EXPLANATORY MEMORANDUM TO

THE PUBLIC LENDING RIGHT SCHEME 1982 (COMMENCEMENT OF VARIATION) ORDER 2024

2024 No. 34

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Culture, Media and Sport and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Lord Parkinson of Whitley Bay, Minister for Arts and Heritage at the Department for Culture, Media and Sport confirms that this Explanatory Memorandum meets the required standard.

2.2 Rosa Schiller-Crawhurst, Deputy Director for Arts and Libraries, at the Department for Culture, Media and Sport confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Nigel Wakelin at the Department for Culture, Media and Sport (email: nigel.wakelin@dcms.gov.uk) can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument brings into force a variation of the Public Lending Right Scheme ("the Scheme"), the purpose of which is to reduce the 'rate per loan' paid to authors from 30.53p to 13.69p.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is the whole of the United Kingdom.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the whole of the United Kingdom.

5. Policy Context

What is being done and why?

5.1 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.

5.2 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 sections 1(2) and 3(7) of the 1979 Act, before the Secretary of State decides whether to vary the Scheme to amend the rate per loan.

What was the previous policy, how is this different?

5.3 This Order brings into force a variation made by the Secretary of State to reduce the rate per loan from 30.53p to 13.69p. The reason for the reduction recommended by the Board is that there has been an increase in the number of estimated loans of registered books across the UK compared with the number from the previous year. Book loans in the two preceding Scheme years were directly affected by COVID restrictions as library users had restricted physical access to libraries during that time. The reduction in the rate per loan therefore reflects the fact that borrowing of books has gone up and is returning to a near pre-covid level and is aimed at ensuring payments to authors remain at a similar level to previous years.

5.4 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 reduced rate will correspond to loans made between 1st July 2022 and 30th June 2023.

6. Legislative and Legal Context

How has the law changed?

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 variations of the Scheme were brought into force by the Public Lending Right Scheme 1982 (Commencement of Variations) (No.2) Order 2023 (S.I. 2023/1068) and the Public Lending Right Scheme 1982 (Commencement of Variation) Order 2023 (S.I. 2023/21).

Why was this approach taken to change the law?

6.3 This Order is required to bring into force a further variation to the Scheme made by the Secretary of State, in this case to reduce the rate per loan.

7. Consultation

Summary of consultation outcome and methodology

7.1 The proposed reduction in the rate per loan was the subject of a four week consultation which ran from 23 October 2023 to 17 November 2023. A letter was sent to 14 organisations representative 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. The vast majority of the responses received were supportive of the recommended reduction 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/public-lending-right-rate-per-loan-2022-to-2023-consultation.

7.2 In relation to the Department's engagement with the Devolved Administrations about the proposed variation, 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.

8. Applicable Guidance

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

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because it is out of scope of the Better Regulation Framework under Section 22(4)(c) of the Small Business Enterprise and Employment Act 2015: "A "regulatory provision" does not include a statutory provision if or to the extent that it makes or amends provision in connection with the giving of grants or other financial assistance by or on behalf of a public authority." On this basis, proportionate analysis has been undertaken by the Department to assess the costs and benefits of the proposed amendment. [e.g. low level of impact per business; not many businesses affected; SI relates to maintenance of existing regulatory standards. Explanations should include key impacts and net effects of the policy and estimated figures for costs and benefits.]

Impact on businesses, charities and voluntary bodies

9.2 There is no significant impact on business, charities or voluntary bodies. Proportionate analysis has been undertaken by the Department to assess the costs and benefits of maintaining the current PLR rate, compared to adjusting it to the new recommended rate, given the latest data on qualifying loans.

9.3 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.

9.4 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.

9.5 There is no, or no significant, impact on the public sector because the impact on the public sector is that the Board will apply the new rate per loan when administering the Scheme. There is no financial impact on the British Library.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 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 2023/2024 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.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 The Minister of Arts and Heritage has made the following statement regarding Human Rights:

12.2 "In my view the provisions of the Public Lending Right Scheme 1982 (Commencement of Variation) Order 2024 are compatible with the Convention rights."

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

13. The Relevant European Union Acts

This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts.