EXPLANATORY MEMORANDUM TO

THE PUBLIC LENDING RIGHT SCHEME 1982 (COMMENCEMENT OF VARIATION) ORDER 2009

2009 No. 3259

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. Description

This instrument brings into force a variation to the Public Lending Right Scheme, which increases the 'rate per loan' paid under the Scheme to authors from 5.98p to 6.29p.

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 the works. 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. The Scheme is now set out in the Public Lending Right Scheme 1982 (Commencement of Variations) Order 1990 (SI 1990/2360).

4.2 Section 3(7) of the 1979 Act confers a power on the Secretary of State to vary the Scheme by Order. Any increase in the rate per loan that needs to be made is effected through a variation to the Scheme which has to be brought into force by such an Order. The variation will substitute '6.29p' for '5.98p' 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, and this has been amended from time to time. The funds available to the Public Lending Right Scheme in 2009/10 are higher than in 2008/09. This additional funding, plus income and efficiency savings generated in the year, has made a payment of an increased rate per loan of 6.29p possible.

8. Consultation outcome

The limited time between the rate per loan calculation, based on data supplied by libraries of the previous year's loans, and the payment date constrained the time available for consultation. A short consultation with relevant stakeholders therefore took place and no objections were raised about the increased level of payment.

9. Guidance

The Public Lending Right Scheme is administered by the Registrar of Public Lending Right, who has been notified that the Minister for Culture has approved the new rate per loan for 2008/09. 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 6.29p.

11. Regulating small business

The legislation does not apply to small business.

12. Monitoring & review

The appropriateness of the new rate per loan of 6.29p will be considered by the Registrar of Public Lending Right before making recommendations about the rate per loan to be fixed for 2009/10.

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.