



National Library 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 13 September 2018

Peter Cosgrove
Governor-General

By His Excellency's Command

Mitch Fifield
Minister for Communications and the Arts

Contents

Part 1—Preliminary	1
1 Name.....	1
2 Commencement	1
3 Authority.....	1
4 Schedules	1
5 Definitions	1
Part 2—Purchase and disposal of assets	4
6 Power to purchase and dispose of assets	4
Part 3—Supply of liquor	5
7 Purposes of this Part.....	5
8 Authorisation to supply liquor	5
9 Supply of liquor	5
10 Buying or obtaining liquor.....	6
Part 4—Control of Library property	7
Division 1—Purposes of this Part	7
11 Purposes of this Part.....	7
Division 2—Authorised officers	8
12 Authorised officers.....	8
13 Powers of authorised officers—prohibiting entry	8
14 Powers of authorised officers—directions to leave.....	9
15 Powers of authorised officers—vehicles.....	9
16 Powers of authorised officers—possible prohibited articles	9
17 Powers of authorised officers—taking photographs	9
18 Powers of authorised officers—deletion and destruction of photographs	10
19 Powers of authorised officers—offence.....	10
Division 3—Director-General notices	11
20 Director-General notices	11
Division 4—Access to, and use of, certain Library material	12
21 Director-General may prohibit or restrict access to, and use of, certain Library material	12
22 Authorised officers may prohibit or restrict access to, and use of, certain Library material	12
23 Conditions on reproduction of an item of certain Library material	13
24 Offences relating to use of library material.....	13
Division 5—Miscellaneous offences	15
25 Damaging Library material and property	15
26 Dangerous items on Library property	15
27 Selling articles.....	16
28 Animals.....	16
29 Foods and liquids.....	16
30 Smoking.....	17
31 Prohibited articles	17
Division 6—Defences	18
32 Defences	18
Division 7—Delegations	19
33 Delegation by the Director-General	19

Division 8—Review of decisions	20
34 Review by Administrative Appeals Tribunal	20
Part 5—Transitional provisions	21
35 Definitions	21
36 Authorisation to supply liquor	21
37 Authorised officers.....	21
38 Director-General notices	21
39 Directions prohibiting access or imposing conditions etc.	21
40 Directions on reproduction of unique or rare items of library material	21
41 Consent of Director-General	22
Schedule 1—Repeals	23
<i>National Library Regulations 1994</i>	23

Part 1—Preliminary

1 Name

This instrument is the *National Library 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.	15 September 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 Library Act 1960*.

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

- (1) In this instrument:

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

- (a) Council;
- (b) Director-General;
- (c) Library;
- (d) library material.

Act means the *National Library Act 1960*.

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

Section 5

authorised liquor supplier means a person authorised under subsection 8(1) to sell liquor.

authorised officer means:

- (a) the Director-General; or
- (b) a person appointed under subsection 12(1) to be an authorised officer.

Classification Act means the *Classification (Publications, Films and Computer Games) Act 1995*.

Director-General notice has the meaning given by subsection 20(1).

electronic Library material means library material that forms part of the Library collection and is in electronic form.

high classification means:

- (a) for a publication (within the meaning of the Classification Act)—a classification of Category 1 restricted, Category 2 restricted or RC; or
- (b) for a film (within the meaning of that Act)—a classification of MA 15+, R 18+, X 18+ or RC; or
- (c) for a computer game (within the meaning of that Act)—a classification of MA 15+, R 18+ or RC.

Library building means a building owned by or under the control of the Library.

Library collection material means library material that forms part of the Library collection and that is on or in Library property.

Library premises means premises in the Australian Capital Territory owned by or under the control of the Library.

Library property means land and buildings owned by or under the control of the Library.

liquor has the same meaning as in subsection 27A(3) of the Act.

loan record, in relation to an item of library material, means a record, held by the Library, of:

- (a) the identity of the item; and
- (b) the full name and address of the person to whom the item has been lent; and
- (c) the date on which the item was lent; and
- (d) the date on which the item is to be returned to the Library.

prohibited article means:

- (a) an implement, other than a pen or pencil, that could be used to damage or conceal library 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 in either:
 - (i) a cube each edge of which is 300 millimetres long; or

- (ii) a cube of a size determined by the Director-General under subsection (3).

reading room means an area in a Library building supervised by any or all of the following persons where library material forming part of the Library's collection is lent to, and used by, visitors to the Library:

- (a) staff members;
- (b) persons employed under contract with the Library; or
- (c) persons employed or engaged by persons mentioned in paragraph (b); or
- (d) volunteers engaged by the Library to assist the Library.

staff member means a member of the staff of the Library.

vehicle includes a motor vehicle, motorcycle, bicycle or a similar device for transportation.

- (2) A reference in this instrument to Library property includes a reference to a part of any such Library property.
- (3) The Director-General may, by legislative instrument, determine the size of a cube for the purposes of subparagraph (c)(ii) of the definition of **prohibited article**.

Part 2—Purchase and disposal of assets

6 Power to purchase and dispose of assets

For the purposes of paragraphs 7A(1)(a), (b) and (c) 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 27A(1) of the Act.

8 Authorisation to supply liquor

- (1) The Director-General may, in writing, authorise a person, or a class of persons, to sell or supply liquor on or in Library premises.
- (2) The Director-General must specify in the authorisation:
 - (a) the parts of Library premises where liquor may be sold or supplied; and
 - (b) the hours during which liquor may be sold or supplied.
- (3) The Director-General 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 or in Library premises; 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 or in Library premises 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 or in Library premises; 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 or in Library premises; and

Section 10

- (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 or in Library premises; 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 or in Library premises 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 or in Library premises; 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 Library premises; and
 - (c) the other person is under 18.

Penalty for contravention of this subsection: 5 penalty units.

Part 4—Control of Library property

Division 1—Purposes of this Part

11 Purposes of this Part

This Part is made for the purposes of section 27B of the Act.

Division 2—Authorised officers

12 Authorised officers

Appointment of authorised officers

- (1) The Director-General may, by instrument in writing, appoint any of the following persons to be an authorised officer if the Director-General is reasonably satisfied that the person has received appropriate training:
 - (a) a staff member;
 - (b) a person employed under contract with the Library;
 - (c) a person employed or engaged by a person mentioned in paragraph (b).

Identity cards

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

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 authorised officers—prohibiting entry

- (1) An authorised officer may prohibit a person (the *first person*) or a group of persons from entering Library property if the authorised officer has reasonable grounds for believing that:
 - (a) the first person or group has, under section 14, been directed to leave Library property on one or more occasions; or
 - (b) the safety of another person will be, or is likely to be, endangered by the presence of the first person or the group on or in Library property; or
 - (c) the conduct of the first person or group on or in Library property will cause, or is likely to cause, offence to another person; or
 - (d) the first person or group is likely to commit an offence against this instrument.

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- (2) An authorised officer may prohibit a person or a group of persons from entering Library property if the authorised officer has reasonable grounds for believing that the safety of the person or group on or in Library property will be, or is likely to be, endangered for any reason.

Note: Applications may be made to the Administrative Appeals Tribunal for review of an authorised officer's decision (see section 34).

14 Powers of authorised officers—directions to leave

- (1) An authorised officer may direct a person (the *first person*) or group of persons to leave Library property if the authorised officer has reasonable grounds for believing that:
- (a) another person is, or may be, endangered by the continued presence of the first person or group on or in Library property; or
 - (b) the conduct of the first person or group on or in Library property is likely to cause offence to another person; or
 - (c) the first person or group:
 - (i) intends to commit, is committing, or has committed, an offence against this instrument; or
 - (ii) has engaged in conduct that obstructs, disturbs or annoys another person on or in Library property; or
 - (iii) has engaged in conduct that destroys, alters or erases a computer program on a computer, computer system or part of a computer system that is owned by or under the control of the Library.
- (2) An authorised officer may direct a person or group of persons to leave Library property if the authorised officer has reasonable grounds for believing that the safety of the person or group on or in Library property is endangered for any reason.

15 Powers of authorised officers—vehicles

An authorised officer may direct a person who is apparently in charge of a vehicle that is on or in Library property:

- (a) to park the vehicle in a specified place on or in Library property; or
- (b) not to park the vehicle on or in Library property; or
- (c) not to park the vehicle in a specified place on or in Library property.

16 Powers of authorised officers—possible prohibited articles

- (1) An authorised officer may direct a person who is carrying an article on or in Library property to submit the article for inspection, if the article appears to the authorised officer to be a prohibited article.
- (2) An authorised officer may direct a person who is carrying an article on or in Library property to leave the article in an area designated for prohibited articles, if the article appears to the authorised officer to be a prohibited article.

17 Powers of authorised officers—taking photographs

An authorised officer may direct a person who is on or in Library property:

Section 18

- (a) not to take any photographs while on or in Library property; or
- (b) not to take photographs of specified Library collection material.

18 Powers of authorised officers—deletion and destruction of photographs

- (1) This section applies if an authorised officer has reasonable grounds to believe that a person has taken a photograph on or in any Library property in contravention of:
 - (a) any direction by an authorised officer under this Division; or
 - (b) a prohibition, condition or restriction in a Director-General notice; in relation to the taking of photographs.
- (2) The authorised officer may direct the person to delete or destroy the photograph.

