

STATUTORY INSTRUMENTS

1984 No. 1847

LIBRARIES

The Public Lending Right Scheme 1982 (Amendment) Order 1984

Made - - - - - 20th November 1984
Laid before Parliament 6th December 1984
Coming into Operation 28th December 1984

The Lord President of the Council, in exercise of powers conferred by section 3(7) of the Public Lending Right Act 1979(a) and now vested in him (b) and after consulting with representatives of authors and library authorities and of others who appear likely to be affected, hereby makes the following Order:—

Citation, commencement and interpretation

1.— (1) This Order may be cited as the Public Lending Right Scheme 1982 (Amendment) Order 1984 and shall come into operation on 28th December 1984.

(2) In this Order “the Scheme” means the Public Lending Right Scheme 1982(c).

Authors

2. There shall be substituted for Article 4 of the Scheme the following Article:—

“4.(1) Subject to paragraph (2), a person shall be treated as an author of a book for the purpose of this Scheme if he is either—

- (a) a writer of the book, including without prejudice to the generality of that expression,
 - (i) a translator thereof, and
 - (ii) an editor or compiler thereof, who in either case has contributed more than ten per cent of the contents of the book or more than ten pages of the contents, whichever is the less; or
- (b) an illustrator thereof, which for this purpose includes the author of a photograph (within the meaning of section 48 of the Copyright Act 1956).

(a) 1979 c.10.

(b) S.I. 1979/907, 1981/207, 1983/879.

(c) The Scheme is set out in the Appendix to S.I. 1982/719. It has been amended by S.I. 1983/480, 1688.

(2) Notwithstanding paragraph (1), a person shall not be treated as an author of a book unless the fact that he is an author within the meaning of paragraph (1) is evidenced by his being named on the title page of the book.”.

Eligible persons

3. Article 5 of the Scheme shall be amended by substituting for paragraph (1) the following paragraph:—

“(1) For the purposes of the Scheme, and in relation to each application by a person relating to an eligible book, the applicant is an eligible person if he is an author (within the meaning of Article 4) of that book who at the date of the application has his only or principal home in one of the countries specified in Schedule 5, or, if he has no home, has been present in one of those countries for not less than twelve months out of the preceding twenty-four months.”.

Eligible books

4. Article 6 of the Scheme shall be amended as follows:—

“(a) by substituting for paragraph (2) the following paragraph:—

“(2) In paragraph (1) “book” means a printed and bound publication (including a paper-back edition) but does not include—

- (a) a book bearing, in lieu of the name of an author who is a natural person, the name of a body corporate or an unincorporated association;
- (b) a book with four or more authors, but for the purpose of this sub-paragraph a translator, editor or compiler shall not be treated as an author of the book unless each of his co-authors is a translator, editor or compiler;
- (c) a book which is wholly or mainly a musical score;
- (d) a book the copyright of which is vested in the Crown;
- (e) a book which has not been offered for sale to the public; or
- (f) a serial publication including, without prejudice to the generality of that expression, a newspaper, magazine, journal or periodical.”;

(b) by deleting paragraph (3).”.

Registration

5. Article 9 of the Scheme shall be amended:—

(a) by substituting for paragraph (1) the following paragraph—

“(1) Public Lending Right in respect of a book may, and may only, be registered if—

- (a) the book is an eligible book, and
- (b) application in that behalf is made in accordance with Articles 14 and 17.”;

(b) in paragraph (3) by substituting for sub-paragraph (b) the following sub-paragraph:—

“(b) application in that behalf is made in accordance with Articles 14 and 17.”.

Shares in Public Lending Right

6. The following new Article shall be inserted in the Scheme after Article 9:—

“Shares in Public Lending Right

9A.— (1) Subject to the following paragraphs an eligible person’s registered share of Public Lending Right in respect of a book of which he is author shall be the whole of that Right or, where a book has two or more authors (including any who are not eligible persons), such share of the Public Lending Right as may be specified in accordance with Article 17(1)(c) in the application for first registration of the Right.

(2) A translator’s share of Public Lending Right in respect of a book shall be thirty per cent of that Right, or if there is more than one translator (including any who are not eligible persons), an equal share of thirty per cent, but this paragraph shall not apply where a translator is an author of the book in another capacity unless he makes an application in accordance with Article 17(1)(c)(ii).

(3) An editor’s or compiler’s share of Public Lending Right in respect of a book shall be

- (a) twenty per cent of that Right, or
- (b) if he satisfies the Registrar that he has contributed more than twenty per cent of the contents of the book, the percentage equal to that percentage contribution, or
- (c) if there is more than one editor or compiler (including any who are not eligible persons), an equal share of twenty per cent or the higher percentage attributable to the editors or compilers in accordance with sub-paragraph (b).

