



## National Gallery Regulations 2018

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I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 02 March 2018

Peter Cosgrove  
Governor-General

By His Excellency's Command

Mitch Fifield  
Minister for the Arts

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# Contents

<b>Part 1—Preliminary</b>	1
1 Name.....	1
2 Commencement .....	1
3 Authority.....	1
4 Schedules .....	1
5 Definitions .....	1
<b>Part 2—Purchase and disposal of assets</b>	3
6 Power to purchase and dispose of assets .....	3
<b>Part 3—Supply of liquor</b>	4
7 Purposes of this Part.....	4
8 Authorisation to supply liquor .....	4
9 Supply of liquor .....	4
10 Buying or obtaining liquor.....	5
<b>Part 4—Conduct of persons on Gallery land and in Gallery buildings</b>	6
<b>Division 1—Purposes of this Part</b>	6
11 Purposes of this Part.....	6
<b>Division 2—Security officers</b>	7
12 Security officers .....	7
13 Powers of security officers—directions to leave.....	7
14 Powers of security officers—apprehension.....	8
15 Powers of security officers—vehicles and similar devices .....	8
16 Powers of security officers—possible prohibited articles .....	8
17 Powers of security officers—offence.....	8
<b>Division 3—Council notices</b>	9
18 Council notices .....	9
<b>Division 4—Other provisions</b>	10
19 Damaging Gallery material and property .....	10
20 Selling articles.....	10
21 Animals.....	11
22 Foods and liquids .....	11
23 Smoking.....	12
24 Prohibited articles .....	12
<b>Division 5—Defences</b>	13
25 Defences .....	13
<b>Part 5—Entry charges</b>	14
26 Entry charges .....	14
<b>Part 6—Transitional provisions</b>	15
27 Definitions .....	15
28 Authorisation to supply liquor .....	15
29 Security officers .....	15
30 Council notices .....	15
31 Consent of Council .....	15
<b>Schedule 1—Repeals</b>	16
<i>National Gallery Regulations 1982</i>	16



## Part 1—Preliminary

### 1 Name

This instrument is the *National Gallery Regulations 2018*.

### 2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The day after this instrument is registered.	8 March 2018

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

### 3 Authority

This instrument is made under the *National Gallery Act 1975*.

### 4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

### 5 Definitions

Note: A number of expressions used in this instrument are defined in the Act, including the following:

- (a) Council;
- (b) Director;
- (c) Gallery;
- (d) national collection.

In this instrument:

*Act* means the *National Gallery Act 1975*.

*assistance animal* has the same meaning as in the *Disability Discrimination Act 1992*.

Section 5

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**authorised liquor supplier** means a person who is authorised under section 8 to sell or supply liquor.

**Council notice** has the meaning given by subsection 18(1).

**Gallery building** means a building on Gallery land.

**Gallery contractor** means:

- (a) a contractor of the Gallery; or
- (b) a contractor or employee of another Gallery contractor.

**Gallery land** means land:

- (a) made available to the Gallery under subsection 8(1) of the Act; or
- (b) otherwise owned by or under the control of the Gallery.

**Gallery material** means:

- (a) a Gallery work of art; or
- (b) other material that is owned by the Gallery or under its control; or
- (c) any structure, equipment or material that is kept by the Gallery for purposes relating to:
  - (i) the exhibition or display of material referred to in paragraph (a) or (b);  
or
  - (ii) research, educational or publicity activities in relation to that material.

**Gallery work of art** means a work of art:

- (a) forming part of the national collection; or
- (b) under the control of the Gallery.

**liquor** has the same meaning as in section 45 of the Act.

**prohibited article** means:

- (a) an implement, other than a pen or pencil, that could be used to damage or conceal Gallery material; or
- (b) a camera or associated equipment; or  
Example: Associated equipment includes a tripod or selfie stick.
- (c) a bag, case, parcel or other container that cannot be wholly enclosed within a cube each side of which is 300 millimetres in length.

