

**EXPLANATORY MEMORANDUM TO
THE LANDSBANKI FREEZING (AMENDMENT) ORDER 2008**

2008 No. 2766

1. This explanatory memorandum has been prepared by HM Treasury and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Purpose of the instrument**

- 2.1 The Order makes minor amendments to the Landsbanki Freezing Order 2008 (S.I. 2008/2668) (“the main Order”).

3. **Matters of special interest to the Joint Committee**

- 3.1 It was not possible in the case of this Order to comply with the 21-day rule according to which relevant instruments are laid before Parliament for at least 21 days prior to coming into force. The Order was made on 20th October 2008 and then was laid before Parliament on that day, to come into force on 21st October 2008. The Order has the effect of amending the instrument imposing an asset freeze on assets for the time being held within the United Kingdom. In light of the importance of ensuring clarity in relation to these provisions, and in light of the fact that debates are scheduled in Parliament for the 27th and 28th October in relation to the main Order, it was considered necessary not to delay bringing the Order into force.

- 3.2 The Treasury intends to submit a voluntary memorandum to the JCSI. This will set out how the enabling powers in Part 2 of the Anti-terrorism, Crime and Security Act 2001 are general emergency powers (not limited to the context of terrorism). It will also outline how the enabling powers have been used to apply an asset freeze only on assets relating to Landsbanki (not more widely) and in such a way as to ensure that the asset freeze applies to funds held by Landsbanki itself. In this context the supplementary enabling powers in section 14 of the Act have been relied upon.

4. **Legislative Context**

- 4.1 The Order is made under sections 4 and 14 of and Schedule 3 to the Anti-terrorism, Crime and Security Act 2001 (c.24).

5. **Territorial Extent and Application**

- 5.1 This instrument, along with the main Order, applies to all of the United Kingdom and prohibitions in the Order apply to UK nationals elsewhere.

6. **European Convention on Human Rights**

The Chancellor has made the following statement regarding Human Rights:

In my view the provisions of the Landsbanki Freezing (Amendment) Order 2008 are compatible with the Convention rights

7. Policy background

- *What is being done and why*

7.1 The Order amends the main Order to make minor changes to assist clarity. It is not intended to change the overall policy.

- *Consolidation*

7.2 This is the first amending instrument to be made and given the minor nature of the changes, it is considered better to make these by amending instrument rather than a consolidated instrument.

8. Consultation outcome

8.1 The Order has not been consulted upon.

9. Guidance

9.1 Guidance has been prepared by HM Treasury in relation to the main Order and is available on HM Treasury's website.

10. Impact

10.1 The impact on business, charities or voluntary bodies of this Order together with the main Order is that in the event of them holding 'frozen funds' i.e. funds relating to Landsbanki, those funds will be frozen, subject to any licence from the Treasury.

10.2 The impact on the public sector is the same. Also, the Treasury must operate the licensing regime under the main Order.

10.3 An Impact Assessment was produced for the main Order and is attached to this memorandum. The amending Order does not lead to any changes being required to this Impact Assessment.

11. Regulating small business

11.1 The legislation applies to small business. The impact on small businesses is a factor that the Treasury will be able to take into account when granting licenses in relation to the asset freeze.

12. Monitoring & review

12.1 The provisions under which the Order and the main Order are made includes provision that the Treasury must keep a freezing order under review (see section 7 of the Act).

13. Contact

Hannah Gurga at HM Treasury 1 Horse Guards Road, London SW1A 2HQ. Tel: 020-7270 4345 or e-mail: Hannah.gurga@hm-treasury.x.gsi.gov.uk can answer any queries regarding the instrument.

Summary: Intervention & Options

Department /Agency: HMT	Title: Impact Assessment of the Landsbanki Freezing Order 2008	
Stage: Implementation	Version: 1	Date: October 2008
Related Publications: The Anti-terrorism, Crime and Security Act 2001		

Available to view or download at:

<http://www.hm-treasury.gov.uk>

Contact for enquiries:

Telephone:

What is the problem under consideration? Why is government intervention necessary?

The Icelandic authorities have announced that Landsbanki has been placed into receivership but has not given any indication as to how overseas creditors will be dealt with. The Icelandic Government has also announced a guarantee of all depositors in Icelandic branches. However, overseas depositors have not been covered by the guarantee. This exclusion on grounds of nationality is discriminatory and unlawful under the rules governing the European Economic Area. The UK government is taking action to ensure that Landsbanki assets are not transferred from the UK until the position of UK creditors becomes clearer. The UK authorities are seeking to work constructively with the Icelandic

What are the policy objectives and the intended effects?

To avoid detriment to the UK economy.

What policy options have been considered? Please justify any preferred option.

The purpose of the Order is to prohibit the movement of funds of the Icelandic bank Landsbanki, from its UK branch, known as Icesave. The Government has considered carefully the need for intervention, but having weighed up the various considerations, has assessed that freezing Landsbanki assets is the most effective means of avoiding detriment to the UK economy caused by the situation in Landsbanki.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

The Government will review the costs and benefits of this action once the position of UK creditors is clearer.

Ministerial Sign-off For Impact Assessments:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.

Signed by the responsible Minister:

.....Date: 8th October
2008