

Australian Capital Territory

# Corrections Management (Drug Testing) Policy 2015 (No 2)

**Notifiable instrument NI2015-684**

made under the

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

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## **1 Name of instrument**

This instrument is the *Corrections Management (Drug Testing) Policy 2015 (No 2)*.

## **2 Commencement**

This instrument commences on the day after it is notified.

## **3 Policy**

I make the

**DRUG TESTING POLICY**

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

## **4. Revocation**

This instrument revokes the *Corrections Management (Drug Testing) Policy 2015 NI2015-652*.

Bernadette Mitcherson  
Executive Director  
ACT Corrective Services  
27 November 2015



## DRUG TESTING POLICY

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### **Purpose**

To outline the drug testing policy.

### **Authority**

#### Legislation

*Corrections Management Act 2007* (the Act), sections 7, 14, 69, 81 and 82, Part 9.6 and Chapter 10.

*Legislation Act 2001*.

### **Policy**

#### Principles

The possession or use of illicit substances in a correctional centre is prohibited and can cause a breakdown in the security and good order of a prison facility. This includes the use of medication which was not prescribed to the detainee or is being misused by a detainee.

Section 152 of the Act states that the following are disciplinary breaches:

- (d) *taking (in any way) alcohol or a drug into the detainee’s body;*
- (e) *providing a positive test sample for alcohol or a drug when directed, under this [the Corrections Management Act 2007] or the Crimes (Sentence Administration) Act 2005, to provide a test sample;*
- (f) *making, possessing, concealing, knowingly consuming or dealing with a prohibited thing, without the director general’s approval; and*

*(o) possessing or dealing in things without the director general's approval.*

One objective of this testing is to assist in maintaining security and good order and to detect breaches of s152.

Section 7 stipulates that an objective of the Act is:

*(d) promoting the rehabilitation of offenders and their reintegration into society.*

Another objective of testing is, therefore, to identify detainees who are abusing drugs and in need of rehabilitation in order to refer them to appropriate treatment.

Section 69 of the Act provides for testing upon admission to a correctional centre. A third objective, therefore, is to measure the use of drugs by detainees, both prior to entry to the AMC and after entry. The purpose of such measurement is to:

- assist to identify health and behavioural risks;
- provide a baseline level of drug usage by individual detainees before entry to inform drug usage management; and
- statistically measure ongoing drug usage by the detainee population after entry to inform the success of demand and supply reduction strategies.

Section 134 of the Act provides that a detainee may be directed to provide a test sample.

### **Types of Drug Testing**

Drug testing may be undertaken in the following ways:

- admission testing;
- targeted testing;
- program testing; and
- random testing.

Admission testing will be undertaken on all new detainee admissions to ACT correctional centres. Admission testing will be conducted within 72 hours of a detainee's induction. The results of such testing will be used to inform:

- health and behavioural risks;
- an understanding of a detainee's drug usage levels prior to prison entry;
- the development of rehabilitation programs and entry to such programs; and
- whether the results of later testing of individual detainees has resulted in a decline in the presence of drugs.

If an admission test is found to be non-negative (see below), there is no requirement for laboratory testing of that sample and a positive indication from such testing will not result in disciplinary action.

While all new admissions should be tested, it is understood that a test may not have been possible where a detainee is released from the custody of ACT Corrective Services within 72 hours of induction.

Targeted testing will be used where intelligence suggests that a detainee may be in breach of s152. Detainees subject to targeted testing will be identified by the Intelligence Officer and/or a senior Corrections Officer (Area Manager or above). Positive results from such testing, excluding a positive result for individuals on prescribed medication such as an opioid maintenance/treatment program, will result in the consideration of disciplinary action. For information on program and health referral, see Referral for Alcohol and Other Drugs (AOD) Treatment below.

Program testing may be used to inform access to and compliance with specialist programs in the AMC such as the Therapeutic Community, the Transitional Release Centre and work programs (and other programs as appropriate).

