

2018 No. 691

LIBRARIES

**The Public Lending Right Scheme 1982 (Commencement of
Variations) (No. 2) Order 2018**

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| <i>Made</i> | - - - - | <i>6th June 2018</i> |
| <i>Laid before Parliament</i> | | <i>7th June 2018</i> |
| <i>Coming into force</i> | - - | <i>1st July 2018</i> |

The Public Lending Right Scheme 1982(a) (“the Scheme”) was brought into force on 14th June 1982;

The Scheme has been varied(b);

The Secretary of State, after consultation with the representatives of authors and library authorities and of others who appear likely to be affected, has further varied the Scheme;

Accordingly the Secretary of State, in whom the power conferred by section 3(7) of the Public Lending Right Act 1979(c) is now vested(d), makes the following Order in exercise of that power:

Citation and extent

1. This Order may be cited as the Public Lending Right Scheme 1982 (Commencement of Variations) (No. 2) Order 2018.
2. Part 1 of the Appendix to this Order extends to England and Wales and Scotland only(e).

(a) The Scheme is set out in the Appendix to the Public Lending Right Scheme 1982 (Commencement) Order 1982 (S.I. 1982/719).

(b) Variations to the Scheme have been brought into force by subsequent Orders. Appendix 2 of S.I. 1990/2360 sets out the Scheme as varied as at 26th November 1990. Further relevant variations to the Scheme have been brought into force by S.I. 1991/2618, 1996/1338, 1997/1576, 1999/420, 2004/1258, 2005/1519, 2013/2352, 2014/1457 and 2014/1945. Other variations to the Scheme have been made, but none are relevant to this Order.

(c) 1979 c. 10. The Act is amended by section 31 of the Digital Economy Act 2017 (c. 30) and was previously amended by section 43 of the Digital Economy Act 2010 (c. 24). There are other amendments to the Act but none are relevant to this Order.

(d) The functions under section 3(7) of the Public Lending Right Act 1979 (c. 10) were originally vested in the Secretary of State and, after a series of transfer of functions orders (S.I. 1979/907, 1981/207, 1983/879, 1984/1814 and 1986/600), they were transferred back to the Secretary of State by virtue of article 3(1) of and Schedule 1 to the Transfer of Functions (National Heritage) Order 1992 (S.I. 1992/1311).

(e) Part 1 of the Appendix to this Order varies the Scheme following commencement of section 31 of the Digital Economy Act 2017 (c. 30). This provision amends section 5(2) of the Public Lending Right Act 1979 to extend the public lending right to remote e-lending of e-books and audio-books. Section 31 of the Digital Economy Act 2017 has not yet been commenced for Northern Ireland. Accordingly, Part 1 of the Appendix to this Order is being brought into force for England and Wales and Scotland only, with the effect that the public lending right will not extend to remote e-lending of e-books and audio-books in Northern Ireland.

Commencement of variations

3. The variations in the Public Lending Right Scheme 1982 that are set out in the Appendix to this Order come into force on 1st July 2018.

6th June 2018

Michael Ellis
Parliamentary Under Secretary of State
Department for Digital, Culture, Media and Sport

Appendix

PART 1

Variations in the Public Lending Right Scheme 1982 relating to remote e-lending of books coming into force on 1st July 2018

1. In article 36 (special definitions):

(a) for the definition of “loans”, substitute—

““loans” means loans whereby books are made available to a member of the public from a service point for use away from that service point for a limited time (including by being communicated by means of electronic transmission to a place other than a service point) and includes books not normally held at that service point; and “lent out” is to be read accordingly;”;

(b) for the definition of “service point”, substitute—

““service point” means a place or website from which books comprised in a library are made available to the public.”.

2. In article 42 (method of determining the number of notional loans), in paragraph (3), sub-paragraph (b), after “record loans of a” insert the word “physical”.

PART 2

Variations in the Public Lending Right Scheme 1982 relating to forms of application coming into force on 1st July 2018

3. In article 14A (forms of application in respect of posthumously eligible books), following the words after paragraph (c):

(a) after “in relation to that posthumously eligible person, by” omit the dash and letter “(i)”;

(b) after “the application is being made” substitute “, and” with “.”; and

(c) omit sub-paragraph (ii).

4. In paragraph 5 of Schedule 1 (information to be provided in connection with applications), after the words “date of application” omit—

“, 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, a member of the Scottish Parliament, Justice of the Peace, Minister of Religion, lawyer, bank officer, school teacher, police officer, registered medical practitioner, who need not hold a licence to practise, or other person accepted by the Board 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”.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force on 1st July 2018 variations to the Scheme made by the Secretary of State.

The Public Lending Right Act 1979 (the “1979 Act”) confers a right for authors (known as the public lending right) to receive payments out of a central fund, based on the number of times their books are lent out by public libraries in the United Kingdom. The public lending right is administered in accordance with the Scheme.

The Scheme is being varied primarily as a result of the extension of the public lending right to include remote loans of e-books and audio-books from public libraries, which came into force in England and Wales and Scotland on 30th June 2018. Other variations have been made to the Scheme to ensure that it continues to operate effectively. The Appendix to the Order sets out the variations to the Scheme.

In article 36 of the Scheme, the definitions of “loans” and “service points” are amended to reflect the extension of the public lending right to remote lending of e-books and audio-books, following amendments to the definition of “lent out” in the 1979 Act (made by section 31 of the Digital Economy Act 2017). Article 42(3)(b) is varied to restrict the operation of this provision to loans of physical books and audio-books. Regulation 2 of the Order brings these variations into force for England and Wales and Scotland only.

Article 14A of and paragraph 5 of Schedule 1 to the Scheme are varied to remove a requirement that a new application (including a posthumous application) must be accompanied by a certificate signed by an independent witness who is not related to the applicant and has known the applicant for at least two years, as there are other sufficient verification checks that form part of the application process.

A full impact assessment has not been produced for this instrument, as no, or no significant, impact on the private, voluntary or public sectors is foreseen.

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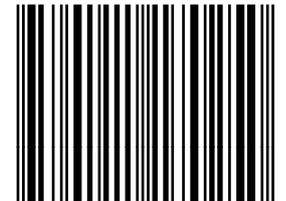
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