**security officer** means a staff member appointed under subsection 12(1) to be a security officer.

**staff member** means:

- (a) a member of the staff of the Gallery; or
- (b) a Gallery contractor who is an individual; or
- (c) a volunteer.

**volunteer** means an individual who works for the Gallery on a voluntary basis.

## **Part 2—Purchase and disposal of assets**

### **6 Power to purchase and dispose of assets**

- (1) For the purposes of paragraph 38(a) of the Act, \$10,000,000 is prescribed.
- (2) For the purposes of paragraphs 38(b), (c) and (d) of the Act, \$2,000,000 is prescribed.

## Part 3—Supply of liquor

### 7 Purposes of this Part

This Part is made for the purposes of subsection 45(1) of the Act.

### 8 Authorisation to supply liquor

- (1) The Council may, in writing, authorise a person, or a class of persons, to sell or supply liquor on Gallery land, or in a Gallery building.
- (2) The Council must specify in the authorisation:
  - (a) the parts of the Gallery land or Gallery building where liquor may be sold or supplied; and
  - (b) the hours during which liquor may be sold or supplied.
- (3) The Council may specify in the authorisation conditions to which it is subject.

### 9 Supply of liquor

#### *Authorisations*

- (1) A person commits an offence if the person:
  - (a) is on Gallery land or in a Gallery building; and
  - (b) sells or supplies liquor.Penalty: 5 penalty units.
- (2) Subsection (1) does not apply to a person:
  - (a) selling or supplying liquor if the person is authorised to do so under subsection 8(1); or
  - (b) supplying liquor (other than by selling it) if the liquor was sold or supplied to that person on Gallery land, or in a Gallery building, by an authorised liquor supplier.

Note: A defendant bears an evidential burden in relation to the matters in subsection (2): see subsection 13.3(3) of the *Criminal Code*.

- (3) A person commits an offence if the person:
  - (a) is on Gallery land or in a Gallery building; and
  - (b) is an authorised liquor supplier; and
  - (c) sells or supplies liquor; and
  - (d) does not comply with the conditions to which the person's authorisation as an authorised liquor supplier is subject under subsection 8(2) or (3).Penalty: 5 penalty units.

#### *Adulterated liquor*

- (4) A person commits an offence if:
  - (a) the person is on Gallery land or in a Gallery building; and



- (b) the person sells or supplies liquor; and
- (c) the liquor is adulterated.

Penalty: 5 penalty units.

*Intoxicated persons and minors*

- (5) A person commits an offence if:
- (a) the person is on Gallery land or in a Gallery building; and
  - (b) the person sells or supplies liquor to another person; and
  - (c) the other person is:
    - (i) intoxicated; or
    - (ii) under 18.

Penalty: 5 penalty units.

- (6) A person may refuse to sell or supply liquor to another person on Gallery land, or in a Gallery building if the other person does not satisfy the first person of the other person's age.

## **10 Buying or obtaining liquor**

- (1) A person commits an offence if the person:
- (a) is on Gallery land or in a Gallery building; and
  - (b) buys or obtains liquor; and
  - (c) is under 18.

Penalty: 5 penalty units.

- (2) A person commits an offence if:
- (a) the person sends another person to buy or obtain liquor; and
  - (b) the place to which the other person is sent to buy or obtain liquor is Gallery land or a Gallery building; and
  - (c) the other person is under 18.

Penalty for contravention of this subsection: 5 penalty units.

**Part 4** Conduct of persons on Gallery land and in Gallery buildings

**Division 1** Purposes of this Part

Section 11

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**Part 4—Conduct of persons on Gallery land and in Gallery buildings**

**Division 1—Purposes of this Part**

**11 Purposes of this Part**

For the purposes of paragraph 46(a) of the Act, this Part regulates the conduct of persons on Gallery land or in Gallery buildings.

