ARRANGEMENT OF SECTIONS

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7. New section 42A of Principal Act.
8. Repeal of section 58 (copyright not infringed by lending) of Principal Act.
9. Repeal of section 69 (copying by librarians or archivists: exemptions) of Principal Act.
10. Amendment of section 205 (making available to public copies of recordings of qualifying performances) of Principal Act.
11. Amendment of section 207 (rental and lending right of performer) of Principal Act.

[No. 29 of 2007]
12. Repeal of section 226 (performer’s rights not infringed by lending) of Principal Act.

PART 3

CONSEQUENTIAL AMENDMENT OF THE LOCAL GOVERNMENT ACT 2001


Acts referred to

Copyright and Related Rights Act 2000 2000, No. 28
Copyright and Related Rights Acts 2000 and 2004
Local Government Acts 1925 to 2006
entitled

AN ACT TO AMEND THE COPYRIGHT AND RELATED RIGHTS ACT 2000 TO MAKE PROVISION IN RELATION TO THE ESTABLISHMENT OF A PUBLIC LENDING REMUNERATION SCHEME IN CONFORMITY WITH COUNCIL DIRECTIVE NO. 92/100/EC OF 19 NOVEMBER 1992 AND FOR RELATED PURPOSES, AND TO CONSEQUENTIALy AMEND SECTION 79 OF THE LOCAL GOVERNMENT ACT 2001.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

PRELIMINARY AND GENERAL

1.—(1) This Act may be cited as the Copyright and Related Rights (Amendment) Act 2007.

(2) The Copyright and Related Rights Acts 2000 and 2004 and this Act (other than Part 3) may be cited together as the Copyright and Related Rights Acts 2000 to 2007.


2.—In this Act, “Principal Act” means the Copyright and Related Rights Act 2000.
Amendment of section 8 (laying of regulations and orders) of Principal Act.

Amendment of section 9 (expenses) of Principal Act.

Amendment of section 40 (making available right) of Principal Act.

Amendment of section 42 (rental and lending right) of Principal Act.

New section 42A of Principal Act.

PART 2

AMENDMENTS OF PRINCIPAL ACT

3.—Section 8 of the Principal Act is amended by inserting “, the Minister for the Environment, Heritage and Local Government” after “by the Minister”.

4.—Section 9 of the Principal Act is amended by inserting “and the Minister for the Environment, Heritage and Local Government” after “by the Minister”.

5.—Section 40 of the Principal Act is amended in subsection (1)(g) by deleting the words “without the payment of remuneration to the owner of the copyright in the work”.

6.—Section 42 of the Principal Act is amended—

(a) in subsection (6)(b) by substituting “Subject to subsection (7), there” for “There”, and

(b) by inserting the following subsection after subsection (6):

“(7) The lending right in relation to a work does not apply at any time in a period during which a scheme for the remuneration of authors is in effect, pursuant to section 42A, in relation to works of a class in which that work is included, whether the author, or (in the case of a work of joint authorship) any of the authors, is a participant in that scheme or not.”.

7.—The following section is inserted in the Principal Act after section 42:

42A.—(1) The Minister for the Environment, Heritage and Local Government may by regulation establish a scheme, to be known as the Public Lending Remuneration Scheme, to remunerate authors, out of moneys voted by the Oireachtas for the purpose, for the lending by public libraries of qualifying works.

(2) For the purposes of subsection (1), a work is a qualifying work in relation to a particular period if—

(a) in relation to that period, it is a work included in a class of works declared by regulations made for the purposes of that subsection to be a class of works to which the scheme applies, and

(b) the author of the work (or, in the case of a work of joint authorship, any one or more of the joint authors) is a citizen or subject of, or is an individual domiciled or ordinarily resident in, a Member State of the EEA.
(3) Regulations made for the purposes of sub-section (1) shall make comprehensive provision for the operation of the Public Lending Remuneration Scheme, and may include, in particular, provisions relating to—

(a) the manner of participation in the scheme by individual authors, including, but not limited to—

(i) a requirement for the registration of authors and their works as a condition of participation in the scheme, and

(ii) in the case of works of joint authorship, provision for distinguishing, between those of the joint authors who are citizens or subjects of, or are individuals domiciled or ordinarily resident in, Member States of the EEA and those who are not,

(b) in relation to any requirement for the registration of authors—

(i) the manner of maintaining the register, and

(ii) the form and particulars of entries in it,

(c) the manner of calculating the entitlements of participating authors, including, but not limited to—

(i) the manner of calculating, or estimating, the number of instances of lending of the works of individual authors or of individual works of individual authors,

(ii) the rate of remuneration, including—

(II) in the case of works of joint authorship, differential rates of remuneration for the individual joint authors,

(iii) the periods in respect of which payments may be made under the scheme, and

(iv) minimum and maximum amounts payable, in respect of a specified period, to individual participating authors,
(d) the manner in which payments under the scheme are to be made,

(e) the establishment or designation of one or more persons or bodies to exercise powers and perform duties in respect of the administration of the scheme or any part of it (including the making of payments under the scheme), and

(f) the making of arrangements with authorities in other countries for—

(i) reciprocal registration of authors and works, and

(ii) the sharing and exchange of data relating to the operation of the scheme and similar schemes in those countries.

(4) A person who contravenes a provision of regulations made for the purposes of subsection (1) that is expressed to be a provision contravention of which attracts the operation of this subsection is guilty of an offence punishable on summary conviction by a fine not exceeding €5,000.

(5) In this section—

‘author’ includes, in relation to a recording of a performance, the performer;

‘public library’ means a library to which members of the public have access that is operated by or under the direction of a library authority within the meaning of section 77(1) of the Local Government Act 2001.”.

8.—Section 58 of the Principal Act is repealed.

9.—Section 69 of the Principal Act is repealed.

10.—Section 205 of the Principal Act is amended in subsection (5)(g) by deleting “without the payment of remuneration to the rightsowner”.

11.—Section 207 of the Principal Act is amended—

(a) in subsection (2) by substituting “Subject to subsection (3A), a” for “A”,

Amendment of section 207 (rental and lending right of performer) of Principal Act.
(b) in subsection (3)(b) by substituting “Subject to subsection (3A), there” for “There”, and

(c) by inserting the following subsection after subsection (3):

“(3A) The lending right in relation to a recording does not apply at any time in a period during which a scheme for the remuneration of authors is in effect, pursuant to section 42A, in relation to works of a class in which that recording is included, whether the performer, or (in the case of a recording of a performance by a number of performers) any of the performers, is a participant in that scheme or not.”.

12.—Section 226 of the Principal Act is repealed.

PART 3

Consequential Amendment of the Local Government Act 2001

13.—Section 79 of the Local Government Act 2001 is amended in subsection (6)(e) by inserting “or under section 42A of the Copyright and Related Rights Act 2000” after “subsection (7)”.

EXPLANATORY AND FINANCIAL MEMORANDUM

Section 1 — Short title and collective citations
Provides for the short title of the Bill when enacted as the Copyright and Related Rights (Amendment) Act 2007 and outlines the collective citation having regard to earlier Acts being amended.

Section 2 — Interpretation
The Copyright and Related Rights Act 2000 is the principal Act being amended and is so defined.

Section 3 — Amendment of section 8 (laying of regulations and orders)
Allows the Minister for the Environment, Heritage and Local Government to lay regulations and orders made under the Copyright and Related Rights Act 2000 (CRR Act) before the Houses of the Oireachtas.

Section 4 — Amendment of Section 9 (expenses)
Extends the expenses provision of the CRR Act to include expenses incurred by the Minister for the Environment, Heritage and Local Government in the administration of the Public Lending Remuneration Scheme as expenses to be paid out of Oireachtas funds.

Section 5 — Amendment of section 40 (making available right)
This amendment provides for an exclusive lending right to be exercised by the author.

Section 6 — Amendment of section 42 (rental and lending right)
Sets out that an exclusive lending right applies in respect of the public lending of copyright works unless and until a remuneration scheme is otherwise in place.

Section 7 — New Section 42A
Enables the Minister for the Environment, Heritage and Local Government to make regulations to establish a Public Lending Remuneration Scheme. The scheme will be publicly funded out of moneys provided by the Oireachtas. The provision sets out, although not exhaustively, the criteria to be covered in Regulations e.g. manner of participating in the scheme, rates of remuneration, minimum and maximum amounts payable to a participating author etc.
Section 8 — Repeal of section 58 (copyright not infringed by lending)
Removes the exemption to remunerate authors for the public lending of their copyright works.

Section 9 — Repeal of section 69 (copying by librarians or archivists: exemptions)
Consequential amendment following removal of exemption for payment of remuneration to authors.

Section 10 — Amendment to section 205 (making available to public copies of recordings of qualifying performances)
Performers are dealt with in a separate part of the CRR Act. This provides for an exclusive lending right to be exercised by a performer in respect of the public lending of a recording of the work.

Section 11 — Amendment of Section 207 (rental and lending right of performer)
Sets out that the exclusive lending right in respect of recordings applies in respect of works which are publicly lent unless and until a remuneration scheme is otherwise in place.

Section 12 — Repeal of section 226 (performer’s rights not infringed by lending)
Removes the exemption to remunerate rightsholders for the public lending of their works.

Section 13 — Amendment of section 79 of the Local Government Act 2001 (An Chomhairle Leabharlanna)
Provides a statutory basis for An Chomhairle Leabharlanna to administer a public lending remuneration scheme on behalf of the Minister for Environment, Heritage and Local Government.

FINANCIAL IMPLICATIONS

The Public Lending Remuneration Scheme will be fully funded by the Exchequer. This will involve funding both for the administration of the Lending scheme through An Chomhairle Leabharlanna and the making of annual payments to authors in respect of the lending of their works.

An initial setup cost of €600,000 is anticipated to include accommodation/refurbishment costs for An Chomhairle Leabharlanna and IT software costs. It is also anticipated that there will be ongoing, annual costs incurred in the region of c. €1.1m to cover both the administration of the scheme and the payments to authors.