

Version
as at 28 October 2021



Public Lending Right for New Zealand Authors Act 2008

Public Act 2008 No 104
Date of assent 29 September 2008
Commencement see section 2

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Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

This Act is administered by the National Library.

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Public Lending Right for New Zealand Authors Act 2008.

2 Commencement

This Act comes into force on 1 January 2009.

Part 1
Preliminary provisions

3 Purposes

The purposes of this Act are—

- (a) to establish the public lending right for New Zealand authors scheme;
and
- (b) to disestablish the New Zealand Authors' Fund.

4 Interpretation

In this Act, unless the context requires another meaning,—

advisory group means the advisory group established under section 17

author is defined in section 5

book is defined in section 6

chief executive means the chief executive of the department of State that administers this Act

Minister means the Minister of the Crown who is responsible for the administration of this Act—

- (a) under the authority of a warrant; or
- (b) under the authority of the Prime Minister

New Zealand author is defined in section 7

New Zealand library is defined in section 8

register means the register kept under section 13(1)

regulations means regulations under this Act

scheme means the public lending right for New Zealand authors scheme that this Act establishes.

5 Meaning of author

- (1) **Author** means a person who—
 - (a) satisfies subsection (2); and
 - (b) satisfies whichever of subsections (3) to (5) is applicable to him or her; and
 - (c) is not excluded from being an author by any of subsections (6) to (8); and
 - (d) satisfies conditions applicable to him or her added to this definition by regulations, if there are any such regulations.
- (2) **Author** means a natural person.
- (3) If a book's intellectual content is expressed only in text, **author** means a person who created the text.
- (4) If a book's intellectual content is expressed only in illustrations, **author** means a person who created the illustrations.
- (5) If a book's intellectual content is expressed in text and in illustrations, **author** means both a person who created the text and a person who created the illustrations.
- (6) **Author** does not include a person who writes or illustrates a book as part of his or her duties under a contract of service or a contract for services.
- (7) **Author** does not include a person who receives payment for writing or illustrating a book wholly by way of a fee.
- (8) **Author** does not include a person who paid a third party to publish the person's book.

6 Meaning of book

- (1) **Book** means a publication that—
 - (a) is listed in the national bibliographic database of the National Library of New Zealand Te Puna Mātauranga o Aotearoa; and
 - (b) is not excluded from being a book by any of subsections (2) to (5); and
 - (c) satisfies conditions applicable to it added to this definition by regulations, if there are any such regulations.
- (2) **Book** does not include a serial publication.
- (3) **Book** does not include a text book intended for use in schools.

- (4) **Book** does not include charts, maps, plans, or tables.
- (5) **Book** does not include sheet music.

7 **Meaning of New Zealand author**

New Zealand author means an author who—

- (a) is a New Zealand resident as defined in section YD 1 of the Income Tax Act 2007; and
- (b) satisfies conditions applicable to him or her added to this definition by regulations, if there are any such regulations.

8 **Meaning of New Zealand library**

New Zealand library means a library in New Zealand that—

- (a) makes its books available for use in New Zealand; and
- (b) satisfies conditions applicable to it added to this definition by regulations, if there are any such regulations.

9 **Act binds the Crown**

This Act binds the Crown.

Part 2

Public lending right for New Zealand authors scheme

10 **Establishment of scheme**

This Act establishes the public lending right for New Zealand authors scheme.

11 **Purpose of scheme**

The purpose of the scheme is to provide for New Zealand authors to receive payments in recognition of the fact that their books are available for use in New Zealand libraries.

12 **Payments under scheme**

- (1) The chief executive must make annual payments under the scheme to New Zealand authors in accordance with regulations.
- (2) If a New Zealand author dies after entering his or her name in the register for the year, the chief executive must make the annual payment to which the author is entitled to the administrator of the author's estate.

13 **Register for purposes of scheme**

- (1) The chief executive must keep a register in accordance with regulations.
- (2) A person who is eligible under regulations for payments under the scheme, and who wants to receive payments under the scheme, must enter his or her name in the register annually in accordance with regulations.

