



National Museum of Australia Regulations 2019

I, General the Honourable David Hurley AC DSC (Retd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 19 September 2019

David Hurley
Governor-General

By His Excellency's Command

Paul Fletcher
Minister for Communications, Cyber Safety and the Arts

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Part 1—Preliminary

1 Name

This instrument is the *National Museum of Australia Regulations 2019*.

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	1 October 2019.	1 October 2019

Note: This table relates only to the provisions of this instrument as originally made.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 Museum of Australia Act 1980*.

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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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) historical material;
- (d) Museum;
- (e) national historical collection.

In this instrument:

Act means the *National Museum of Australia Act 1980*.

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

Section 5

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

authorised officer means a person who is appointed under section 12 to be an authorised officer.

Director's notice has the meaning given by subsection 21(1).

e-cigarette has the meaning given by subsection 27(3).

engage in conduct has the meaning given by the *Criminal Code*.

liquor has the meaning given by subsection 41(3) of the Act.

liquor controlled premises means premises in the Australian Capital Territory that are owned by or under the control of the Museum.

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

Museum contractor means:

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

Museum land means land owned by or under the control of the Museum.

Museum material means:

- (a) material forming part of the national historical collection; or
- (b) other material owned by, or under the control of, the Museum; or
- (c) any structure, equipment or material kept by the Museum for purposes relating to the exhibition or display of, or research, educational or publicity activities in relation to, material referred to in paragraph (a) or (b).

Museum premises means a Museum building or Museum land.

non-tobacco smoking product has the meaning given by subsection 27(3).

prohibited article means:

- (a) an implement, other than a pen or pencil, that could be used to damage or conceal Museum 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.

smokes has the meaning given by subsection 27(2).

staff member means:

- (a) a member of the staff of the Museum mentioned in section 30 of the Act; or
- (b) a person whose services are made available to the Museum under section 31 of the Act; or
- (c) a Museum contractor who is an individual; or
- (d) a volunteer.

tobacco product has the meaning given by subsection 27(3).

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

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

Part 2—Entering into contracts

6 Power to enter into contracts

For the purposes of paragraphs 37(a) and (b) 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 41(1) of the Act.

8 Authorisation to supply liquor

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

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

- (3) If a person:
 - (a) is on or in liquor controlled premises; and
 - (b) is an authorised liquor supplier; and
 - (c) sells or supplies liquor;

the person must comply with the conditions to which the person's authorisation as an authorised liquor supplier is subject under subsection 8(2) or (3).
- (4) A person commits an offence if:
 - (a) the person is subject to a requirement under subsection (3); and
 - (b) the person engages in conduct; and
 - (c) the person's conduct contravenes the requirement.

Section 10

Penalty: 5 penalty units.

Adulterated liquor

- (5) A person commits an offence if:
- (a) the person is on or in liquor controlled premises; and
 - (b) the person sells or supplies liquor; and
 - (c) the liquor is adulterated.

Penalty: 5 penalty units.

Intoxicated persons and minors

- (6) A person commits an offence if:
- (a) the person is on or in liquor controlled 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.

- (7) A person may refuse to sell or supply liquor to another person on or in liquor controlled 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 liquor controlled 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 liquor controlled premises; and
 - (c) the other person is under 18.

Penalty for contravention of this subsection: 5 penalty units.

Part 4—Conduct of persons on Museum premises

Division 1—Purposes of this Part

11 Purposes of this Part

This Part is made for the purposes of paragraphs 44(a), (c) and (d) of the Act.

Section 12

Division 2—Authorised officers

12 Authorised officers

Appointment of authorised officers

- (1) The Director may, in writing, appoint any of the following persons to be an authorised officer if the Director is reasonably satisfied that the person has received appropriate training:
 - (a) a member of the staff of the Museum mentioned in section 30 of the Act;
 - (b) a person whose services are made available to the Museum under section 31 of the Act;
 - (c) a Museum contractor who is an individual.

Identity cards

- (2) The Director must issue an identity card to an authorised officer appointed under subsection (1).
- (3) The identity card must 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 who ceases to be an authorised officer must return the person's identity card to the Director within 14 days of so ceasing.
- (6) A person commits an offence of strict liability if:
 - (a) the person is subject to a requirement under subsection (5); and
 - (b) the person engages in conduct; and
 - (c) the person's conduct contravenes the requirement.

Penalty: 1 penalty unit.

