

Version
as at 1 September 2022



**Public Lending Right for New Zealand Authors
Regulations 2008**
(SR 2008/423)

Anand Satyanand, Governor-General

Order in Council

At Wellington this 4th day of November 2008

Present:

His Excellency the Governor-General in Council

Pursuant to section 16 of the Public Lending Right for New Zealand Authors Act 2008, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

Contents

	Page
1 Title	2
2 Commencement	2
3 Interpretation	2
4 Meaning of book	2
5 Meaning of New Zealand library	3
6 Payments under scheme	3
7 Register for purposes of scheme	3

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.

These regulations are administered by the Department of Internal Affairs.

8	Eligibility criteria for books and New Zealand authors	4
9	How New Zealand libraries are to be surveyed or sampled	5
10	Number of copies	6
11	Method by which payments under scheme are calculated	6
12	Challenges to decisions	7
13	Transitional provision for Public Lending Right for New Zealand Authors Amendment Regulations 2015	7

Regulations

1 Title

These regulations are the Public Lending Right for New Zealand Authors Regulations 2008.

2 Commencement

These regulations come into force on 1 January 2009.

Regulation 2: replaced, on 1 January 2013, by regulation 4 of the Public Lending Right for New Zealand Authors Amendment Regulations 2012 (SR 2012/100).

3 Interpretation

In these regulations, unless the context requires another meaning,—

Act means the Public Lending Right for New Zealand Authors Act 2008

illustration includes a photograph

Statistician has the meaning given to it by section 6 of the Data and Statistics Act 2022.

Regulation 3: replaced, on 1 January 2013, by regulation 5 of the Public Lending Right for New Zealand Authors Amendment Regulations 2012 (SR 2012/100).

Regulation 3 **Statistician**: amended, on 1 September 2022, by section 107(2) of the Data and Statistics Act 2022 (2022 No 39).

4 Meaning of book

- (1) For the purposes of section 6(1)(c) of the Act, a publication must satisfy the condition in this regulation that applies to it.
- (2) A book that is intended for children must contain at least 24 pages of text or text and illustrations.
- (3) A book that consists entirely of text that is not drama or poetry must contain at least 48 pages of text.
- (4) A book that consists entirely of text that is drama or poetry must contain at least 24 pages of drama or poetry or both.
- (5) A book that consists entirely of illustrations must contain at least 96 pages of illustrations.

- (6) A book that is a combination of text and illustrations must contain at least 48 pages of text and illustrations.
- (7) A book that is a translation must comply with whichever of subclauses (2) to (6) applies to it.

(8) *[Revoked]*

Regulation 4(2): replaced, on 1 January 2013, by regulation 6(1) of the Public Lending Right for New Zealand Authors Amendment Regulations 2012 (SR 2012/100).

Regulation 4(7): replaced, on 1 January 2013, by regulation 6(2) of the Public Lending Right for New Zealand Authors Amendment Regulations 2012 (SR 2012/100).

Regulation 4(8): revoked, on 1 January 2013, by regulation 6(2) of the Public Lending Right for New Zealand Authors Amendment Regulations 2012 (SR 2012/100).

5 Meaning of New Zealand library

For the purposes of section 8(b) of the Act, the library must not be—

- (a) a school library; or
- (b) a special library in a public service agency as defined in section 5 of the Public Service Act 2020; or
- (c) a special library in a science or technology body; or
- (d) a private library.

Regulation 5(b): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

6 Payments under scheme

The chief executive must make payments under the scheme to the authors who are entitled to the payments before the end of the year in which the authors enter their names in the register.

7 Register for purposes of scheme

- (1) The chief executive may keep the register in writing or electronically.
- (2) The chief executive must provide a registration form that can be submitted in writing or electronically.
- (3) The registration form may require a New Zealand author to provide some or all of the following:
 - (a) the author's name:
 - (b) the author's pen name, if any:
 - (c) the author's contact details:
 - (d) details about the author's book:
 - (e) a statement that the author is eligible to receive a royalty payment for the book:
 - (f) the names of any other authors of the book:

- (g) for a book that has 2 or 3 authors, the proportions in which the royalty payment is shared under the publishing contract:
 - (h) the means by which the author wants to receive his or her payment under the scheme:
 - (i) either—
 - (i) a copy of the author's publishing contract; or
 - (ii) if the author has published the book wholly of his or her own accord, a statement confirming the author's eligibility to receive income from the sale of the book:
 - (j) any other information or statement necessary for the administration of the scheme:
 - (k) a declaration under the Oaths and Declarations Act 1957 about any information or statement provided by the author in the form.
- (4) An author who wants to receive a payment under the scheme in a year must submit a completed registration form to the chief executive between 1 January and 1 March in that year.
- (5) The author must submit the registration form in writing or electronically.
- (5A) The chief executive must notify the author when the chief executive accepts, or does not accept, the registration form.
- (6) The author has entered his or her name in the register when the chief executive accepts the author's registration form.