(4) Where a book has two or more authors (including any who are not eligible persons) and the Registrar is satisfied that one or more of them is dead or cannot be traced at the date of application, despite all reasonable steps having been taken to do so, the Public Lending Right shall be apportioned amongst all the authors equally (including any who are not eligible persons), subject to—

- (a) the prior application of paragraphs (2) and (3), and
- (b) where the book is illustrated, the attribution of twenty per cent of the Public Lending Right to the illustrator, or if there is more than one illustrator, (including any who are not eligible persons), the attribution of an equal share of twenty per cent to each illustrator.

(5) Where paragraph 4(b) applies, an illustrator who is also an author of the book in another capacity shall, in addition to any share of Public Lending Right to which he is entitled under that sub-paragraph, be entitled to any further share of the Right which is attributable to him as author in that other capacity.

(6) Where all the authors who are party to an application under Article 17(1)(c) and who are entitled under paragraph (4) to a share of a percentage of Public Lending Right in respect of the relevant book specify in accordance with Article 17(1)(c) that the said percentage shall be apportioned in a manner other than that provided for by paragraph (4) the specified apportionment shall apply if the Registrar is satisfied that it is reasonable in that case.”.

Payments consequent upon amendment

7. Article 13 of the Scheme shall be amended by inserting “or 17A” after “Article 12”.

Application for first registration

8. Article 17 of the Scheme shall be amended in paragraph (1) by substituting for sub-paragraph (c) the following sub-paragraph:—

“(c) where the book has two or more authors (including any who are not eligible persons), shall specify the proposed shares of each of them and for that purpose each of those authors who is alive at the date of application shall be a party to the application, unless

- (i) the Registrar is satisfied that he cannot be traced, despite all reasonable steps having been taken to do so, or
- (ii) the application is made by the translator or editor or compiler of the book and he specifies that he is making the application only in his capacity as such.”.

Transitional provisions for translators, editors and compilers

9. The following new Article shall be inserted in the Scheme after Article 17:—

“Transitional provisions for translators, editors and compilers”

17A.— (1) Where an application for first registration of Public Lending Right in respect of a book was made before 28th December 1984 and a translator, editor or compiler thereof would have been party to the said application if it had been made on or after that date he may, if he is an eligible person, make an application for the registered shares of the Right to be revised.

(2) Subject to the following paragraphs, the provisions of this Scheme shall apply to an application under paragraph (1) as though it were an application for first registration of Public Lending Right.

- (3) Where a successful application is made under paragraph (1)—
 - (a) the applicant’s share of the Public Lending Right shall be that prescribed in Article 9A(2) or (3) as the case may be, and
 - (b) the relevant shares of his co-authors, one to another, shall remain unaltered, unless all the authors who were party to the original application before 28th December 1984 are party to the application under paragraph (1) and specify an apportionment of their shares in a different manner and the Registrar is satisfied that such apportionment is reasonable.

(4) Where a successful application is made in accordance with paragraph (1) the Registrar shall amend the Register accordingly.”.

Evidence required in connection with the application

10. There shall be substituted for Article 18 of the Scheme the following Article:—

“18. The Registrar may require the submission of evidence to satisfy him that—

- (a) a book is an eligible book,
- (b) a person applying as author for the first registration of Public Lending Right, or the registration of a share of the Right, is in fact the author of that book and is an eligible person, or
- (c) that any co-author who is not a party to an application for first registration of Public Lending Right is dead or cannot be traced despite all reasonable steps having been taken to do so,

and may for the purpose of obtaining any such evidence require a statutory declaration to be made by any person.”.

Designation of sampling points

11. Article 38 of the Scheme shall be amended by substituting for paragraph (2) the following paragraphs:—

“(2) The Registrar shall so exercise his powers under this Article as to secure, subject to paragraph (4), that—

- (a) at all times there shall be 20 operative sampling points comprising—
 - (i) 5 points falling within Group B in Schedule 2, including, subject to paragraph (3), a principal service point and an ordinary service point, and
 - (ii) 3 points falling within each of Groups A, C and F, in each case, subject to paragraph (3), including a principal service point and an ordinary service point, and
 - (iii) 2 points falling within each of the other groups, being, subject to paragraph (3), a principal service point and an ordinary service point respectively;
- (b) at all times one of the 2 operative sampling points falling within Group E in Schedule 2 shall be within either the County of Dyfed or that of Gwynedd;
- (c) at all times at least one of the 3 operative sampling points falling within Group F in Schedule 2 shall be outside the Metropolitan Districts of Edinburgh and Glasgow;
- (d) with effect from the beginning of each sampling year at least 5 out of the 20 operative sampling points shall be replaced by new such points, and
- (e) no service point shall remain an operative sampling point for a continuous period of more than four years.”.