- (7) Subsections (5) and (6) do not apply if the identity card was lost or destroyed.

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

13 Powers of authorised officers—prohibiting entry

- (1) An authorised officer may prohibit a person or a group of persons from entering Museum premises if the authorised officer has reasonable grounds for believing that:
 - (a) the person or group has, under section 14, been directed to leave Museum premises on one or more occasions; or
 - (b) the person has, under section 15, been removed from Museum premises on one or more occasions; or
 - (c) public safety or the safety of staff members will be, or is likely to be, endangered by the presence of the person or the group on or in Museum premises; or

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- (d) the conduct of the person or group on or in Museum premises will cause, or is likely to cause, offence to members of the public or staff members; or
 - (e) the person or group is likely to commit an offence against this instrument.
- (2) An authorised officer may prohibit members of the public or staff members from entering Museum premises if the authorised officer has reasonable grounds for believing that the safety of members of the public or staff members on or in Museum premises 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 32.

14 Powers of authorised officers—directions to leave

- (1) An authorised officer may direct a person or group of persons to leave Museum premises or any part of Museum premises if the authorised 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 or in Museum premises; or
 - (b) the conduct of the person or group on or in Museum premises 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) If an authorised officer issues a direction to a person in accordance with paragraph (1)(c), the authorised officer may do either or both of the following:
- (a) take a photograph of the person;
 - (b) direct the person to provide the person's name and residential address to the authorised officer.
- (3) An authorised officer may direct members of the public or staff members to leave Museum premises or any part of Museum premises if the authorised officer has reasonable grounds for believing that the safety of members of the public or staff members on or in Museum premises is endangered for any reason.

15 Powers of authorised officers—apprehension

- (1) This section applies if an authorised officer has reasonable grounds for believing that a person on or in Museum premises:
- (a) intends to interfere with, is interfering with, or has interfered with, Museum material; or
 - (b) intends to damage, is damaging, or has damaged, Museum premises or Museum material; or
 - (c) is refusing, or has refused, to comply with a direction given by an authorised officer in the performance of the officer's duties.
- (2) The authorised officer may apprehend the person, using such force as is reasonably necessary.
- (3) If the authorised officer apprehends the person, the person may be:
- (a) removed from Museum premises; or

Section 16

- (b) held in the custody of an authorised 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 an authorised officer under paragraph (3)(b), the person must be delivered into the custody of a member of a police force as soon as practicable.

16 Powers of authorised officers—vehicles

An authorised officer may direct a person who is on or in Museum premises and apparently in charge of a vehicle:

- (a) to park the vehicle on or in Museum premises; or
- (b) to park the vehicle in a specified place on or in Museum premises; or
- (c) not to park the vehicle on or in Museum premises; or
- (d) not to park the vehicle in a specified place on or in Museum premises.

17 Powers of authorised officers—possible prohibited articles

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

18 Powers of authorised officers—taking photographs

An authorised officer may direct a person who is on or in Museum premises:

- (a) not to take any photographs while on or in Museum premises or any part of Museum premises; or
- (b) not to take photographs of specified Museum material.

19 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 Museum premises, or any part of Museum premises, in contravention of:
 - (a) any direction by an authorised officer under this Division; or
 - (b) a prohibition, condition or restriction in a Director's notice; in relation to the taking of photographs.
- (2) The authorised officer may direct the person to delete or destroy the photograph.

20 Powers of authorised officers—offence

- (1) If:
 - (a) a person is on or in Museum premises; and
 - (b) an authorised officer gives the person a direction under this Division; the person must comply with the direction.

- (2) A person commits an offence if:
- (a) the person is subject to a requirement under subsection (1); and
 - (b) the person engages in conduct; and
 - (c) the person's conduct contravenes the requirement.

Penalty for contravention of this subsection: 5 penalty units.

Section 21

Division 3—Director's notices

21 Director's notices

- (1) The Director may, by legislative instrument, issue a notice (a *Director's 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; and
 - (c) specify a prohibition, condition or restriction relating to Museum premises or Museum material.
- (3) If:
 - (a) a person is on or in Museum premises; and
 - (b) a copy of a Director's notice is displayed in accordance with subsection (4); and
 - (c) a prohibition, condition or restriction specified in the notice applies to the person;the person must comply with the prohibition, condition or restriction.
- (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:
 - (i) the entrance to the area of the Museum premises to which the notice relates; and
 - (ii) the location to which the notice relates.
- (5) A person commits an offence if:
 - (a) the person is subject to a requirement under subsection (3); and
 - (b) the person engages in conduct; and
 - (c) the person's conduct contravenes the requirement.