## **Division 2—Security officers**

### **12 Security officers**

#### *Appointment of security officers*

- (1) The Director may, by instrument in writing, appoint a staff member (other than a volunteer) to be a security officer if the Director is reasonably satisfied that the staff member has received appropriate training.

#### *Identity cards*

- (2) The Director must issue an identity card to a security officer appointed under subsection (1).
- (3) The identity card must:
  - (a) be in the form (if any) approved by the Director; and
  - (b) contain a recent photograph of the person to whom it is issued.
- (4) A security officer must carry the identity card at all times when performing functions or exercising powers as a security officer.
- (5) A person commits an offence of strict liability if:
  - (a) the person ceases to be a security officer; and
  - (b) the person does not, within 14 days of so ceasing, return the person's identity card to the Director.

Penalty: 1 penalty unit.

- (6) Subsection (5) does not apply if the identity card was lost or destroyed.

Note: A defendant bears an evidential burden in relation to the matter in subsection (6): see subsection 13.3(3) of the *Criminal Code*.

### **13 Powers of security officers—directions to leave**

- (1) A security officer may direct a person or group of persons to leave Gallery land, a Gallery building or any part of Gallery land or a Gallery building if the security officer has reasonable grounds for believing that:
  - (a) public safety or the safety of staff members is, or may be, endangered by the continued presence of the person or the group on Gallery land or in a Gallery building; or
  - (b) the conduct of the person or group on Gallery land or in a Gallery building is likely to cause offence to members of the public or staff members; or
  - (c) the person or group intends to commit, is committing, or has committed, an offence against this instrument.
- (2) A security officer may direct members of the public or staff members to leave Gallery land, a Gallery building or any part of Gallery land or a Gallery building if the security officer has reasonable grounds for believing that the safety of members of the public or staff members on Gallery land or in a Gallery building is endangered for any reason.

Section 14

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**14 Powers of security officers—apprehension**

- (1) This section applies if a security officer has reasonable grounds for believing that a person on Gallery land, or in a Gallery building:
  - (a) intends to interfere with, is interfering with, or has interfered with, Gallery material; or
  - (b) intends to damage, is damaging, or has damaged, Gallery land, a Gallery building or Gallery material; or
  - (c) is refusing to comply with a direction given by a security officer in the performance of the officer's duties.
- (2) The security officer may apprehend the person, using such force as is reasonably necessary.
- (3) If the security officer apprehends the person, the person may be:
  - (a) removed from the Gallery land, a Gallery building, or both; or
  - (b) held in the custody of a security officer until the person can be taken into the custody of a member of a police force.
- (4) If a person is held in the custody of a security officer under paragraph (3)(b), the person must be delivered into the custody of a member of a police force as soon as practicable.

**15 Powers of security officers—vehicles and similar devices**

A security officer may direct a person who is apparently in charge of a vehicle, motor cycle, bicycle or a similar device for transportation that is on Gallery land:

- (a) to park the vehicle or device in a specified place on Gallery land; or
- (b) not to park the vehicle or device on Gallery land; or
- (c) not to park the vehicle or device in a specified place on Gallery land.

**16 Powers of security officers—possible prohibited articles**

- (1) A security officer may direct a person who is carrying an article on Gallery land or in a Gallery building to submit the article for inspection, if the article appears to the security officer to be a prohibited article.
- (2) A security officer may direct a person who is carrying an article on Gallery land or in a Gallery building to leave the article in an area designated for prohibited articles, if the article appears to the security officer to be a prohibited article.

**17 Powers of security officers—offence**

A person commits an offence if:

- (a) the person is on Gallery land or in a Gallery building; and
- (b) a security officer gives the person a direction under this Division; and
- (c) the person does not comply with the direction.

Penalty: 5 penalty units.