Regulation 7(4): amended, on 1 January 2016, by regulation 4(1) of the Public Lending Right for New Zealand Authors Amendment Regulations 2015 (LI 2015/263).

Regulation 7(5A): inserted, on 1 January 2016, by regulation 4(2) of the Public Lending Right for New Zealand Authors Amendment Regulations 2015 (LI 2015/263).

8 Eligibility criteria for books and New Zealand authors

- (1) A New Zealand author is entitled to payments under the scheme if—
- (a) subclauses (2) and (3) are satisfied; and
 - (b) subclause (5) is satisfied, if it applies.
- (2) The author's book must satisfy the following criteria:
- (a) the number of copies of the book in New Zealand libraries must be at least 50 as determined by a survey under regulation 9 (as adjusted under regulation 10(5) if required):
 - (b) the book must have no more than 3 authors:
 - (c) the book must be published:
 - (d) the book must have been published before 1 January in the year in which its author enters his or her name in the register.
- (3) The author—

- (a) must be eligible to receive a royalty payment for the book; and
 - (b) must not have assigned his or her royalty payment.
- (4) Subclause (5) applies if the author's work is in a publication that—
- (a) has an editor; and
 - (b) consists of works that—
 - (i) are written; and
 - (ii) are written by more than 1 author; and
 - (iii) may be fiction or non-fiction; and
 - (iv) may or may not contain illustrations.
- (5) The author—
- (a) must be the editor of the publication; and
 - (b) must have written at least 48 of the pages in the publication.

Regulation 8(1)(b): amended, on 1 January 2013, by regulation 7(1) of the Public Lending Right for New Zealand Authors Amendment Regulations 2012 (SR 2012/100).

Regulation 8(2)(a): amended, on 1 January 2016, by regulation 5(1) of the Public Lending Right for New Zealand Authors Amendment Regulations 2015 (LI 2015/263).

Regulation 8(2)(a): amended, on 1 January 2013, by regulation 7(2) of the Public Lending Right for New Zealand Authors Amendment Regulations 2012 (SR 2012/100).

Regulation 8(2)(d): amended, on 1 January 2016, by regulation 5(2) of the Public Lending Right for New Zealand Authors Amendment Regulations 2015 (LI 2015/263).

Regulation 8(4): replaced, on 1 January 2013, by regulation 7(3) of the Public Lending Right for New Zealand Authors Amendment Regulations 2012 (SR 2012/100).

Regulation 8(5): inserted, on 1 January 2013, by regulation 7(3) of the Public Lending Right for New Zealand Authors Amendment Regulations 2012 (SR 2012/100).

9 How New Zealand libraries are to be surveyed or sampled

- (1) The number of copies of a book that is by a New Zealand author who has entered his or her name in the register and that is held by 1 or more New Zealand libraries must be determined by regular surveys of New Zealand libraries.
- (2) The surveys may be of—
 - (a) samples of New Zealand libraries; or
 - (b) all New Zealand libraries.
- (3) The chief executive must do the surveys in accordance with the advice of the Statistician on—
 - (a) how often to do the surveys; and
 - (b) the design of the surveys.
- (4) If a book is published in more than one volume because of its size, a survey must count it as a single book.
- (5) If a book is published in more than one volume because each volume contains a different component, a survey must count each volume as a separate book.

- (6) Subclause (7) applies to a book that has been included in 3 consecutive surveys and has not shown in any of the surveys as being held in 1 or more New Zealand libraries in at least 50 copies.
- (7) The book may be included in a survey again only if an investigation under regulation 12 establishes that there is a good reason for including the book in a survey again.

Regulation 9: replaced, on 1 January 2013, by regulation 8 of the Public Lending Right for New Zealand Authors Amendment Regulations 2012 (SR 2012/100).

Regulation 9(7): amended, on 1 January 2016, by regulation 6 of the Public Lending Right for New Zealand Authors Amendment Regulations 2015 (LI 2015/263).

