

Draft Order laid before Parliament under section 11 of the Public Bodies Act 2011, for approval by resolution of each House of Parliament after the expiry of the 40-day period referred to in section 11(4) of that Act.

DRAFT STATUTORY INSTRUMENTS

2013 No.

PUBLIC BODIES

**The Public Bodies (Abolition of the Registrar
of Public Lending Right) Order 2013**

Made - - - - *****

Coming into force in accordance with article 1

The Secretary of State, in exercise of the powers conferred by sections 1(1) and (2), 6(1), (2) and (5), 23(1)(a) and (6), 24(1) and 35(2) of the Public Bodies Act 2011⁽¹⁾ (“the Act”), makes the following Order.

In accordance with section 8 of the Act, the Secretary of State considers that this Order—

- (a) serves the purpose of improving the exercise of public functions, having had regard to the factors set out in section 8(1) of the Act;
- (b) does not remove any necessary protection or prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise.

The Treasury has consented to the making of this Order in so far as its consent is required by section 6(4) of the Act.

The Northern Ireland Assembly has consented to the making of this Order in so far as its consent is required by section 9(3)(a) of the Act.

The British Library Board⁽²⁾ has consented to the transfer of functions, property, rights and liabilities made by this Order in so far as its consent is required by sections 21(1)(a) and 23(4) of the Act.

The Secretary of State has carried out consultation in accordance with section 10 of the Act.

The Secretary of State has consulted the Welsh Ministers in accordance with section 63(1) of the Government of Wales Act 2006⁽³⁾.

A draft of this Order and an explanatory document containing the information required in section 11(2) of the Act have been laid before Parliament in accordance with section 11(1) after the end of the period of twelve weeks mentioned in section 11(3).

In accordance with section 11(4) of the Act, a draft of this Order has been approved by resolution of each House of Parliament after the expiry of the 40-day period referred to in that provision.

⁽¹⁾ 2011 c. 24.

⁽²⁾ The British Library Board was established under section 1(2) of the British Library Act 1972 (c. 54).

⁽³⁾ 2006 c. 32.

Citation, commencement, extent and interpretation

1.—(1) This Order may be cited as the Public Bodies (Abolition of the Registrar of Public Lending Right) Order 2013.

(2) Except as provided by paragraph (3), this Order comes into force on 1st October 2013 or if the Order is made on or after 1st October 2013, the day after the day on which it is made.

(3) Paragraph 15 of Schedule 1, and article 7(1) so far as relating to that paragraph, come into force on the day after the day determined by paragraph (2).

(4) The amendments, repeals and revocations made by article 7 and Schedules 1 and 2 have the same extent as the provisions to which they relate.

(5) In this Order—

“the 1979 Act” means the Public Lending Right Act 1979(4);

“the Board” means the British Library Board;

“the Registrar” means the Registrar of Public Lending Right(5);

“the Scheme” means the Public Lending Right Scheme 1982(6);

“the transfer date” means the day on which this Order (other than as provided in paragraph (3)) comes into force.

(6) Articles 4 and 8 (in so far as article 8 applies to property, rights and liabilities transferred under article 4) constitute a transfer scheme under section 23(1) of the Act.

Abolition of the Registrar

2. The Registrar is abolished.

Transfer of functions

3. The functions of the Registrar are transferred to the Board.

Transfer of property, rights and liabilities

4.—(1) The property, rights and liabilities to which the Registrar is entitled or subject immediately before the transfer date become on that date the property, rights and liabilities of the Board.

(2) Paragraph (1) has effect in relation to property, rights and liabilities—

(a) whether or not they would otherwise be capable of being transferred;

(b) without any instrument or other formality being required; and

(c) despite any provision (of whatever nature) which would otherwise prevent, penalise or restrict their transfer.

Final report

5.—(1) As soon as reasonably practicable after the transfer date, the Board must make a report (“the final report”) to the Secretary of State on the working of the Scheme during the period which—

(4) 1979 c. 10.

(5) The Registrar of Public Lending Right was established under section 1(3) of and the Schedule to the Public Lending Right Act 1979 (c. 10).

