

National Gallery Regulations 2018

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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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Note: This table relates only to the provisions of this instrument as originally made.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 Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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*.

***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

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.

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.

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.