrity of the program. During the course of the induction and assessment program, and indeed while participating in work release, a detainee whose conduct or revealed risk indicates they are not suitable to undertake work release will be withdrawn from the program and returned to more secure custody within the AMC proper. Such decisions will be made by the Superintendent.

Employer and Worksite Assessments

ACT Corrective Services has a duty of care to the detainee and a responsibility to the community when permitting a person in custody to engage in work or a traineeship within the community. The workplace is to be assessed in terms of safe working conditions, compliance with relevant industrial awards and the suitability of the environment and proposed work for a person in custody.

Security screening must address the possibility of the company principal and/or other employees having criminal backgrounds and consider any possibility of a prior relationship with the detainee or other detainees or associated criminal behaviour. Such a relationship would not necessarily disqualify the employer or worksite but any risks posed must be taken into consideration.

With the lack of public transport availability to and from the AMC transport arrangements will be a consideration. In some circumstances a detainee may cycle to and from work but under no circumstances should a Work Release Program detainee be permitted to drive a motor vehicle on a public street or to leave the Australian Capital Territory whilst travelling to or from employment or during the course of his or her employment. To the extent feasible the detainee should be made responsible for his or her transport arrangements to and from work.

Employers must agree to security checks being conducted in relation to the company principal(s) and staff. Employers -are required to provide sufficient supervision of the detainee whilst at work in relation to attendance, starting and finishing times and movements during the work day. There is a total prohibition of the use of illegal or illicit drugs in the workplace and employers must not provide any access to alcohol for the detainee. They will be obliged to maintain liaison with TRC staff regarding

ongoing employment related matters and to also liaise with Parole Officers if the employment continues post custody during a term of mandated supervision.

Worksites will be registered with ACTIA, the ACT government insurer, and a certificate will be issued to the employer covering public liability in employing a person in the custody of ACT Corrective Services.

Employment Requirements

The employed detainee will be entitled to the minimum award wages and all related conditions. Whilst normal leave entitlements will accrue, any employment related leave will have no effect upon custody and the sentence being served.

It is recognised a person in custody serving a sentence is at a significant disadvantage competing for employment in an open market and for this reason a limited period of unpaid 'work experience' can be agreed between the employer, the employee and ACT Corrective Services. Under ordinary circumstances the period of unpaid work experience should be less than one month but under special circumstances it may be possible to extend this period to up to three months. Periods of unpaid employment of detainees in custody are potentially exploitative and should be avoided or minimised to the extent practicable.

Any detainee participating in a formal traineeship is entitled to the minimum pay and conditions legally applicable to such a traineeship.

There are lawful workplaces and employment opportunities in the community that are determined as being unsuitable for employing detainees serving a custodial sentence. A workplace determined by the Superintendent as being unsuitable is prohibited as are any involving the following:

- The selling or serving of alcohol beverages other than as a minor part of a broader hospitality industry role
- The sex industry
- Gambling related employment
- Security work
- Unsupervised contact, or potential contact, with children

In addition to the above regard must be given to the offending history and risks of re-offending of the individual detainee in determining whether or not a particular form of employment is suitable.

Supervision and Monitoring

Detainees participating in Work Release have significantly greater opportunity to consume illegal or illicit substances, including alcohol, in comparison with the broader detainee population. Accordingly, they are to be subject to breath tests for alcohol and urine tests for illegal or illicit substances when it is suspected they have been consumed, and to random tests sufficiently frequently to create deterrence and underpin program integrity. Detainees in the TRC, and particularly those undertaking work release, should be tested more frequently than is required for the broader AMC detainee population.

Detainees will be routinely pat searched or strip searched on return to the centre from work or any other external leave to prevent the introduction of contraband to the centre. Drug detector dogs will be utilised for searching purposes from time to time.

Financial Obligations of Program Participants

Wages are to be received either by cheque or direct deposit and paid into the detainee trust account. Cash may only be held in sufficient quantity to meet day to day out of pocket expenses.

Board and lodging is to be deducted by the department from the account of paid detainee employees at the ruling rate. Detainees are to be advised when adjustments to the rate are made from time to time.

Deductions from detainee earnings will be made by the department at an appropriate rate to repay monies outstanding for court fines to the Debt Recovery Office and to the Australian Tax Office for mandatory child support payments.

Program participants in paid employment are expected to enter into an arrangement for residual funds to be applied to personal expenses, the making of reasonable efforts to meet any additional financial obligations and to a savings plan that will position them to meet post custody needs.

Forms/Templates

TRC Progression Pathway – Stages 1-4

Detainee Residence Performance Improvement Contract

Work Experience Assessment Form

Related policies and procedures

Work Release Procedure

Transitional Release Policy

Transitional Release Procedure