(6) The Scheme was brought into force by S.I. 1982/719 and was set out in the Appendix to that order. It is now set out in Appendix 2 to S.I. 1990/2360. The Scheme has since been amended by the following orders: S.I. 1991/2618, 1996/1338, 1997/1576, 1998/1218, 1999/420, 1999/1042, 2002/3135, 2004/1258, 2005/1519 and 2012/3123.

- (a) began immediately after the end of the last period for which the Secretary of State made a report under section 3(8) of the 1979 Act, and
 - (b) ended immediately before the transfer date.
- (2) The Secretary of State must lay a copy of the final report before Parliament.

Final statement of accounts

6.—(1) The Board must prepare a statement of accounts of the Registrar (“the final accounts”) for the period which—

- (a) began immediately after the end of the last year for which the Registrar prepared a statement of accounts under section 2(6) of the 1979 Act, and
- (b) ended immediately before the transfer date.

(2) The final accounts must be prepared in accordance with any directions given by the Secretary of State to the Registrar under section 2(6) of the 1979 Act which had effect immediately before the transfer date.

(3) The Board must send a copy of the final accounts to the Secretary of State and the Comptroller and Auditor General as soon as reasonably practicable after the end of the period covered by the final accounts.

(4) The Comptroller and Auditor General must—

- (a) examine, certify and report on the final accounts, and
- (b) lay copies of those certified final accounts and that report before Parliament.

Consequential provisions

7.—(1) Schedule 1 (which makes consequential provisions to primary legislation) has effect.

(2) Schedule 2 (which makes consequential provisions to secondary legislation) has effect.

Supplementary

8.—(1) Nothing in this Order affects the validity of anything done (or having effect as if done) by or in relation to the Registrar before the transfer date.

(2) Anything (including legal proceedings) which immediately before the transfer date is in the process of being done by or in relation to the Registrar may be continued on or after the transfer date by or in relation to the Board.

(3) Anything done (or having effect as if done) by or in relation to the Registrar has effect, so far as is necessary for continuing its effect on or after the transfer date, as if done by or in relation to the Board.

(4) So far as necessary or appropriate for the purposes of or in consequence of article 3 or 4, and without prejudice to the generality of article 7 and Schedules 1 and 2, a reference to the Registrar in an enactment, instrument or other document is to be treated as a reference to the Board.

Date

Name
Parliamentary Under Secretary of State
Department for Culture, Media and Sport

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory
Instrument: *The Public Bodies (Abolition of the Registrar of Public Lending Right) Order 2013 No. 2352*

We consent.

Date

Name and Name
Two of the Lords Commissioners of Her
Majesty's Treasury

SCHEDULE 1

Article 7(1)

Consequential provisions – primary legislation

Parliamentary Commissioner Act 1967

1. In Schedule 2 to the Parliamentary Commissioner Act 1967(7) omit “The Registrar of Public Lending Right.”

Superannuation Act 1972

2.—(1) In Schedule 1 to the Superannuation Act 1972(8) omit “Employment by the Registrar of Public Lending Right.” and “The Registrar of Public Lending Right.”

(2) Paragraph (1) does not affect the position of any person who was the Registrar or was employed by the Registrar but who ceased to be the Registrar or an employee of the Registrar before the transfer date.

British Library Act 1972

3. In section 4(3) of the British Library Act 1972(9) after the word “months” insert “, which report shall include a report on the working of the Public Lending Right Scheme 1982”.

House of Commons Disqualification Act 1975

4. In Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975(10) omit “Registrar of Public Lending Right.”

Northern Ireland Assembly Disqualification Act 1975

5. In Part 3 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975(11) omit “Registrar of Public Lending Right.”

Public Lending Right Act 1979

6. The Public Lending Right Act 1979(12) is amended as follows.

7.—(1) Section 1 is amended as follows.

(2) In subsection (3) omit “The Secretary of State shall appoint an officer to be known as the Registrar of Public Lending Right; and” and “with respect to the Registrar”.

(3) In subsections (4), (5) and (7)(d) for “Registrar” substitute “Board” in each place occurring.