19 Powers of authorised officers—offence

A person commits an offence if:

- (a) the person is on or in Library property; and
- (b) an authorised 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—Director-General notices

20 Director-General notices

- (1) The Director-General may, by legislative instrument, issue a notice (a *Director-General 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 Director-General; and
 - (c) specify a prohibition, condition or restriction relating to Library property or library material that is owned by or under the control of the Library.
- (3) A person commits an offence if:
 - (a) the person is on or in Library property; and
 - (b) a copy of a Director-General notice is displayed in accordance with subsection (4); and
 - (c) a prohibition, condition or restriction specified in the 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 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 the following:
 - (i) the entrance to the area of the Library property to which the notice relates;
 - (ii) the location to which the notice relates.

Division 4—Access to, and use of, certain Library material

21 Director-General may prohibit or restrict access to, and use of, certain Library material

- (1) The Director-General may, in writing, direct that access to, or use of, an item of:
- (a) Library collection material; or
 - (b) electronic Library material;
- is prohibited, or subject to conditions specified in the direction, if subsection (2), (3) or (5) applies in relation to the item.

Note: Applications may be made to the Administrative Appeals Tribunal for review of the Director-General's decision (see section 34).

Damage to item, or breach of agreement, from access or use of item

- (2) This subsection applies in relation to an item if the Director-General has reasonable grounds to believe that access or use of the item:
- (a) in the case of an item of Library collection material—could result in damage to the item; or
 - (b) would be in breach of an agreement that applies to use of the item.

Item with high classification

- (3) This subsection applies in relation to an item if the item has:
- (a) been classified under the Classification Act by the Classification Board with a high classification; or
 - (b) if the item has not been classified by the Classification Board—the Director-General is reasonably satisfied the item would be classified by the Classification Board with a high classification if the item were to be classified by the Board.
- (4) For the purposes of paragraph (3)(b), the Director-General must consider:
- (a) the National Classification Code (within the meaning of the Classification Act); and
 - (b) any classification guidelines made under section 12 of the Classification Act, as in force from time to time, that apply in relation to the item.

Other grounds

- (5) This subsection applies in relation to an item if the item is, or is likely to be, connected with legal proceedings (including the outcome of such proceedings).

22 Authorised officers may prohibit or restrict access to, and use of, certain Library material

An authorised officer may refuse to allow access to, or use of, an item of Library collection material or electronic Library material if the officer has reasonable grounds to believe that access or use:

- (a) in the case of an item of Library collection material—could result in damage to the item; or
- (b) would be in breach of an agreement that applies to use of the item; or
- (c) would contravene a direction issued under subsection 21(1) or 24.

Note: Applications may be made to the Administrative Appeals Tribunal for review of an authorised officer's decision (see section 34).

23 Conditions on reproduction of an item of certain Library material

- (1) The Council or an authorised officer may, in writing, direct a person using a unique or rare item of Library collection material or electronic Library material:
 - (a) not to produce a facsimile of the item or part of the item without the written permission of the Council or an authorised person; or
 - (b) to give written notice to the Council or the authorised officer (as the case requires) of any intention to publish matter from the item in any form.
- (2) A person commits an offence if:
 - (a) the Council or an authorised officer gives the person a direction under subsection (1); and
 - (b) the person does not comply with the direction.

Penalty: 5 penalty units.

- (3) The Council or an authorised person may, in writing, direct a person publishing matter from a unique or rare item of Library collection material or electronic Library material to acknowledge the source of the matter in a manner approved, in writing, by the Council or authorised person.
- (4) A person commits an offence if:
 - (a) the Council or an authorised officer gives the person a direction under subsection (3); and
 - (b) the person does not comply with the direction.

Penalty for contravention of this subsection: 5 penalty units.

24 Offences relating to use of library material

- (1) A person commits an offence if:
 - (a) the person:
 - (i) removes an item of library material from a storage area or a reading room; or
 - (ii) places anything on an item of library material to copy or trace the library material; and
 - (b) the library material is Library collection material.

Penalty: 5 penalty units.

- (2) Subsection (1) does not apply if the person has a written permission from an authorised officer for the relevant conduct.

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

Part 4 Control of Library property

Division 4 Access to, and use of, certain Library material

Section 24

- (3) A person commits an offence if:
- (a) the person removes an item of library material from property; and
 - (b) the property is Library property; and
 - (c) the library material is Library collection material.

Penalty: 5 penalty units.

- (4) Subsection (3) does not apply if the person:
- (a) has a written permission from an authorised officer for the relevant conduct; or
 - (b) has a loan record for the item approved by an authorised officer.

Note: A defendant bears an evidential burden in relation to the matter in subsection (4): see subsection 13.3(3) of the *Criminal Code*.