## **Division 3—Council notices**

### **18 Council notices**

- (1) The Council may, by legislative instrument, issue a notice (a **Council notice**) in accordance with subsection (2).
- (2) The notice must:
  - (a) be set out in the legislative instrument; and
  - (b) state that it is issued by the authority of the Council; and
  - (c) specify a prohibition, condition or restriction relating to Gallery land, a Gallery building or Gallery material.
- (3) A person commits an offence if:
  - (a) the person is on Gallery land or in a Gallery building; and
  - (b) a copy of a Council notice is displayed in accordance with subsection (4); and
  - (c) a prohibition, condition or restriction specified in the Council notice applies to the person; and
  - (d) the person does not comply with the prohibition, condition or restriction.

Penalty: 5 penalty units.

- (4) For the purposes of paragraph (3)(b), the Council notice must be clearly displayed:
  - (a) in a way that gives adequate notice to the public of the prohibition, condition or restriction; and
  - (b) at either or both of:
    - (i) the entrance to the area of the Gallery building or Gallery land to which the notice relates; and
    - (ii) the location to which the notice relates.

## Division 4—Other provisions

### 19 Damaging Gallery material and property

- (1) A person commits an offence if the person:
- (a) is on Gallery land or in a Gallery building; and
  - (b) touches a Gallery work of art or interferes with Gallery material.

Penalty: 5 penalty units.

- (2) A person commits an offence if:
- (a) the person is on Gallery land or in a Gallery building; and
  - (b) the person engages in conduct; and
  - (c) the conduct damages Gallery material.

Penalty: 5 penalty units.

- (3) Recklessness or negligence is the fault element for the result mentioned in paragraph (2)(c).

- (4) A person commits an offence if:
- (a) the person:
    - (i) attaches an article to a building, wall or fence; or
    - (ii) writes on a building, fixture, fitting, wall or fence; and
  - (b) the building is a Gallery building, or the wall, fence, fixture or fitting is on Gallery land.

Penalty: 5 penalty units.

- (5) A person commits an offence if:
- (a) the person engages in conduct; and
  - (b) the conduct damages a building, fixture, fitting, wall, fence, plant or garden; and
  - (c) the building is a Gallery building, or the wall, fence, fixture, fitting, plant or garden is on Gallery land.

Penalty: 5 penalty units.

- (6) Recklessness or negligence is the fault element for the result mentioned in paragraph (5)(b).

- (7) This section does not limit section 29 of the *Crimes Act 1914* (about destroying or damaging Commonwealth property).

### 20 Selling articles

A person commits an offence if the person:

- (a) is on Gallery land or in a Gallery building; and
- (b) engages in conduct that exposes or causes to be exposed for show, sale or hire any article for use or consumption by a member of the public.

Penalty: 5 penalty units.

## 21 Animals

- (1) A person commits an offence if:
- (a) the person allows an animal belonging to the person, or in the person's charge, to enter or remain in a building; and
  - (b) the building is a Gallery building.

Penalty: 5 penalty units.

- (2) Subsection (1) does not apply if:
- (a) the person is a person with a disability (within the meaning of the *Disability Discrimination Act 1992*) and the animal is an assistance animal; or
  - (b) the person is a member of a police force acting in accordance with the person's duties.

Note: A defendant bears an evidential burden in relation to the matters in subsection (2): see subsection 13.3(3) of the *Criminal Code*.

- (3) A person commits an offence if:
- (a) the person allows an assistance animal belonging to the person, or in the person's charge, to enter or remain in a building; and
  - (b) the building is a Gallery building; and
  - (c) the animal is not restrained on a lead or by other reasonable means.

Penalty for contravention of this subsection: 5 penalty units.

## 22 Foods and liquids

- (1) A person commits an offence if:
- (a) the person:
    - (i) brings food or liquid into a building; or
    - (ii) consumes food or liquid in a building; and
  - (b) the building is a Gallery building.

Penalty: 5 penalty units.