8.—(1) Section 2 is amended as follows.

(2) In subsection (1) for “Registrar” substitute “Board”.

(3) In subsection (2) omit “less the total of any sums paid in that year, out of money so provided, under paragraph 2 of the Schedule to this Act (pay, pension, etc. of Registrar)”.

(7) 1967 c. 13; Schedule 2 was substituted by the Schedule to the Parliamentary Commissioner (No.2) Order 2011 (S.I. 2011/2986).

(8) 1972 c. 11; Schedule 1 was amended by articles 2(iii) and 3 of S.I. 2003/1073.

(9) 1972 c. 54; the functions under subsection 3 were transferred to the Secretary of State by article 3(1) of and Schedule 1 to the Transfer of Functions (National Heritage) Order 1992 (S.I. 1992/1311).

(10) 1975 c. 24; the entry for the Registrar was inserted by paragraph 4 of the Schedule to the 1979 Act.

(11) 1975 c. 25; the entry for the Registrar was inserted by paragraph 4 of the Schedule to the 1979 Act.

(12) 1979 c. 10.

(4) For subsection (4), substitute—

“(4) There are to be paid out of the Central Fund such sums as may in accordance with the scheme be due from time to time in respect of public lending right.”

(5) For subsection (5), substitute—

“(5) There is to be paid into the Central Fund—

(a) money received by the Board in respect of property disposed of in connection with its functions in relation to public lending right, and

(b) money otherwise received by the Board in the course of its functions in relation to public lending right, or under this Act,

after deduction of any costs associated with the disposal of the property or otherwise referable to the money received.

(5A) But an amount required to be paid into the Central Fund under subsection (5) is instead to be paid into the Consolidated Fund if the Secretary of State, with the consent of the Treasury, so directs.”

(6) Omit subsection (6).

9.—(1) Section 3 is amended as follows.

(2) In subsections (5)(a) and (6) for “Registrar” substitute “Board” in each place occurring.

(3) In subsection (6) omit “, by means of payments out of the Central Fund.”.

(4) Omit subsection (8).

10.—(1) Section 4 is amended as follows.

(2) In subsection (5) for “Registrar” substitute “Board”.

(3) For subsection (6), substitute—

“(6) The Board may require the payment of fees, according to prescribed scales and rates, for supplying copies of entries in the register.

(6A) A copy of an entry in the register is, in all legal proceedings, admissible in evidence as of equal validity with the original if it is certified in writing by—

(a) a member of the Board,

(b) a person employed by, or contracted to provide services for, the Board with authority in that behalf (which authority it is unnecessary to prove).”

11. In section 5(2)—

(a) insert in the appropriate place—

““the Board” means the British Library Board established under section 1(2) of the British Library Act 1972;”;

(b) in the definition of “the register”, for “Registrar” substitute “Board”; and

(c) omit the definition of “the Registrar”.

12.—(1) The Schedule is amended as follows.

(2) Omit paragraphs 1, 2, 3, 4 and 5.

(3) For paragraph 6, substitute—

“**6.** The Documentary Evidence Act 1868 shall have effect as if the Board were included in the first column of the Schedule to that Act, as if any person authorised to act on behalf of the Board were mentioned in the second column of that Schedule, and as if the regulations

referred to in that Act included any documents issued by the Board, or by any such person, in relation to the Board's functions under this Act or the scheme."

- (4) Omit paragraph 7.
- (5) In paragraph 8—
 - (a) omit "(except paragraph 7 of this Schedule)";
 - (b) for "Registrar" substitute "Board" in each place occurring; and
 - (c) for "assistant registrar or member of the Registrar's staff" substitute "person".
- (6) Accordingly, for the heading of the Schedule substitute "PUBLIC LENDING RIGHT: SUPPLEMENTARY PROVISION".

Freedom of Information Act 2000

13. In Part 6 of Schedule 1 to the Freedom of Information Act 2000(**13**) omit "The Registrar of Public Lending Right."

Digital Economy Act 2010

14. In section 43(5) of the Digital Economy Act 2010(**14**), for "After the definition of "the Registrar" insert" substitute "At the end insert".

Public Bodies Act 2011

15. In Schedule 1 to the Public Bodies Act 2011(**15**) omit "Registrar of Public Lending Right."

SCHEDULE 2

Article 7(2)

Consequential provisions – secondary legislation

Public Lending Right Scheme 1982

1.—(1) The Public Lending Right Scheme 1982(**16**) is amended as follows.

- (1) In article 2(1)—
 - (a) insert in the appropriate place "'the Board" has the meaning assigned thereto by section 5(2) of the Act;";
 - (b) omit "'the Registrar" and"; and
 - (c) in relation to the entry for "the Register"—
 - (i) for "have" substitute "has"; and
 - (ii) for "meanings" substitute "meaning".
- (2) Subject to paragraph 1(1) of this Schedule—
 - (a) for "Registrar" substitute "Board" in each place occurring;
 - (b) for "he", "him" or "his", where used in reference to the Registrar, substitute "the Board" or "the Board's" (as the case may be) in each place occurring.

(13) 2000 c. 36.

(14) 2010 c. 24; section 43(5) is not yet in force.

(15) 2011 c. 24.

(16) The Scheme was brought into force, is set out, and was amended as explained in footnote (c) on page 2 of this Order.

Public Lending Right (Increase of Limit) Order 2003

2. In Article 2 of the Public Lending Right (Increase of Limit) Order 2003⁽¹⁷⁾ omit “, and, in each case, that limit shall be less the total of any sums paid in that year, out of money so provided, under paragraph 2 of the Schedule to the Public Lending Right Act 1979 (pay, pension, etc. of Registrar)”.

Superannuation (Admission to Schedule 1 to the Superannuation Act 1972) Order 2003

3.—(1) The Superannuation (Admission to Schedule 1 to the Superannuation Act 1972) Order 2003⁽¹⁸⁾ is amended as follows.

(2) In article 2—

(a) omit paragraph (n); and

(b) in sub-paragraph (iii), omit ““Employment by the Registrar of Public Lending Right””.

(3) In article 3—

(a) omit paragraph (a); and

(b) omit the entry for ““the Registrar of Public Lending Right””.

EXPLANATORY NOTE

(This note is not part of the Order)

The Public Bodies Act 2011 (c. 24) makes provision for the abolition, by order, of any body or office specified in Schedule 1 to that Act and an associated transfer of functions from the body or office to an eligible person as defined in section 1 of that Act. One such office in Schedule 1 is the Registrar of Public Lending Right (“the Registrar”). The British Library Board (“the Board”) is an eligible person by virtue of section 1(3)(b) of the Public Bodies Act 2011, as a person other than a Minister exercising public functions.

The Registrar was established under section 1(3) of and the Schedule to the Public Lending Right Act 1979 (c. 10), and operates the Public Lending Right Scheme 1982, which is set out in Appendix 2 to S.I. 1990/2360. The Board was established under section 1(2) of the British Library Act 1972 (c. 54).

Article 2 of this Order abolishes the Registrar.

Article 3 transfers the functions of the Registrar to the Board.

Article 4 transfers the property, rights and liabilities of the Registrar to the Board.

Articles 5 and 6 impose final reporting and accounting obligations on the Board in relation to the period preceding the Registrar’s abolition.

Article 7 makes consequential, supplementary and incidental amendments to primary and secondary legislation as set out in Schedules 1 and 2 respectively.

Article 8 makes provision for various supplementary matters including the continuing validity and effect of anything done by or in relation to the Registrar after its abolition and the transfer of its functions, property, rights and liabilities to the Board.

⁽¹⁷⁾ S.I. 2003/839.

⁽¹⁸⁾ S.I. 2003/1073.

A full impact assessment as to the effect that this Order will have on the costs of business, the voluntary sector and the public sector is available on the Government website at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/173004/Final_Stage_Impact_Assessment_for_Public_Lending_Right_proposals.pdf . This impact assessment is also published with the Explanatory Document alongside the instrument on www.legislation.gov.uk.