Penalty for contravention of this subsection: 5 penalty units.

Division 4—Other provisions

22 Damaging Museum material and property

- (1) A person commits an offence if the person:
- (a) is on or in Museum premises; and
 - (b) touches or interferes with material; and
 - (c) the material is of a kind mentioned in paragraph (a) or (b) of the definition of *Museum material* in section 5.

Penalty: 5 penalty units.

- (2) A person commits an offence if:
- (a) the person is on or in Museum premises; and
 - (b) the person engages in conduct; and
 - (c) the conduct damages Museum 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, structure, wall or fence; or
 - (ii) writes on a building, structure, fixture, fitting, wall or fence; and
 - (b) either:
 - (i) the building or structure is Museum premises; or
 - (ii) the wall, fence, fixture or fitting is on land that is Museum premises.

Penalty: 5 penalty units.

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

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).

Section 23

23 Selling articles

A person commits an offence if the person:

- (a) is on or in Museum premises; 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.

24 Photographing, copying etc. material in national historical collection

(1) A person commits an offence if:

- (a) the person makes, uses, prints, publishes, exhibits, sells or offers for sale a replica, photograph, representation or copy of any material; and
- (b) the person knows that the material is historical material forming part of the national historical collection.

Penalty: 5 penalty units.

(2) Subsection (1) does not apply to making, using, printing, publishing or exhibiting a replica, photograph, representation or copy for non-commercial purposes.

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

25 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 Museum 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; or
- (c) the animal is under the control of the Museum.

Note: A defendant bears an evidential burden in relation to the matters in this subsection: 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 Museum 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.

26 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 Museum building.

Penalty: 5 penalty units.

- (2) Subsection (1) does not apply:
- (a) if the food or liquid is for medical purposes; or
 - (b) to bringing water into, or drinking water in, a Museum building if the water is in a sealed container; or
 - (c) to bringing food or liquid into a Museum building for the purpose of feeding an infant if the food or liquid is in a sealed container; or
 - (d) to breastfeeding an infant; or
 - (e) to bringing food or liquid into, or consuming food or liquid in, an area in a Museum building designated for consuming food or liquid.

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

27 Smoking

- (1) A person commits an offence if the person:
- (a) is on or in Museum premises; and
 - (b) smokes.

Penalty: 5 penalty units.

- (2) A person **smokes** if the person uses, consumes, holds or otherwise has control over a tobacco product, non-tobacco smoking product or e-cigarette that is generating (whether or not by burning) smoke or an aerosol or vapour

- (3) In this instrument:

e-cigarette includes any device that is designed to generate or release an aerosol or vapour (whether or not containing nicotine) by electronic means for inhalation by its user in a manner that replicates, or produces an experience similar to, the inhalation of smoke from an ignited tobacco product or ignited non-tobacco smoking product.

Example: E-cigar, e-hookah pen, e-pen, e-pipe or vape pen.

non-tobacco smoking product means:

- (a) any product (other than a tobacco product) that is intended to be smoked; or
- (b) any product known or described as herbal cigarettes.

tobacco product means tobacco, or a cigarette or cigar, or any other product containing tobacco and designed for human consumption or use.

Section 28

28 Prohibited articles

Bringing prohibited articles onto or into Museum premises

- (1) A person commits an offence if:
- (a) the person:
 - (i) brings a prohibited article onto or into any premises; or
 - (ii) uses a prohibited article on or in any premises; and
 - (b) the premises are Museum premises.

Penalty: 5 penalty units.

- (2) Subsection (1) does not apply to:
- (a) bringing a prohibited article onto or into Museum premises if the person deposits the item, as soon as practicable, at the place on or in the Museum premises designated for that purpose; or
 - (b) bringing a camera or camera bag onto or into Museum premises, or using a camera, for non-commercial purposes.

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

Division 5—Defences

29 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 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

30 Entry charges

- (1) This section is made for the purposes of paragraph 44(b) of the Act.

