EXPLANATORY STATEMENT

Issued by the authority of the Minister for the Arts

Public and Educational Lending Rights (Better Income for Authors) Act 2026

Public and Educational Lending Rights Scheme 2026

Purpose and Operation

The principal purpose of the *Public and Educational Lending Rights Scheme 2026* (the Scheme) is to set out the form and manner in which Australian creators or Australian publishers may make a lending rights payment claim under the Public Lending Right and Educational Lending Right as the eligible creator or eligible publisher of an eligible book. These payments are made in connection with the rights of copyright in those books.

Payments are made for eligible books held in Australian public lending libraries and educational lending libraries based on the estimated number of copies of the books.

The Scheme sets the eligibility criteria, payment rates, and considerations for the Secretary to take into account when administering the Scheme. In administering the Scheme the Secretary makes an annual estimate of the holdings of each eligible book in relevant libraries.

The effect of the Scheme is claimants have clear guidance on their eligibility to claim payments, the manner in which they must be claimed and how payments are calculated, approved and paid.

Further details of the *Public and Educational Lending Rights Scheme 2026* are outlined in Attachment A.

Background

An Australian lending right was established in 1974 to compensate Australian authors and publishers for income lost due to their books being held in lending libraries. Most recently, the legislative basis was the *Public Lending Right Act 1985* and the *Public Lending Right Scheme 2016*, as well as the *Educational Lending Right Policies and Procedures 2023*.

In May 2026, the *Public and Educational Lending Rights (Better Income for Authors) Act 2026* (the 2026 Act) received the Royal Assent and commenced on 1 October 2026. The 2026 Act replaces the *Public Lending Right Act 1985* (the 1985 Act) and consolidates the Public Lending Right and the Public and Educational Lending Right into a single legislative framework. It also updates and modernises the legislative basis for the Public and Educational Lending Right Scheme and formalises operational matters in line with current delegated practice.

The *Public Lending Right Scheme 2016* and *Educational Lending Right Policies and Procedures 2023* are replaced by the *Public and Educational Lending Rights Scheme 2026* from 1 October 2026.

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Authority

Section 8 of the *Public and Educational Lending Rights (Better Income for Authors) Act 2026*.

Consultation

There has been significant consultation in relation to the 2026 Act and this legislative instrument with relevant writing and publishing sector stakeholders and the Public Lending Right Committee. Key stakeholders consulted included the Australian Publishers Association, Writing Australia, Australian Society of Authors, National and State Libraries Australasia, Australian Writers Guild, and the Australian Library and Information Association. There was broad support for the proposed changes reflected in the 2026 Act, and the 2026 Act passed through both Houses of Parliament with full support, and without amendment. This legislative instrument applies modernisation updates to a long-standing scheme.

Statement of Compatibility with Human Rights

A Statement of Compatibility with Human Rights is set out at **Attachment B**.

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Attachment A

Details of the *Public and Educational Lending Rights Scheme 2026*

PART 1 – PRELIMINARY

Section 1 – Name of Instrument

This section specifies the name of the legislative instrument as the *Public and Educational Lending Rights Scheme 2026* (the Scheme).

Section 2 – Commencement

This section provides that the Scheme commenced at the same time as section 8 of the *Public and Educational Lending Rights (Better Income for Authors) Act 2026* (the 2026 Act) commences. The 2026 Act commenced on 1 October 2026.

Section 3 – Authority

This section sets out the provision of the *Public and Educational Lending Rights (Better Income for Authors) Act 2026* under which the Scheme is made.

Section 4 – Schedule 2

This section refers to Schedule 2 of the Scheme which lists instruments to be repealed.

Section 5 – Definitions

This section provides for definitions of terms used in the Scheme. Further definitions are in the 2026 Act.

Section 6 – Meaning of *eligible book*

Subsection 6(1)

This subsection provides for further definition of an eligible book for the purposes of the Scheme. This includes reference to the *Copyright Act 1968*, the need to have an International Standard Book Number, and a catalogue record in an Australian bibliographic database including the Schools Catalogue Information Service (SCIS) and Australian National Bibliographic Database (ANBD) as detailed in the 2026 Act. It further provides that an eligible book is not a single-use activity book, or a serialised publication such as a magazine.

Subsection 6(2)

This subsection provides for the eligibility of revised or re-issued editions of eligible books.

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Section 7 – Simplified outline of the Scheme

This section provides a simplified outline of the Scheme.

PART 2 – PAYMENTS TO AUSTRALIAN CREATORS—PUBLIC LENDING

Section 8 – Payments to Australian creators

This section provides for payments to book creators under the Public Lending Right.

Section 9 – Amount of payment to Australian creators

This section provides for the amount payable to an Australian creator, based on the annual budget allocation to the Scheme and dependent on the applicable minimum as specified in in clause 5 of Schedule 1.