10 Number of copies

- (1) Before 1 November in a year, the chief executive must notify each author who has entered his or her name in the register for the year of the number of copies of the author's book that has been determined by a survey under regulation 9 to be held in New Zealand libraries for the year.
- (2) A New Zealand author who believes that an error has been made in determining the number of copies of his or her book may have the apparent error investigated.
- (3) The author—
- (a) must contact the chief executive, in writing or electronically, by 30 November in that year; and
 - (b) must state his or her reasons for believing that there has been an error.
- (4) The chief executive must investigate the apparent error before calculating the amount payable to authors for that year under regulation 11.
- (5) If satisfied that an error has been made, the chief executive must adjust the number of copies of the author's book accordingly.

Regulation 10: replaced, on 1 January 2016, by regulation 7 of the Public Lending Right for New Zealand Authors Amendment Regulations 2015 (LI 2015/263).

11 Method by which payments under scheme are calculated

- (1) A payment under the scheme for a year is calculated by applying the following formula:

$$\text{number of copies} \times \text{book rate.}$$

- (2) In the formula in subclause (1),—
- (a) **number of copies** means the number of copies of a book by a New Zealand author for the year as determined by a survey under regulation 9 (as adjusted under regulation 10(5) if required);
 - (b) **book rate** means the rate determined for the year by applying the following formula:

$$\text{funding available} \div \text{total number of copies}$$

- (3) In the formula in subclause (2)(b),—
- (a) **funding available** means the funding available for payments to New Zealand authors under the scheme in the year:
 - (b) **total number of copies** means the total number of copies of books for which New Zealand authors are entitled to payments in the year, determined by a survey under regulation 9 (as adjusted under regulation 10(5) if required).
- (4) If a book has 2 or 3 authors,—
- (a) the payment is shared among the authors in the same proportions as the royalty payment is shared under the publishing contract; and
 - (b) an author's share is paid only if the author has entered his or her name in the register.

Regulation 11(2)(a): amended, on 1 January 2016, by regulation 8 of the Public Lending Right for New Zealand Authors Amendment Regulations 2015 (LI 2015/263).

Regulation 11(2)(a): amended, on 1 January 2013, by regulation 10(1) of the Public Lending Right for New Zealand Authors Amendment Regulations 2012 (SR 2012/100).

Regulation 11(3)(b): replaced, on 1 January 2013, by regulation 10(2) of the Public Lending Right for New Zealand Authors Amendment Regulations 2012 (SR 2012/100).

Regulation 11(3)(b): amended, on 1 January 2016, by regulation 8 of the Public Lending Right for New Zealand Authors Amendment Regulations 2015 (LI 2015/263).

12 Challenges to decisions

- (1) A New Zealand author who believes that a decision affecting him or her made in the course of the scheme's administration in a year should be investigated may have the decision investigated.
- (2) This regulation does not apply to a decision in relation to the number of copies of the author's book held in New Zealand libraries for the year.
- (3) The author—
- (a) must contact the chief executive, in writing or electronically, by 30 November in that year; and
 - (b) must state his or her reasons for believing that the decision should be investigated.
- (4) The chief executive must investigate the decision before 31 December in that year.

Regulation 12: replaced, on 1 January 2016, by regulation 9 of the Public Lending Right for New Zealand Authors Amendment Regulations 2015 (LI 2015/263).

13 Transitional provision for Public Lending Right for New Zealand Authors Amendment Regulations 2015

These regulations, as in force immediately before 1 January 2016, continue to apply in relation to payments for the 2015 year (including in relation to challenges to decisions made in relation to those payments).

Regulation 13: inserted, on 1 January 2016, by regulation 10 of the Public Lending Right for New Zealand Authors Amendment Regulations 2015 (LI 2015/263).

Rebecca Kitteridge,
Clerk of the Executive Council.

Issued under the authority of the Legislation Act 2019.
Date of notification in *Gazette*: 6 November 2008.

Notes

1 *General*

This is a consolidation of the Public Lending Right for New Zealand Authors Regulations 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*

Data and Statistics Act 2022 (2022 No 39): section 107(2)

Public Service Act 2020 (2020 No 40): section 135

Public Lending Right for New Zealand Authors Amendment Regulations 2015 (LI 2015/263)

Public Lending Right for New Zealand Authors Amendment Regulations 2012 (SR 2012/100)