Director may fix entry charges

- (2) The Director may, in writing, fix charges for entry onto or into Museum premises.
- (3) Without limiting subsection 33(3A) of the *Acts Interpretation Act 1901*, the Director may, under subsection (2) of this section, fix:
- (a) different charges for different types of persons (including groups of persons); or
 - (b) charges for entry to an exhibition, program or other event held on or in Museum premises; or
 - (c) a single charge for entry:
 - (i) onto or into Museum premises; and
 - (ii) to an exhibition, program or other event.

Director may waive entry charges

- (4) The Director may, for the purposes of:
- (a) encouraging people to visit the Museum; or
 - (b) promoting access to the Museum for educational or disadvantaged groups;
- wave all or part of a charge that is payable under this section by a person or group of persons.

Part 6—Delegations

31 Delegation by Director

- (1) The Director may, in writing, delegate the Director's powers and functions under this instrument to an APS employee who is:
 - (a) either:
 - (i) a member of the staff of the Museum mentioned in section 30 of the Act; or
 - (ii) a person whose services are made available to the Museum under subsection 31(1) of the Act; and
 - (b) any of the following:
 - (i) an SES employee;
 - (ii) an acting SES employee;
 - (iii) classified as Executive Level 2;
 - (iv) acting in a position usually occupied by an APS employee who is classified as Executive Level 2.
- (2) A person exercising powers or performing functions under a delegation under subsection (1) must comply with any directions of the Director.

Part 7—Review of decisions

32 Review by Administrative Appeals Tribunal

Applications may be made to the Administrative Appeals Tribunal for review of a decision of an authorised officer under section 13 to prohibit entry onto or into Museum premises.

Part 8—Transitional provisions

Division 1—Provisions of this instrument as originally made

33 Definitions

In this Part:

old regulations means the *National Museum of Australia Regulations 2000*, as in force immediately before the commencement of this section.

34 Authorisation to supply liquor

An authority:

- (a) given under subregulation 8(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.

35 Authorised officers

- (1) This section applies in relation to a person if:
 - (a) the person was appointed to be an authorised officer under subregulation 10(1) of the old regulations; and
 - (b) the appointment was in force immediately before the commencement of this section; and
 - (c) paragraph 12(1)(a), (b) or (c) of this instrument applies to the person at that commencement.
- (2) The appointment has effect, from that commencement, as if it had been made under subsection 12(1) of this instrument.
- (3) A certificate:
 - (a) issued to the person under subregulation 10(2) 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 identity card issued under subsection 12(2) of this instrument.

36 Directions

- (1) For the purposes of paragraph 13(1)(a) of this instrument, a person or group of persons who has, under regulation 11 of the old regulations, been directed to leave Museum land, a Museum building, or a Museum building and Museum land, is taken to have, under section 14 of this instrument, been directed to leave Museum premises.
- (2) For the purposes of paragraph 13(1)(b) of this instrument, a person who has, under paragraph 12(3)(a) of the old regulations, been removed from Museum land, a Museum building, or both, is taken to have, under section 15 of this instrument, been removed from Museum premises.

Section 37

- (3) A direction:
- (a) given under regulation 13 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 given under section 16 of this instrument.

37 Director's notices

For the purposes of this instrument, a notice that:

- (a) immediately before the commencement of this section, was displayed on Museum land or in a Museum building under regulation 9 or 19 of the old regulations; and
- (b) specifies a prohibition, condition or restriction relating to Museum premises or Museum material; and
- (c) at that commencement, is displayed in accordance with subsection 21(4) of this instrument;

is taken to be a Director's notice.

38 Consent of Director

For the purposes of subsection 29(1), it does not matter whether consent was given before, on or after the commencement of this section.

39 Entry charges

- (1) This section applies if:
- (a) the Director determined a charge under regulation 7 of the old regulations; and
 - (b) the determination is in force immediately before the commencement of this section.
- (2) The Director is taken to fix the charge under subsection 30(2) of this instrument at that commencement.

40 Delegations

- (1) This section applies to a delegation to a person of a power of the Director under the old regulations if:
- (a) the delegation was made under regulation 27 of the old regulations; and
 - (b) the delegation was in force immediately before the commencement of this section; and
 - (c) at that commencement, paragraphs 31(1)(a) and (b) of this instrument apply to the person.
- (2) The delegation has effect from that commencement as if it were:
- (a) a delegation of the equivalent power under this instrument; and
 - (b) made under section 31 of this instrument.

Schedule 1—Repeals

National Museum of Australia Regulations 2000

1 The whole of the instrument

Repeal the instrument.