



Referendum
Saturday 6 March 2010

Yes or No



Introduction

This booklet is intended to explain briefly some of the main issues regarding the referendum on 6 March 2010, the reasons why it is being held and its implications. It has been prepared by an independent and impartial body, the Law Institute at the University of Iceland, at the request of the Ministry of Justice and Human Rights.

The referendum concerns the Act No. 1/2010, which the Althingi passed on 30 December 2009 but which the President of Iceland refused to sign on 5 January 2010. The act authorises the Minister of Finance, on behalf of the State Treasury, to issue a state guarantee of the loans granted by the governments of the United Kingdom and the Netherlands to the Depositors' and Investors' Guarantee Fund of Iceland. This act, No. 1/2010, amends an earlier act, No. 96/2009, on the same subject. The loans involved are intended to cover payments to the owners of deposits in the branches of the bank Landsbanki Íslands hf. in the United Kingdom and the Netherlands. The agreements on these loans are referred to as the 'Icesave Agreements'.

The aim of the referendum is to reveal the nation's position on the Act No. 1/2010 in accordance with the provisions of the Constitution. The question asked on the ballot paper in the referendum is whether this act is to continue in force or become void. The issue will be decided by a majority of the votes cast nationwide, all votes carrying the same weight. If the majority is in favour, the act will remain in force. If the majority is against, the act will become void.

Further information, and the texts of the acts and the agreements, can be found on the website www.thjodaratkvaedi.is, where there are also links to websites reflecting various positions on the matter and offering a forum for discussion.



State Guarantee

The agreements

The agreements on the Icesave accounts consist of the loan agreements of 5 June 2009 together with the supplementary documents of 19 October 2009. Collectively, these form a whole which is hereinafter referred to as 'the Icesave Agreements'. The borrower is the Depositors' and Investors' Guarantee Fund of Iceland, the guarantor is the Icelandic State and the lenders are the United Kingdom and the State of the Netherlands.

Legislation

Since, under the agreements, the Icelandic state is the guarantor, the Althingi must enact legislation authorising the state guarantee before the agreements can take effect.

After the conclusion of the loan agreements of 5 June, the Althingi passed the Act No. 96/2009, authorising the issue of a state guarantee, but also containing conditions and provisos that were not in the agreements themselves. Consequently, the agreements could not take effect, and negotiations were resumed. The results of those negotiations were set out in the supplementary documents of 19 October 2009.

Following on these supplementary documents, the Althingi passed the Act No. 1/2010, which is now being put to a referendum. The act amends certain provisions of the Act No. 96/2009 and authorises the Icelandic government to issue a state guarantee as allowed for in the Icesave Agreements following the amendments made in October. If the Act No. 1/2010 is approved, it will be possible for the Icesave Agreements to take effect.

If the Act No. 1/2010 is rejected in the referendum, the original act will remain in force without amendment. However, under the present circumstances, the Icesave Agreements, whether of June or October 2009, will not take effect on the basis of that act. The reason for this is that the state guarantee approved under the Act No. 96/2009 does not fully correspond with the provisions of the agreements.



Monetary Amounts and Terms

The Dutch authorities are to be paid EUR 1,330 m and the British GBP 2,350 m. This is part of what the British and Dutch authorities have disbursed to the customers of Landsbanki Íslands hf. in their two countries.

Payments from Landsbanki Íslands hf. will be deducted from these sums, lowering the principal of the loans when they are received. How large these payments will be is not known; estimates and other calculations can be found on the websites www.thjodaratkvaedi.is and www.althingi.is.

Principal Terms

- No instalments are scheduled to be paid during the first seven years.
- Interest is at a fixed rate of 5.55%, and is calculated as from 1 January 2009.
- The first instalment, with interest, falls due on 5 September 2016.
- The term of the loans may run until 5 June 2024 if the amounts paid in instalments and interest are within an annual maximum.

- If the amounts paid in instalments and interest, combined, exceed the maximum, instalments on the principal of the loans will be reduced. Interest must, however, be paid at all times.
- Should it prove necessary to do so, the term of the loans may be extended to 2030, and thereafter by five years at a time.

Amendments to the agreements may be requested if a review by the International Monetary Fund (IMF) states that a significant deterioration has occurred in the sustainability of the debt of Iceland relative to the IMF's assessment of such sustainability as of 19 November 2008.

