



New South Wales

Library Regulation 2005

under the

Library Act 1939

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Library Act 1939*.

BOB DEBUS, M.P.,
Minister for the Arts

Explanatory note

This Regulation replaces the *Library Regulation 2000* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*. The new Regulation makes provision in respect of the following matters:

- (a) the management of the State Library and of local libraries (including the maximum fee that may be charged for the late return of borrowed library material),
- (b) the conduct of users of the State Library and local libraries,
- (c) the amount used for the purposes of calculating the yearly subsidy payable to certain councils in respect of library services and related facilities provided by those councils,
- (d) the determination of local populations for subsidy purposes.

The *Library Act 1939 (the Act)* was recently amended by the *Statute Law (Miscellaneous Provisions) Act 2005*. Among other things, the amendments replaced the definition of **book** with a definition of **library material** in view of the vast amount of non-printed material (such as paintings, films and sound recordings) that now form part of the collection of a library. Consequently, this Regulation uses the generic term **library material**, rather than **book**, throughout.

This Regulation also makes it clear that the maximum fee that may be charged for the late return of borrowed library material is a fee per item of library material, and not per person.

This Regulation is made under the Act, including sections 10, 13 and 15 (the general regulation-making power).

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Library Regulation 2005

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Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Library Regulation 2005*.

2 Commencement

This Regulation commences on 1 September 2005.

Note. This Regulation replaces the *Library Regulation 2000* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

governing body of a library means:

- (a) in the case of the State Library—the Council, or
- (b) in the case of a local library—the relevant local authority.

library means:

- (a) the State Library or, depending on the context, the premises of the State Library, or
- (b) a local library that is provided, controlled or managed by a local authority by which the Act is for the time being adopted or, depending on the context, the premises of any such library.

library staff member means:

- (a) in the case of the State Library—any officer or employee referred to in section 7 of the Act, or
- (b) in the case of a local library—any member of staff of the library.

local authority, in relation to a library or library service, means the council of the local government area in which the library is situated or in which the library service is conducted.

premises of the State Library includes any premises used by the Council from time to time as part of, or in connection with, the State Library.

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Clause 3 Library Regulation 2005

Part 1 Preliminary

the Act means the *Library Act 1939*.

(2) Notes included in this Regulation do not form part of this Regulation.

Part 2 Management of libraries

Division 1 The State Library

4 State Library rules

- (1) The Council may make rules to regulate the use of any facilities, services or collections of the State Library.
- (2) The rules for the State Library may make provision with respect to the following matters:
 - (a) access to the State Library's facilities, services or collections,
 - (b) the conditions of use of the facilities, services or collections of the State Library,
 - (c) requiring persons to make undertakings in relation to the use of the facilities, services or collections of the State Library,
 - (d) any other matters relating to the use of the State Library.
- (3) The Council may require any person wishing to make use of the facilities, services or collections of the State Library to obtain the Council's consent to that use.

Division 2 Local libraries

5 Library material must not be removed unless borrower is registered

- (1) Only a person who is registered as a borrower at a local library may take library material away from that library.
- (2) The procedure for registration, including the term of registration, is to be determined by the local authority.
- (3) The local authority may refuse to register a person as a borrower at a library or may cancel a person's registration as a borrower:
 - (a) if the person is not a resident of the local government area of the local authority or of a local government area in relation to which the local authority has entered into an arrangement referred to in section 10 (3) of the Act, or
 - (b) if the person has failed to comply with the library rules for the library, or
 - (c) if, in the opinion of the local authority, the person is not a fit and proper person to be registered.

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Clause 6 Library Regulation 2005

Part 2 Management of libraries

6 Local library rules

- (1) A local authority may make rules to regulate the use of its local libraries.
- (2) The rules for a local library may make provision with respect to the following matters:
 - (a) the borrowing and returning of library material,
 - (b) the charges to be imposed for library material that is returned late and for library material that is lost, damaged or destroyed,
 - (c) any other matters relating to the use of the library.
- (3) It is a condition of a person's registration as a borrower at a local library that the person must comply with the library rules in force for the library.