Section 10 – Amount payable per eligible book

This section provides for a payment amount per eligible book based on the payment rates in Schedule 1, provided that the creator is found eligible, and if there are more than 50 copies of the book in public lending libraries following an annual estimation. If there is more than one eligible creator, the payment may be divided based on the royalty split between those creators.

Section 11 – Form of payment

This section provides for how payments are to be made under the Scheme to a bank account that must be in the name of the eligible creator, their legal guardian, or to the person who holds their enduring power of attorney.

Section 12 – Right to payment cannot be assigned

This section provides that payments under the Scheme are inalienable.

PART 3 – PAYMENTS TO AUSTRALIAN CREATORS—EDUCATIONAL LENDING

Section 13 – Payments to Australian creators

This section provides for payments to book creators under the Educational Lending Right.

Section 14 – Amount of payment to Australian creators

This section provides for the amount payable to an Australian creator, based on the annual budget allocation to the Scheme and dependent on the applicable minimum as specified in in clause 5 of Schedule 1.

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Section 15 – Amount payable per eligible book

This section provides for a payment amount per eligible book based on the payment rates in Schedule 1, provided the creator is found eligible, and if there are more than 50 copies of the book in educational lending libraries following an annual estimation. If there is more than one eligible creator, the payment may be divided based on the royalty split between those creators.

Section 16 – Form of payment

This section provides for how payments are to be made under the Scheme to a bank account that must be in the name of the eligible creator, their legal guardian, or to the person who holds their enduring power of attorney.

Section 17 – Right to payment cannot be assigned

This section provides payments under the Scheme are inalienable.

PART 4 – PAYMENTS TO AUSTRALIAN PUBLISHERS—PUBLIC LENDING

Section 18 – Payments to Australian publishers

This section provides for payments to publishers under the Public Lending Right.

Section 19 – Amount of payment to Australian publishers

This section provides for the amount payable to an Australian publisher, based on the annual budget allocation to the Scheme and dependent on the applicable minimum as specified in in clause 5 of Schedule 1.

Section 20 – Amount payable per eligible book

This section provides for the amount payable to an Australian publisher, based on the annual budget allocation to the Scheme and dependent on the applicable minimum as specified in in clause 5 of Schedule 1.

PART 5 – PAYMENTS TO AUSTRALIAN PUBLISHERS—EDUCATIONAL LENDING

Section 21 – Payments to Australian publishers

This section provides for payments to publishers under the Educational Lending Right.

Section 22 – Amount of payment to Australian publishers

This section provides for the amount payable to an Australian publisher, based on the annual budget allocation to the Scheme and dependent on the applicable minimum as specified in in clause 5 of Schedule 1.

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Section 23 – Amount payable per eligible book

This section provides for the amount payable to an Australian publisher, based on the annual budget allocation to the Scheme and dependent on the applicable minimum as specified in in clause 5 of Schedule 1.

PART 6 – ESTIMATED NUMBERS OF COPIES OF ELIGIBLE BOOKS

Section 24 – Estimates of numbers of copies of eligible books

This section provides for the method of estimating the number of books held in public or educational lending libraries in Australia for the purposes of making payments to eligible creators and publishers. The eligible book must have a minimum of 50 copies for it to qualify for payment. A claimant may request a new estimate of the book holdings to be undertaken in the same or next scheme year.

PART 7 – CLAIMS FOR LENDING RIGHTS PAYMENTS

Division 1—Making and approving claims

Section 25 – Making claims for lending rights payments

This section provides for the method of making a claim including the use of an approved form as made available by the department, and within 5 years of the book being published.

Section 26 – Approving claims—claims by Australian creators

Subsection 26(1)

This subsection provides for the considerations the Secretary may make in verifying or approving a claim, including whether the creator is Australia, is alive, is entitled to receive ongoing royalties for the book, and has satisfied the Secretary with any other request for information.

Subsection 26(2)

The Secretary may consult the Australian bibliographic database, consider other payments made to create the book, the creator's ongoing financial interest in the book, and any other matter.

Section 27 – Approving claims—claims by Australian publishers

Subsection 27(1)

This subsection provides for the considerations the Secretary may make in verifying or approving a claim by an Australian publisher. This includes whether the publisher is Australian and published the book in Australia, they were not paid by the creator to publish the book, and a creator of the book is also an approved eligible claimant of the same book.

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Subsection 27(2) and (3)

These subsections detail the considerations the Secretary may consider in determining if the publisher is an Australian publisher for the purposes of subsection 27(1)(a) and whether a person published an eligible book in Australia for the purposes of paragraph 27 (1)(b).

Section 28 – Request for additional information

This section provides for the Secretary to request additional information from either a creator or publisher to approve their claim.

Division 2—When claims cease to be in effect

Section 29 – Revocation of approval

This section provides for the Secretary to revoke a claim under Section 26 or 27.