- (5) A person commits an offence if:
- (a) the person handles an item of library material; and
 - (b) the handling is likely to damage the library material; and
 - (c) the library material is Library collection material.

Penalty: 5 penalty units.

- (6) This section does not apply to a person approved, in writing, by the Director-General to undertake work for the purposes of maintaining and developing Library collection material.

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

Division 5—Miscellaneous offences

25 Damaging Library material and property

- (1) A person commits an offence if the person:
- (a) is on or in Library property; and
 - (b) interferes with library material; and
 - (c) the library material is owned by or under the control of the Library.

Penalty: 5 penalty units.

- (2) A person commits an offence if:
- (a) the person is on or in Library property; and
 - (b) the person engages in conduct; and
 - (c) the conduct damages library material; and
 - (d) the library material is owned by or under the control of the Library.

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 Library building, or the wall, fence, fixture or fitting is on or in Library property.

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 Library building, or the wall, fence, fixture, fitting, plant or garden is on or in Library property.

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 132.8A of the *Criminal Code* (about damaging or destroying Commonwealth property).

26 Dangerous items on Library property

- (1) A person commits an offence if:
- (a) the person:

Section 27

- (i) brings a projectile or an inflammable or explosive article or substance on to property; or
 - (ii) has in the person's possession a projectile or an inflammable or explosive article or substance on property; and
- (b) the property is Library property.

Penalty: 5 penalty units.

- (2) Subsection (1) does not apply if the person has a written permission from an authorised officer for the relevant conduct.

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

27 Selling articles

A person commits an offence if the person:

- (a) is on or in Library property; 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.

28 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 Library 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 Library 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.

29 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 Library 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 Library building if the water is in a sealed and transparent container; or
 - (c) 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*.

30 Smoking

A person commits an offence if the person:

- (a) is on or in Library property; and
- (b) smokes in an area that is not designated for smoking.

Penalty: 5 penalty units.

31 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 Library building.

Penalty: 5 penalty units.

- (2) Subsection (1) does not apply to:
 - (a) bringing a prohibited article into a Library building if the person deposits the item, as soon as practicable, at the place in the Library building designated by the Director-General for that purpose; or
 - (b) bringing a camera or camera bag into a Library 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 6—Defences

32 Defences

- (1) It is a defence to a prosecution under Part 3 or this Part that, when the relevant conduct was engaged in, the Director-General 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-General; or
 - (c) a staff member; or
 - (d) a person engaged as a consultant to the Library; or
 - (e) a person employed under contract with the Library; or
 - (f) a person employed or engaged by a person mentioned in paragraph (e); or
 - (g) a volunteer engaged by the Library to assist the Library;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*.

Division 7—Delegations

33 Delegation by the Director-General

- (1) The Director-General may, in writing, delegate any or all of the Director-General's powers under this instrument to an SES employee, or acting SES employee, in the Library.

Note: The expressions SES employee and acting SES employee are defined in section 2B of the *Acts Interpretation Act 1901*.

- (2) In exercising powers under a delegation under subsection (1), the delegate must comply with any directions of the Director-General.

Division 8—Review of decisions

34 Review by Administrative Appeals Tribunal

Applications may be made to the Administrative Appeals Tribunal for review of a decision of:

- (a) an authorised officer under section 13 to prohibit entry on to Library property; or
- (b) the Director-General under subsection 21(1) to direct that the access to, or use of, an item of Library collection material or electronic Library material be prohibited or subject to conditions; or
- (c) an authorised officer under section 22 to refuse to allow access to, or use of, an item of Library collection material or electronic Library material.

Part 5—Transitional provisions

35 Definitions

In this Part:

old regulations means the *National Library Regulations 1994*, as in force immediately before the commencement of this section.

36 Authorisation to supply liquor

An authority:

- (a) given under subregulation 13(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.

37 Authorised officers

A person who was an authorised person for the purposes of the old regulations immediately before the commencement of this section is, from that commencement, taken to be an authorised officer for the purposes of this instrument.

38 Director-General notices

A notice:

- (a) issued by the authority of the Director-General in accordance with 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 had been issued as a Director-General notice under subsection 20(1) of this instrument.

39 Directions prohibiting access or imposing conditions etc.

A direction:

- (a) issued under subregulation 19(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 issued as a direction under subsection 21(1) of this instrument.

40 Directions on reproduction of unique or rare items of library material

A direction:

- (a) issued under regulation 20 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 issued as a direction under section 23 of this instrument.

Section 41

41 Consent of Director-General

For the purposes of subsection 32(1), it does not matter whether consent was given before, on or after the commencement of this section.

Schedule 1—Repeals

National Library Regulations 1994

1 The whole of the instrument

Repeal the instrument.