

2023 No. 1068

LIBRARIES

The Public Lending Right Scheme 1982 (Commencement of Variations) (No. 2) Order 2023

<i>Made</i>	- - - -	<i>5th October 2023</i>
<i>Laid before Parliament</i>		<i>10th October 2023</i>
<i>Coming into force</i>	- -	<i>31st October 2023</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 representatives of authors and library authorities and of others who appear to be 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 this Order in exercise of that power:

Citation, commencement and extent

1.—(1) This Order may be cited as the Public Lending Right Scheme 1982 (Commencement of Variations) (No. 2) Order 2023 and comes into force on 31st October 2023.

(2) This Order extends to England and Wales, Scotland and Northern Ireland.

Commencement of variations

2. The variations of the Public Lending Right Scheme 1982 that are set out in the Appendix to this Order come into force on 31st October 2023.

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- (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 to S.I. 1990/2360 sets out the Scheme as varied by amendments made on 26th November 1990. Further relevant variations were brought into force by S.I. 2005/1519, 2013/2352 and 2018/691.
- (c) 1979 c. 10.
- (d) The functions under section 3(7) of the Public Lending Right Act 1979 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).

APPENDIX

Article 2

Variations of the Public Lending Right Scheme 1982

1. In article 14A (forms of application in respect of posthumously eligible books)—
 - (a) in paragraph (a), for “paragraph 4” substitute “paragraph 3”;
 - (b) in paragraph (b)—
 - (i) at the beginning insert “where paragraph (2) of article 17B does not apply,”;
 - (ii) at the end omit “and”;
 - (c) after paragraph (b) insert—
 - “(ba) where paragraph (2) of article 17B applies—
 - (i) the name and address of the applicant, and
 - (ii) a statement signed by the applicant that the conditions as to eligibility specified in articles 5A and 6A are satisfied, and”;
 - (d) in paragraph (c)—
 - (i) for “as aforesaid that” substitute “by the applicant, if article 17B(2) applies, or otherwise by the personal representatives of”;
 - (ii) after “the application is being made” insert “, that the posthumously eligible person”;
 - (e) in the closing words, after “and shall be accompanied, when” insert “paragraph (2) of article 17B does not apply and”.
2. In article 17B (application for first registration in respect of posthumously eligible books)—
 - (a) the existing text becomes paragraph (1);
 - (b) in sub-paragraph (b) of that paragraph, at the beginning insert “unless paragraph (2) applies,”;
 - (c) after that paragraph insert—
 - “(2) This paragraph applies where—
 - (a) the application is made by a person (“the transferee”) who previously received a transfer under article 27 of the deceased author’s interest in respect of one or more eligible books, and
 - (b) when the transfer was made, the personal representatives of the deceased author gave a declaration in accordance with paragraph (3).
 - (3) The declaration referred to in paragraph (2)(b) is a declaration, in such form as the Board may from time to time require, that the personal representatives of the deceased author are not aware of any person other than the transferee who would be entitled, pursuant to an application under this article, to the registered interest in respect of any posthumously eligible book by the deceased author.
 - (4) In this article, “deceased author” means the posthumously eligible person in relation to whom the application referred to in paragraph (1) is made.”.
3. In article 37 (number of loans to be ascertained by means of a sample)—
 - (a) the existing text becomes paragraph (1);
 - (b) after that paragraph insert—

“(2) The sample referred to in paragraph (1) may comprise all lendings of that book from all service points in all groups.”.

4. In paragraph (2) of article 38 (designation of sampling points)—

- (a) at the end of sub-paragraph (d) insert “and”;
- (b) omit sub-paragraphs (f) and (g).

5. In article 42 (method of determining the number of notional loans)—

- (a) in paragraph (2)—
 - (i) after “made in all groups; and” insert “, except where paragraph (5) applies,”;
 - (ii) omit “financial year ending in the”;
 - (iii) for “financial year is not available to the Board, the most recent financial year” substitute “sampling year is not available to the Board, the most recent sampling year or financial year”;

(b) in paragraph (3), for “paragraph (2)” substitute “paragraphs (2) and (5)”;

(c) after paragraph (3) insert—

“(4) Paragraph (5) applies where the Board has designated all service points in a group as (or as included in) operative sampling points for the purpose of a sampling year.

(5) Where this paragraph applies, the number of notional loans of a book for the group in question during that sampling year is the number of loans of that book recorded during the sampling year at the operative sampling points in that group.”.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force, on 31st October 2023, variations of the Public Lending Right Scheme 1982 (“the Scheme”) made by the Secretary of State under the Public Lending Right Act 1979 (c. 10) (the “1979 Act”). The variations are set out in the Appendix to the Order.

The 1979 Act and the Scheme confer a right (known as the public lending right) for authors 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 Scheme is administered by the Board of the British Library.

The variations brought into force by this Order amend the requirements which apply to an application for registration of a book under the Scheme following the death of the author (a “posthumously eligible book”). They also amend requirements relating to the collection of data to determine the number of times a book has been lent out.

The variations set out in paragraphs 1 and 2 of the Appendix amend articles 14A and 17B of the Scheme. The changes allow an application for registration of a posthumously eligible book to be made, in certain circumstances, by the person entitled to the public lending right interest in respect of the book, rather than by the personal representatives of the deceased author.

The variations set out in paragraphs 3, 4 and 5 of the Appendix amend articles 37, 38 and 42 of the Scheme. The changes enable the British Library, when estimating the number of times a book has been lent out in a particular year, to use data obtained from an increased sample of libraries, or to use comprehensive book loans data collected from all public libraries in the United Kingdom.

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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