- (2) Subsection (1) does not apply:
- (a) if the food or liquid is medication; or
  - (b) to bringing water into a Gallery building if the water is in a sealed container; or
  - (c) to consuming water while:
    - (i) seated; or
    - (ii) in a foyer of a Gallery building;  
and at least 2 metres away from a Gallery work of art; or
  - (d) to bringing food or liquid into a Gallery building for the purpose of feeding an infant if the food or liquid is in a sealed container; or
  - (e) to bringing food or liquid into, or consuming food or liquid in, an area designated for consuming food or liquid.

**Part 4** Conduct of persons on Gallery land and in Gallery buildings

**Division 4** Other provisions

**Section 23**

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Note: A defendant bears an evidential burden in relation to the matter in subsection (2): see subsection 13.3(3) of the *Criminal Code*.

**23 Smoking**

A person commits an offence if the person:

- (a) is on Gallery land or in a Gallery building; and
- (b) smokes.

Penalty: 5 penalty units.

**24 Prohibited articles**

(1) A person commits an offence if:

- (a) the person:
  - (i) brings a prohibited article into a building; or
  - (ii) uses a prohibited article in a building; and
- (b) the building is a Gallery building.

Penalty: 5 penalty units.

(2) Subsection (1) does not apply to:

- (a) bringing a prohibited article into a Gallery building if the person deposits the item, as soon as practicable, at the place in the Gallery building designated for that purpose; or
- (b) bringing a camera or camera bag into a Gallery building, or using a camera, for non-commercial purposes.

Note: A defendant bears an evidential burden in relation to the matters in subsection (2): see subsection 13.3(3) of the *Criminal Code*.



## **Division 5—Defences**

### **25 Defences**

- (1) It is a defence to a prosecution under Part 3 or this Part that, when the relevant conduct was engaged in, the Council had consented, in writing, to the conduct.
- (2) It is a defence to a prosecution under Part 3 or this Part that the person accused of the offence is:
  - (a) a member of the Council; or
  - (b) the Director; or
  - (c) a staff member;acting in accordance with the person's duties.

Note: A defendant bears an evidential burden in relation to the matters in this section: see subsection 13.3(3) of the *Criminal Code*.

## **Part 5—Entry charges**

### **26 Entry charges**

- (1) For the purposes of paragraph 46(b) of the Act, no charge is fixed for entry by a person into a Gallery building or onto Gallery land.
- (2) This section does not prevent the Gallery from fixing charges for:
  - (a) special exhibitions or other special events under paragraph 7(2)(gb) of the Act; or
  - (b) parking in a Gallery building or on Gallery land.

## **Part 6—Transitional provisions**

### **27 Definitions**

In this Part:

*old regulations* means the *National Gallery Regulations 1982*, as in force immediately before the commencement of this section.

### **28 Authorisation to supply liquor**

An authority:

- (a) given under subregulation 9(1) of the old regulations; and
- (b) in force immediately before the commencement of this section;

has effect, from that commencement, as if it were an authorisation given under section 8 of this instrument.

### **29 Security officers**

- (1) An appointment:

- (a) made under subregulation 5(1) of the old regulations; and
- (b) in force immediately before the commencement of this section;

has effect, from that commencement, as if it had been made under subsection 12(1) of this instrument.

- (2) An identity card:

- (a) issued under subregulation 5(2) of the old regulations; and
- (b) in force immediately before the commencement of this section;

has effect, from that commencement, as if had been issued under subsection 12(2) of this instrument.

### **30 Council notices**

A notice:

- (a) issued by the authority of the Council under the old regulations; and
- (b) in force immediately before the commencement of this section;

has effect, from that commencement, as if it had been issued under subsection 18(1) of this instrument.

### **31 Consent of Council**

For the purposes of subsection 25(1), it does not matter whether consent was given before, on or after the commencement of this section.

## **Schedule 1—Repeals**

### *National Gallery Regulations 1982*

#### **1 The whole of the instrument**

Repeal the instrument.