

**EXPLANATORY MEMORANDUM TO
THE LANDSBANKI FREEZING ORDER 2008**

2008 No. 2668

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. **Description**

- 2.1 The Landsbanki Freezing Order 2008 (“the Order”) freezes funds in relation to Landsbanki, an Icelandic bank which has been placed into receivership in Iceland.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

- 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 at 10.00 a.m. on 8th October 2008, came into force at 10.10 a.m. on that day and then was laid before Parliament on that day. The Order has the effect of preserving assets for the time being held within the United Kingdom and it is likely that within a 21-day period there would have been significant changes to the asset position.
- 3.2 In accordance with the proviso to section 4(1) of the Statutory Instruments Act 1946 Her Majesty’s Treasury have notified the Speaker of the House of Lords and the Speaker of the House of Commons that the Order came into force before it was laid before Parliament.

4. **Legislative Background**

- 4.1 The Order is made under the Anti-terrorism, Crime and Security Act 2001, in exercise of the power under sections 4 and 14 and Schedule 2, to make a freezing order.
- 4.2 The power to make a freezing order is exercisable (amongst other circumstances) where the Treasury reasonably believe that action to the detriment of the United Kingdom’s economy (or part of it) has been or is likely to be taken by persons who are the government or resident of a country or territory outside the United Kingdom.
- 4.3 The Order allows prohibitions to be put in place concerning the movement of funds.

5. **Territorial Extent and Application**

- 5.1 This instrument extends to the United Kingdom.
- 5.2 Also, it applies to any person elsewhere who is a British national.

6. European Convention on Human Rights

The Chancellor of the Exchequer has made the following statement regarding Human Rights:

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

7. Policy background

7.1 The action taken by the Icelandic Government to use the assets of Landsbanki to protect only Icelandic savers is of severe detriment to UK creditors, including a large number of retail depositors. The Treasury is using powers available under Part 2 of the Anti-Terrorism, Crime and Security Act 2001 to prevent Landsbanki assets from being transferred out of the UK.

8. Impact

8.1 A Regulatory Impact Assessment is attached to this memorandum.

9. 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 authorities to ensure a speedy resolution.

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