EXPLANATORY MEMORANDUM TO

THE PUBLIC LENDING RIGHT SCHEME 1982 (COMMENCEMENT OF VARIATION) ORDER 2020

2020 No. 28

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Digital, 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 of the Public Lending Right Scheme ("the Scheme"), the purpose of which is to increase the 'rate per loan' paid to authors from 8.52p to 9.03p.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is the whole of the United Kingdom.

4.2 The territorial application of this instrument is the whole of the United Kingdom.

5. European Convention on Human Rights

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

6. Legislative Context

6.1 The Public Lending Right Act 1979 ("the 1979 Act") gave the Secretary of State power to prepare and bring into force the Public Lending Right Scheme, which was subsequently established by the Public Lending Right Scheme 1982 (Commencement) Order 1982 (S.I. 1982/719). The Scheme is set out in the Appendix to that Order. In accordance with the Scheme, a right is conferred on authors to receive payments from a central fund based on the number of times their books are lent out by public libraries (known as the Public Lending Right).

6.2 Section 3(7) of the 1979 Act provides the Secretary of State with a power to vary the Scheme, including the rate per loan which is set out in paragraph 1(a) of article 46. Any such variation must be brought into force by Order. The most recent amendments to the Scheme were made by the Public Lending Right Scheme 1982

(Commencement of Variation) (No. 2) Order 2018 (S.I. 2018/691) (which extended the public lending right to include remote loans of e-books and audio-books from public libraries) and the Public Lending Right Scheme 1982 (Commencement of Variation) (No. 3) Order 2018 (S.I. 2018/1220).

6.3 This Order is required to bring into force a further variation to the Scheme made by the Secretary of State to increase the rate per loan.

7. Policy background

What is being done and why?

7.1 The Scheme was brought into force on 14 June 1982 to provide annual payments from a central fund to authors whose books are loaned by public libraries in the UK. The rate per loan, which is the subject of this Order, is the sum attributable to each qualifying loan for the purposes of calculating the total payment owed to each author.

7.2 Since 2013 the British Library Board ("the Board") has been responsible for administering the Scheme. The Board recommends the rate per loan to the Secretary of State on an annual basis, as the rate is dependent on the size of the central fund available that year and the number of qualifying book loans in the relevant sampling period, which runs from 1st July of one year to 30th June of the next. The recommended rate per loan is the subject of a consultation with interested parties, as required by section 1(2) of the 1979 Act, before the Secretary of State decides whether to vary the Scheme to amend the rate per loan.

7.3 This Order brings into force a variation made by the Secretary of State to increase the rate per loan from 8.52p to 9.03p. The reason for the increase recommended by the Board is that there has been a reduction in the number of estimated loans of registered books across the UK compared with the number from the previous year. If the rate per loan is not increased, it would result in an underspend against the available budget for the year.

7.4 Payments under the Scheme are made to authors annually in arrears, no later than the end of the following financial year. Accordingly, payments made in relation to the increased rate will correspond to loans made between 1st July 2018 and 30th June 2019.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

9.1 No consolidation is required.

10. Consultation outcome

10.1 The proposed increase in the rate per loan was the subject of a four week consultation which ran from 4 November 2019 to 29 November 2019. A letter was sent to representatives of authors, public libraries and other key stakeholders relating to the public library sector in the UK, and the Devolved Administrations. A copy of the consultation letter was made available on the GOV.UK website. All responses

received were supportive of the recommended increase in the rate per loan. A summary of consultation responses and the Government response is available at the following link: https://www.gov.uk/government/consultations/consultation-on-the-public-lending-right-rate-per-loan-payments-for-the-2018-to-2019-scheme-year

10.2 In relation to the Department's engagement with the Devolved Administrations about the proposed amendment, in accordance with long established practice in this area, the Department consulted in particular with Northern Ireland, as the subject matter of the Public Lending Right is a transferred matter in respect of Northern Ireland. Northern Ireland's Department for Communities responded to confirm that it is content with the variation.

10.3 Having considered the consultation responses, the Minister decided to vary the Scheme to increase the rate per loan from 8.52p to 9.03p.

11. Guidance

11.1 The Department will notify the Board when the Scheme has been amended. The Board will use its regular communications to authors and other stakeholders to ensure that they are made aware of the amendment.

12. Impact

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

12.2 The impact on the public sector is to provide the Board with an altered rate per loan for the purpose of administering the Scheme. There is no financial impact on the British Library.

12.3 The assessment of the lack of impact on business, charities or voluntary bodies is based on authors being the main stakeholder to be affected. For the purpose of this statutory instrument we have considered all authors to be businesses. There is no, or no significant, impact on business, charities or voluntary bodies because the instrument does not amount to a policy change but operates to simply ensure that authors continue to be paid at the appropriate rate based on the size of the central fund and the number of estimated loans of registered books across the UK.

12.4 An Impact Assessment has not been prepared for this instrument for the above reason. However, a de minimis assessment was carried out and concluded that there would be no significant impact on businesses or the public sector.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses. For the purpose of this statutory instrument we have considered all authors to be small or micro businesses.

13.2 The effect of this instrument is to ensure that authors continue to be paid at the appropriate rate based on the size of the central fund and the number of estimated loans of registered books across the UK so no specific action is necessary to minimise the impact on small businesses.

14. Monitoring & review

14.1 The approach to monitoring of this legislation is that the rate per loan will be reviewed by the Board again following the end of the 2019/2020 PLR Scheme year period and

a recommendation will be made to the Secretary of State as to whether the rate per loan should be the subject of further variation.

15. Contact

15.1 Nigel Wakelin at the Department for Digital, Culture, Media and Sport (Telephone: 0207 211 6358 or email: nigel.wakelin@culture.gov.uk) can be contacted with any queries regarding the instrument.

15.2 Louise Smith, Deputy Director for Arts, Libraries and Digital Culture at the Department for Digital, Culture, Media and Sport can confirm that this Explanatory Memorandum meets the required standard.

15.3 Helen Whately MP, Parliamentary Under Secretary of State (Minister for Arts, Heritage and Tourism), at the Department for Digital, Culture, Media and Sport can confirm that this Explanatory Memorandum meets the required standard.