Positive results from such testing, excluding a positive result for individuals on prescribed medication such as an opioid maintenance/treatment program, will result in the consideration of disciplinary action and possible exclusion from the program. For information on program and health referral, see Referral for Alcohol and Other Drugs (AOD) Treatment below.

Random testing will be undertaken based upon a random selection of detainee identification numbers consistent with the requirement of the Act.

Positive results from such testing, excluding a positive for prescribed medication such as an opioid maintenance/treatment program, will result in the consideration of disciplinary action. For information on program and health referral, see Referral for Alcohol and Other Drugs (AOD) Treatment below.

### **Referral for Alcohol and Other Drugs (AOD) Treatment**

As noted in the *Policy Principles* above, admission testing is used to inform detainee entry to treatment AOD programs. Other testing will also be used to inform referral for rehabilitation and for health treatment as appropriate.

All detainees who test positive to a targeted, program or random test will have their AOD treatment status reviewed by the Offender Services and Programs Unit and if appropriate, will be referred for treatment.

Justice Health Services will be notified of the results of positive testing in order to inform health and medication management.

### **Methods of Drug Testing**

Urinalysis will be the primary means of drug testing within ACT correctional centres.

Other methods, such as oral screening, may be used to provide an indicator of the presence of drugs. Indicative testing will not be used for disciplinary purposes but discipline action may result from subsequent further testing as a result of a positive indicator.

### **Invalid samples**

Under s133 of the Act, a detainee is taken to have provided an invalid test sample if:

- the detainee tampers or attempts to tamper with the test sample; and/ or
- the detainee changes or attempts to change the results of the test sample.

### **Non-Negative results**

A non-negative result indicates the presence of a controlled substance in a urine sample. When a detainee produces a non-negative sample it may then subject to laboratory analysis. The result will only be deemed positive after this analysis and after excluding any prescribed medications the donor may be taking.

### **Positive results**

Under s133 of the Act, a detainee is taken to have provided a positive sample if:

- the detainee fails to provide a test sample in accordance with the direction;
- the detainee provides an invalid test sample; or
- the detainee provides a sample that through laboratory analysis is found to contain a non-prescribed drug while in ACT Corrective Services custody.

Positive results will be subject to disciplinary action pursuant to the *Detainee Discipline Policy and Procedure*.

The only exceptions to this are:

- where the detainee is prescribed the drug by a medical professional (as above);
- where the detainee tests positive to cannabis and has been in custody for less than 42 days, unless that detainee had already tested negative to cannabis upon admission;
- where the detainee tests positive to a non-prescribed drug other than cannabis and has been in custody for less than 72 hours, unless that detainee had already tested negative to the non-prescribed drug upon admission.

### **Reasonable excuse for failure to supply**

The only grounds on which a detainee can fail to supply a sample without it being deemed positive is where there is a medical condition or prescribed medication that may affect test results. This reason must be supported by medical advice from a Justice Health Services medical practitioner.

On any other occasion that a detainee fails to follow a reasonable direction to supply a urine sample, the detainee can be disciplined.

### **Taking a Test Sample**

All test samples will be conducted in the presence of at least two Corrections Officers. One Corrections Officer will be designated as the collecting officer and the other will be the witnessing officer (and where required, a third monitoring officer). The purpose of assigning at least two officers to this process is to ensure that procedures are undertaken correctly and that the safety of both detainees and officers is maintained.

All testing must be appropriately recorded.

If the drug testing involves oral screening, only one of the officers must be of the same gender as the detainee.

If the drug testing involves the collection of a urine sample, the officers must be of the same gender as the detainee being tested.

### **Forms/Templates**

Site Testing Form

Discipline 1 – Report of Detainee Breach

### **Related policies and procedures**

Detainee Discipline Policy

Detainee Discipline Procedure

Drug Testing Procedure