

**EXPLANATORY MEMORANDUM TO**  
**THE PUBLIC LENDING RIGHT SCHEME 1982 (COMMENCEMENT OF**  
**VARIATION) ORDER 2015**

**2015 No. 7**

**1.** This explanatory memorandum has been prepared by the Department for Culture, Media and Sport and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

2.1 This instrument brings into force variations to the Public Lending Right Scheme (“the Scheme”), the purpose of which is to increase the ‘rate per loan’ paid under the Scheme to authors from 6.20p to 6.66p.

**3. Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None.

**4. Legislative context**

4.1 The Public Lending Right Act 1979 (“the 1979 Act”) gave the Secretary of State power to prepare and bring into force a scheme conferring a right known as the ‘public lending right’ on authors. The Scheme provides for eligible authors of eligible works to share in an annual fund relating to loans of their works through libraries. The Scheme was established by the Public Lending Right Scheme 1982 (Commencement) Order 1982 (S.I. 1982/719), which sets out in its Appendix the Scheme, including the rate per loan in its article 46. The most recent and complete version of the Scheme is set out in S.I. 1990/2360 at Appendix 2.

4.2 The rate per loan has been amended by various Orders. The most recent amendment to the rate per loan was made by the Public Lending Right Scheme 1982 (Commencement of Variation) (No.2) Order 2012 (S.I. 2012/3123).

4.3 In 2014, the Scheme was varied by the Public Lending Right Scheme 1982 (Commencement of Variation and Amendment) Order 2014 (S.I. 2014/1945)<sup>1</sup> and extended so that it covers e-books downloaded on the premises of a public library, and audio-books borrowed from a public library and their producers and narrators.

4.4 Payments under the Scheme are made in arrears as detailed in paragraph 7.1 of this explanatory memorandum. Therefore, the first sums payable in accordance with the

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<sup>1</sup> S.I. 2014/1945 corrected errors in the Public Lending Right Scheme 1982 (Commencement of Variations) Order 2014 (S.I. 2014/1457). Other amendments to the Scheme have been made in various Orders but none are relevant to the rate used for the purposes of calculating the amount payable in respect of loans of a particular book by public libraries.

variations made by S.I. 2014/1945 will be paid in 2016 and will cover loans made during 2014-15.

4.5 Section 3(7) of the 1979 Act confers power on the Secretary of State to vary the Scheme, and to bring that variation into force by an Order. The variation that is brought into force by this instrument will substitute '6.66p' for '6.20p' as the rate per loan in paragraph (1)(a) of article 46 of the Scheme.

## **5. Territorial extent and application**

5.1 This instrument applies to all of the United Kingdom.

## **6. European Convention on Human Rights**

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

7.1 The Scheme was brought into force on 14th June 1982. It prescribed the rate per loan that should be paid to each author, calculated by dividing the money available in the fund by the total number of loans. The rate per loan has been amended from time to time and, when such an amendment is made, the rate is calculated following the period to which the payments relate. The corresponding payments are made annually in arrears no later than the end of the following financial year and, in practice, no later than mid-February. Accordingly, payments made in February 2015 will correspond to loans made in 2013-2014.

7.2 On 17th December 2012, the rate per loan increased from 6.05 pence to 6.20 pence. The further increase herewith proposed, to be payable in 2015 for loans incurred in the 2013/2014 loans year, is in part due to the decrease in the number of loans of registered books, and in part due to savings the British Library, which has statutory responsibility for administering the Scheme, has made in running the costs of the Scheme.

## **8. Consultation outcome**

8.1 The proposed increase in the rate per loan was the subject of a four week consultation (12th November 2014 – 10th December 2014). A letter was sent to major groups representing the interests of authors, the Devolved Administrations and other key stakeholders in the public library sector in the UK. A copy of the consultation letter was made available on the DCMS website. Nine responses were received, all of which were supportive of the recommended increase in the rate per loan. Various stakeholders raised concerns in relation to the extension of the Scheme to e-books downloaded outside library premises. This is covered in the review covered by William Sieghart into e-lending and subject to any changes which the European Commission may make to the EU copyright rules as detailed in paragraph 12 of this explanatory memorandum. Accordingly, they are

of no direct relevance to the subject of the consultation. A collated version of the full responses is available at the following link:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/392874/Financial.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/392874/Financial.pdf)

Having considered the consultation responses, the Minister decided to proceed with the introduction of legislation to increase the rate per loan from 6.20p to 6.66p.

## **9. Guidance**

9.1 The Scheme is administered by the British Library. The Minister has notified the Board of the British Library that he has varied the Scheme to provide for the new rate per loan for the 2013/2014 loans year. The Board of the British Library will ensure that authors and other stakeholders are made aware of the new rate per loan.

## **10. Impact**

10.1 There is no impact on business, charities or voluntary bodies.

10.2 The impact on the public sector is to provide the Scheme and the Board of the British Library with an altered rate per loan allowing authors to be paid a rate per loan of 6.66p. There is, however, no financial impact on the British Library.

10.3 An impact assessment has not been prepared for this instrument.

## **11. Regulating small business**

11.1 The legislation does not apply to small business.

## **12. Monitoring and review**

12.1 As detailed in paragraph 12.1 of the explanatory memorandum to S.I. 2014/1457, the European Commission is currently consulting on what changes should be made to the copyright rules at EU level. This consultation includes the topic of remote loans of e-books. A consolidated version of the Scheme will be produced once it is clear at EU level whether e-books can be downloaded outside library premises and when the market for e-books has matured so that, for example, it is clearer how and whether e-books should be identified electronically.

12.2 The appropriateness of the new rate per loan of 6.66p will be subject to ongoing consideration by the Board of the British Library.

## **13. Contact**

Hamish Colley at the Department for Culture, Media and Sport (Tel: 0207 211 2226 or email: hamish.colley@culture.gov.uk) can answer any queries regarding the instrument.