7 Calculating the value of library material

- (1) The maximum charge that may be imposed by the rules for a local library for library material that is lost, damaged or destroyed is the full value of the library material or, if the library material is obtainable only as part of a series (for example, a series of books or discs), the full value of the series.
- (2) The full value of the library material or series is the value determined by the local authority, being a value not exceeding the sum of the following amounts:
 - (a) the original purchase price or the replacement purchase price, whichever is the greater,
 - (b) the cost of processing the library material or series for use in the local library.

8 Fee for the late return of library material

For the purposes of the definition of *charge* in section 10 (4) of the Act, the prescribed fee for the late return of library material is the fee determined by the local authority for the library, being a fee that (whether calculated on a daily, weekly or other basis) does not exceed \$50 per item of library material.

Part 3 Use of libraries and library material

9 Certain things must not be taken into a reading room

A person entering any library with any umbrella, bag, case or package, or any photographic or other equipment, must not take it beyond any vestibule of a library except with the consent of the governing body for the library.

Maximum penalty: 2 penalty units.

10 Reproduction of library material

- (1) The governing body of a library may give notice to users of the library that certain library material of the library is unsuitable for reproduction.
- (2) A person must not photograph, photocopy, trace or otherwise reproduce (whether by electronic or digital reproduction) any such library material.

Maximum penalty: 2 penalty units.

Note. See the *Copyright Act 1968* of the Commonwealth for other restrictions on making copies of **works** (as defined in that Act).

11 Damaging library material

- (1) A person must not write in or on or mark or cause any damage to any library material of any library.
Maximum penalty: 2 penalty units.
- (2) For the purposes of this clause, **damaging** library material includes tearing or otherwise mutilating or turning down or folding any leaf, sheet, page or plate of any library material.

12 Deliberate misplacing or hiding of library material

A person must not wilfully misplace or hide any library material, or any record of the library material, of any library.

Maximum penalty: 2 penalty units.

13 Noise

A person must not by speech or otherwise make any more noise in any library than is reasonably necessary for the use of the library.

Maximum penalty: 2 penalty units.

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Part 3 Use of libraries and library material

14 Proper use of a library

A person must not, without the consent of the governing body for the library, use any library for any other purpose than reading, consulting or borrowing the library material of the library or using any other library service or information service.

Maximum penalty: 2 penalty units.

15 Eating and drinking prohibited

A person must not eat or drink in any library otherwise than on those parts of the premises set aside for the purpose by the governing body for the library.

Maximum penalty: 2 penalty units.

16 Animals prohibited

- (1) A person must not take any animal into any library or leave any animal in such a library unless the person has the consent of the governing body for the library.

Maximum penalty: 2 penalty units.

- (2) This clause does not prohibit a person with a disability from taking an assistance animal into a library.

- (3) In this clause:

assistance animal means an animal referred to in section 9 of the *Disability Discrimination Act 1992* of the Commonwealth.

disability has the same meaning as it has in the *Disability Discrimination Act 1992* of the Commonwealth.

17 Library users may be directed to leave

- (1) A library staff member may direct any person to leave the library, and not to re-enter the library for such period as the staff member directs, if the staff member is of the opinion that:

- (a) the person has contravened any provision of this Part, or
(b) the person's condition, conduct, dress or manner is likely to give offence to any person in the library or to interfere with any other person's use of the library.

- (2) A person to whom such a direction is given must not fail to comply with the direction.

Maximum penalty: 2 penalty units.

- (3) The period for which a person may be excluded from the library by such a direction must not exceed the maximum period determined by the governing body of the library.

Part 4 Miscellaneous

18 Prescribed amount for subsidy

For the purposes of section 13 (4) (b) of the Act, the prescribed amount is \$1.85.

19 Determination of local population for subsidy purposes

For the purposes of section 13 (6) of the Act, the number of persons resident within the area of a local authority is the number of persons given as resident within that area in the table of the populations of local government areas most recently compiled by the Australian Bureau of Statistics before the year for which the subsidy is claimed.

20 Savings provision

Any act, matter or thing that, immediately before the repeal of the *Library Regulation 2000*, had effect under that Regulation is taken to have effect under this Regulation.