14 Matters that may be dealt with in regulations

- (1) Regulations may deal with the matters described in this section.
- (2) Regulations may add conditions to the definitions of “author”, “book”, “New Zealand author”, and “New Zealand library” in sections 5 to 8.
- (3) Regulations may specify the eligibility criteria for both books and New Zealand authors that entitle authors to payments under the scheme.
- (4) Regulations may specify the kind of New Zealand library in which a New Zealand author’s book must be available so as to entitle the author to payments under the scheme.
- (5) Regulations may specify how New Zealand libraries are to be surveyed or sampled to establish the availability in them of a New Zealand author’s book.
- (6) Regulations may describe the method by which payments under the scheme are calculated.
- (7) Regulations may prescribe requirements for the keeping of the register.
- (8) Regulations may specify who may enter his or her name in the register and how he or she is to do it.
- (9) Regulations may describe the process that a person must follow to challenge a decision affecting him or her made in the course of the scheme’s administration.
- (10) Regulations may provide for any other matters that are contemplated by this Act, necessary for its administration, or necessary to give it full effect.

15 Consultation on proposal for regulations

- (1) The chief executive must consult the advisory group on a proposal to make regulations.
- (2) The chief executive must—
 - (a) give the advisory group notice of the proposal; and
 - (b) give the advisory group an opportunity to give its advice; and
 - (c) consider the advice.
- (3) The chief executive must advise the Minister of the results of the consultation.
- (4) The Minister must—
 - (a) satisfy himself or herself that the chief executive has consulted as required by subsection (2); and
 - (b) take the results of the consultation into account; and
 - (c) decide whether or not to recommend the making of the regulations to the Governor-General.

16 Regulation-making power

- (1) The Governor-General may make regulations by Order in Council about one or more of the matters described in section 14.
- (2) The Governor-General may make the regulations only after being advised by the Minister to do so.
- (3) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 16(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

*Advisory group***17 Establishment of advisory group**

- (1) The chief executive must appoint an advisory group for the scheme.
- (2) The advisory group is a statutory board for the purposes of the Fees and Travelling Allowances Act 1951.
- (3) The members of the advisory group may be paid, out of public money, remuneration by way of fees, salaries, or allowances, and travelling allowances and travelling expenses, under the Fees and Travelling Allowances Act 1951. The provisions of that Act apply accordingly.

18 Membership of advisory group

- (1) The members of the advisory group—
 - (a) must be persons who have appropriate experience, knowledge, and skills, in the chief executive's opinion; and
 - (b) must include—
 - (i) at least 1 representative of organisations of authors:
 - (ii) at least 1 representative of organisations of librarians:
 - (iii) a representative of 1 or more relevant government departments; and
 - (c) may include any other person to whom paragraph (a) applies.
- (2) The following provisions apply to the terms of appointment of members of the advisory group:
 - (a) the chief executive must fix a term of appointment for each member; and

- (b) each term must be for a period of less than 5 years; and
 - (c) each term may be renewed.
- (3) A member of the advisory group ceases to be a member if he or she—
- (a) dies; or
 - (b) gives the chief executive written or electronic notice of his or her resignation as a member; or
 - (c) is adjudged bankrupt under the Insolvency Act 2006; or
 - (d) becomes a special patient as defined in section 2(1) of the Mental Health (Compulsory Assessment and Treatment) Act 1992; or
 - (e) becomes the subject of an order under the Protection of Personal and Property Rights Act 1988; or
 - (f) is convicted of an offence punishable by a term of imprisonment of 2 years or more.
- (4) The chief executive may appoint a member to replace a member who has ceased to be a member.
- (5) The chief executive must consult the Minister before appointing members to the advisory group.

19 Functions of advisory group

- (1) The functions of the advisory group are—
- (a) to advise the chief executive on a proposal to make regulations when consulted under section 15; and
 - (b) to advise the chief executive on policy and administrative matters affecting the scheme when at a meeting called under section 20.
- (2) In addition to the occasions described in subsection (1), the chief executive may ask for the advisory group's advice at any time by any written or electronic means.

20 Meetings of advisory group

The chief executive must call a meeting of the advisory group at least once every 3 years.

21 New Zealand Authors' Fund

When this Act commences,—

- (a) section 31 of the Arts Council of New Zealand Toi Aotearoa Act 1994 is repealed; and
- (b) the New Zealand Authors' Fund established by section 31 of the Arts Council of New Zealand Toi Aotearoa Act 1994 is dissolved; and
- (c) assets and liabilities of the New Zealand Authors' Fund become assets and liabilities of the scheme.

Notes**1 General**

This is a consolidation of the Public Lending Right for New Zealand Authors Act 2008 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 Legal status

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 Editorial and format changes

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 Amendments incorporated in this consolidation

Secondary Legislation Act 2021 (2021 No 7): section 3