Method of determining the number of notional loans

12. Article 42 of the Scheme shall be amended in paragraph (3) by substituting the word “six” for the word “twelve”.

Determination of the sum due in respect of Public Lending Right

13. Article 46 of the Scheme shall be amended in paragraph (1)(a) by substituting “0.92p” for “1.02p”,

Information to be provided in connection with applications

14. Schedule 1 to the Scheme shall be amended in Part I by substituting for paragraphs 5, 6 and 7 the following paragraphs:—

“5. A statement signed by each applicant that in each case the conditions as to eligibility specified in Part II of the Scheme are satisfied at the date of application, accompanied, when the applicant has not previously made an application under Article 17 of this Scheme, by a certificate signed by a Member of Parliament, Justice of the Peace, Minister of Religion, lawyer, bank officer, school teacher, police officer, doctor or other person accepted by the Registrar as being of similar standing and stating that he has known the applicant for at least two years, that he is not related to the applicant and that to the best of his knowledge the contents of the statement by the applicant are true.

6. In the case of a work by more than one author—

(a) a statement signed by all the authors who are alive and can be traced at the date of application specifying—

(i) the agreed share in the Public Lending Right of each author, and

(ii) whether any author is translator, editor, compiler or, if any author is dead or untraced at the date of application, illustrator of the book and, if so, whether he is also an author of the book in another capacity, or

(b) a statement by the applicant that he is translator, editor or compiler of the book and that his claim to the Public Lending Right in respect thereof is limited to the percentage prescribed in Article 9A(2) or (3) as the case may be.

7. Where an editor or compiler of a book wishes to claim, or claim an equal share of, more than twenty per cent of the Public Lending Right in accordance with Article 9A(3), particulars indicating evidence of the percentage that he has, or where there are two or more editors or compilers that they have jointly, contributed to the contents of the book.

8. In the case of an author not of full age, a declaration by the applicant that he is the parent or guardian, as the case may be, of the author, and a copy of the author’s birth certificate.”.

Specified countries

15. There shall be added after Schedule 4 to the Scheme the following new Schedule:—

“Article 5

SCHEDULE 5

SPECIFIED COUNTRIES

Federal Republic of Germany
United Kingdom.”

Revocations

16. Orders specified in the Schedule hereto are hereby revoked to the extent specified in column 3 of the Schedule.

SCHEDULE

REVOCATIONS

Column 1 Orders revoked	Column 2 References	Column 3 Extent of Revocation
The Public Lending Right Scheme 1982 (Commencement) Order 1982.	S.I. 1982/719	Article 45 and 52 of and Schedule 3 to the Scheme.
The Public Lending Right Scheme 1982 (Amendment) Order 1983.	S.I. 1983/480	The Whole Order.
The Public Lending Right Scheme 1982 (Amendment) (No. 2) Order 1983.	S.I. 1983/1688	Article 2(a).

Whitelaw,
Lord President of the Council.

20th November 1984.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order, which comes into force on 28th December 1984, amends the Public Lending Right Scheme 1982.

Article 2 extends the definition of "author" in the Scheme so that translators and editors and compilers can now benefit from Public Lending Right.

Article 3 removes the nationality requirement for benefit under the Scheme and with Article 15 extends the residential requirement so that residence in the Federal Republic of Germany (which has a reciprocal Scheme) is treated in the same way as residence in the United Kingdom.

Article 4 removes the requirement for an eligible book to contain a minimum number of pages.

Article 5 removes the requirement for all the authors of a book to be alive at the date of application for registration of Public Lending Right in the book.

Article 6 specifies the way in which Public Lending Right is to be apportioned where there are joint authors and provides for where an author is an editor, compiler or translator or is dead or cannot be traced at the date of application.

Articles 8 and 10 make amendments to the rules relating to the registration of Public Lending Right.

Article 9 provides transitional provisions where a translator, editor or compiler is the co-author of a book in which the Public Lending Right has been registered before 28th December 1984 and Article 7 makes a consequential amendment.

Article 14 makes amendments as to the material which must be supplied by each applicant.

Articles 11 and 12 amend the way in which the number of loans of a book is ascertained.

Article 13 reduces the sum attributable to each qualifying loan from 1.02p to 0.92p.

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