

**EXPLANATORY MEMORANDUM TO
THE PUBLIC LENDING RIGHT SCHEME 1982 (COMMENCEMENT OF
VARIATION) ORDER 2012**

2012 No. 63

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 a variation to the Public Lending Right Scheme, which decreases the ‘rate per loan’ paid under the Scheme to authors from 6.25p to 6.05p.

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

None.

4. Legislative Context

4.1 The Public Lending Right Act 1979 (‘the 1979 Act’) gave the Secretary of State powers 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 (SI 1982/719), which sets out in its Appendix the Scheme, including the rate per loan in its article 46. That rate per loan has subsequently been amended by further Orders.

4.2 Section 3(7) of the 1979 Act confers a power on the Secretary of State to vary the Scheme by Order. Any variation in the rate per loan that needs to be made is effected through a variation to the Scheme which is brought into force by such an Order. The variation will substitute ‘6.05p’ for ‘6.25p’ as the rate per loan in paragraph (1)(a) of article 46 of the Scheme.

5. Territorial Extent and Application

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

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

7. Policy background

The Public Lending Right 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.

On 7 February 2011 the rate per loan decreased slightly from 6.29 pence to 6.25 pence. The current funding climate has meant that this year it has not been possible to maintain or increase the rate per loan and it will decrease from 6.25 pence to 6.05 pence.

8. Consultation outcome

The proposed decrease in the rate per loan was the subject of an eight week consultation (1 November 2011 - 23 December 2011). A letter was sent to major groups representing the interests of authors. A copy of the consultation letter was made available on the DCMS and PLR websites and was referred to in the PLR Registrar's news update which was emailed to approximately 19,000 registered authors.

21 responses were received. A collated version of the responses is available at the following link: [http://www.culture.gov.uk/what_we_do/libraries/3417.aspx?year=2]. Nearly 50% of respondents who express a clear opinion support the proposed decrease in the rate per loan, rather than a reduction of the maximum payment from £6,600 to £5,900 or, conversely, an increase in the minimum payment from £1 to £45. Raising the minimum payment alone to anything less than £45 (a suggestion proposed by nearly one fifth of respondents) would only increase the rate very slightly and would result in a significant drop in the number of authors in receipt of PLR. All but one respondent rejected a reduction in the maximum payment to a level that maintains the rate per loan, citing the already low earnings of professional writers.

A combined approach – reducing the maximum to between £6,400 and £6,000; increasing the minimum to between £5 and £20 and, if necessary, reducing the rate per loan – was proposed by a number of respondents. However, while reducing the maximum payment to £6,000 and increasing the minimum increased to £20, would result in a rate per loan of 6.30p (higher than the existing rate) it would result in only 11,599 authors receiving a payment in February 2012, compared with over 23,000 in February 2011. Similarly, were a maximum of £6,400 and minimum of £10 applied a rate per loan of 6.13p would result with 14,430 authors in receipt of a payment. Removing so many authors from qualification for payment does not accord with government policy.

Having considered the consultation responses, the Minister decided to proceed with the introduction of legislation to decrease the rate per loan from 6.25p to 6.05p.

9. Guidance

The Public Lending Right Scheme is administered by the Registrar of Public Lending Right. The Minister for Culture has notified the Registrar that he has varied the

Scheme to provide for the new rate per loan for the 2010/11 loans year. The Public Lending Right Registrar will ensure that authors and other stakeholders are made aware of the new rate per loan.

10. Impact

10.1 A Regulatory Impact Assessment has not been prepared for this Order as it has no impact on business, charities or voluntary bodies.

10.2 The impact on the public sector is to provide the Public Lending Right Scheme and the Registrar of the Scheme with an altered rate per loan allowing authors to be paid a rate per loan of 6.05p.

11. Regulating small business

The legislation does not apply to small business.

12. Monitoring & review

The appropriateness of the new rate per loan of 6.05p will be considered by the Registrar of Public Lending Right before making recommendations about the rate per loan to be fixed for the 2011/12 loans year.

13. Contact

Abigail Smith at the Department for Culture, Media and Sport Tel: 020 7211 6124 or email: abigail.smith@culture.gsi.gov.uk can answer any queries regarding the instrument.