Section 30 – Cessation of claim for lending rights payment—individuals

This section provides for the eventuality if a creator or publisher dies that the estate of the individual will receive the payment for that year after which payments will cease.

Section 31 – Cessation of claim for lending rights payment—bodies corporate

This section provides for when payments to an eligible to publisher cease being the year when they no longer have an eligible creator alive.

Section 32 – Transfer of claim—Australian publishers

This section provides for the transfer of publishing rights between publishers, and how eligibility for payment transfers to the new publisher.

PART 8 – MISCELLANEOUS

Section 33 – Crown not eligible for lending rights payments

This section provides for the exclusion of the Crown, meaning the Commonwealth, State or Territory governments, from receiving payments under the scheme.

Section 34 – Delegation

This section provides for the Secretary of the Department to delegate powers or functions under this Legislative Instrument to the Public and Educational Lending Rights Committee, or to a Senior Executive Service (SES) employee, or acting SES employee, of the Department. This delegation, including instructions, is to be in writing.

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PART 9—APPLICATION AND TRANSITIONAL ARRANGEMENTS

Division 1—Application on commencement of the Scheme

Section 35 – Definitions

This section provides for definitions of terms used in Part 9, Division 1 or the Scheme. Further definitions are in Part 1 Section 5 and in the 2026 Act.

Section 36 – Claims made under old scheme

This section provides for eligible claims under the previous Scheme to be considered approved claim under this Legislative Instrument.

Section 37 – Payments made under old scheme

This section provides for payments already made in the 2026-27 financial year prior to the commencement of the Scheme, then the relevant payment for the Scheme year is taken to have occurred. Payments for the Scheme typically happen in June each year.

Section 38 – Estimates made under old scheme

This section provides for estimates of book copies in relevant libraries made before the commencement of the Scheme in this scheme year, including the minimum threshold for payment of 50 copies, then that estimate would stand for the scheme year.

SCHEDULE 1

Item 1 – Amount payable to an eligible creator for public lending rights in relation to an eligible book

This item sets the payment rates to creators under the public lending right as a table of tiered payments per copy based on ranges of estimated copies of books.

Item 2 – Amount payable to an eligible creator for educational lending rights in relation to an eligible book

This item sets the payment rates to creators under the educational lending right as a table of tiered payments per copy based on ranges of estimated copies of books.

Item 3 – Amount payable to an eligible publisher for public lending rights in relation to an eligible book

This item sets the payment rates to publishers under the public lending right as a table of tiered payments per copy based on ranges of estimated copies of books.

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Item 4 – Amount payable to an eligible publisher for educational lending rights in relation to an eligible book

This item sets the payment rates to publishers under the educational lending right as a table of tiered payments per copy based on ranges of estimated copies of books.

Item 5 – Minimum payment amount

This item sets the minimum payment amount under the Public Lending Right and Educational Lending Right Schemes at $100 for both creators and publishers.

SCHEDULE 2 – REPEALS

Item 1 of this Schedule lists the Instruments to be repealed when the Scheme comes into force.

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Attachment B

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Public and Educational Lending Rights Scheme 2026

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The *Public and Educational Lending Rights Scheme 2026* (the Scheme) is established under the *Public and Educational Lending Rights (Better Income for Authors) Act 2026* to recognise the loss of income by Australian creators and publishers of books held in public lending libraries.

The principal purpose of the Scheme is to set out the form and manner in which Australian creators or Australian publishers may make a lending rights payment claim under the Public Lending Right and Educational Lending Right as the eligible creator or eligible publisher of an eligible book. These payments are made in connection with the rights of copyright in those books. To be eligible for the public lending right, the 2026 Scheme specifies certain requirements for *creators* and *publishers*.

The Scheme sets the eligibility criteria, payment rates, and considerations for the Secretary to take into account when administering the Scheme. The use of multiple (tiered) payment rates enables responsibly targeted funding to be given to eligible persons towards emerging and mid-career authors ensuring that the Scheme continues to encourage the growth in Australian writing and publishing. In administering the Scheme, the Secretary makes an annual estimate of the holdings of each eligible book in relevant libraries.

The effect of the Scheme is claimants have clear guidance on their eligibility to claim payments, the manner in which they must be claimed and how payments are calculated and approved.

Human rights implications

This Legislative Instrument engages the following right:

- The right to benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he or she is the author, in Article 15(1)(c) of the International Covenant on Economic, Social and Cultural Rights (ICESCR).

This right is important for the purposes of encouraging authors to create work with the assurance their moral and material interests in their products will be protected.

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The overarching objective of the Scheme is to ensure remuneration for loss of income by creators and publishers of books held in public and educational lending libraries.

The Scheme sets out the eligibility criteria the Secretary of the Department will use to approve payments and details the payment rates applying under the 2026 Scheme which will continue to further support and promote the right in Article 15(1)(c) of the ICESCR.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

The Hon Tony Burke MP

Minister for the Arts

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