Disputes as to the interpretation and application of the agreements are to be brought before the English courts and subject to English law.



The Referendum

Regarding eligibility to vote, and the electoral register, the same arrangements apply as in general elections, with the difference that electoral registers will be based on the records in the National Register three weeks prior to the referendum and be available for inspection in local government offices for a full week before the referendum.

Constituency boundaries, polling stations and wards are the same as they were in the last general election. Postal voting began on 28 January 2010.

Further information on the conduct of the referendum can be found on the website www.kosning.is.

The Act No. 1/2010 provided for amendments to the Act No. 96/2009 authorising the Minister of Finance, on behalf of the State Treasury, to issue a state guarantee of the loans granted by the governments of the UK and the Netherlands to the Depositors' and Investors' Guarantee Fund of Iceland to cover payments to the depositors of Landsbanki Íslands hf. The Althingi passed the Act No. 1/2010, but the President withheld his approval.

Should the Act No. 1/2010 remain in force?

Tick one of the boxes below.

Yes, it should remain in force.

No, it should become void.



Background

The Guarantee Fund

The Depositors' and Investors' Guarantee Fund of Iceland is a private foundation, the purpose of which is to provide customers of the banks with minimum protection in the event of the banks' encountering problems with solvency. Payments are made into the fund in respect of commercial banks in Iceland and their branches in other Member States of the European Economic Area (EEA).

If a bank is unable to repay its customers' deposits, the fund is obliged to compensate them to the extent covered by its resources, and to a minimum of EUR 20,887 for each depositor. This is referred to as the 'deposit guarantee'.

Icelandic legislation on this matter, the Act No. 98/1999, conforms with the rules of the European Union regarding deposit guarantees. These rules are part of the EEA Agreement, and are intended to ensure a minimum level of security for customers of the banks.

Landsbanki Íslands hf. and Icesave

Landsbanki Íslands hf. operated branches in Britain and in the Netherlands, and invited customers to open deposit accounts under the

name 'Icesave'. Payments were made into the Guarantee Fund in Iceland, the bank's home state, in respect of these accounts.

When, in October 2008, the Icelandic banking system collapsed, Landsbanki Íslands hf. was unable to pay Icesave account holders back their deposits. The British Government subsequently decided to recompense ordinary customers of the bank in full for their losses; in the Netherlands, they received recompense up to a certain sum over and above the minimum deposit guarantee amount. Then a claim was made for the repayment of the minimum deposit guarantees. It is this repayment that is the subject of the Icesave Agreements.

The Guarantee Fund's reserves suffice for only a small part of the deposit guarantees corresponding to the Icesave accounts.

Landsbanki Íslands hf. is currently in a payment moratorium and is undergoing winding-up proceedings. Work is in progress to collect claims and sell the bank's assets. In the course of time, money from the bank will be used towards paying its debts in a particular order. Deposit guarantees



rank high in priority; on the other hand, it is not certain what proportion of debts will be recovered and when this money will be available, and it is thought likely that it will take some time to sell off the assets.

Iceland, the United Kingdom and the State of the Netherlands

The Government of Iceland maintains that the EU rules on deposit guarantees, which have been incorporated into Icelandic law, do not impose a legal obligation on states to guarantee the deposits of customers of the banks over and above the assets of the guarantee fund in any given case.

The Government of Iceland has also argued for common responsibility for a flawed system of rules on deposit guarantees which was not intended to cover the simultaneous collapse of the major part of a state's financial institutions. Attempts have also been made to have a legal ruling on the matter made by an international court or court of arbitration. All parties to the case would have to agree to such a procedure before it could go ahead.

The British and Dutch governments, on the other hand, have argued that liability for bank deposit guarantees is not limited to the assets of the guarantee fund involved. They also consider that court proceedings to decide this issue would weaken confidence in the European financial system. Governments of the other EU Member States, and also the Norwegian Government, have indicated their support for the British and Dutch positions.

Negotiations on the Icesave issue have led to the conclusion that the Icelandic state will guarantee that the British and Dutch authorities will be repaid that part of their costs which covers the minimum deposit guarantee.

Nevertheless, the Icelandic government does not accept that the state guarantee will be provided according to any legal obligation. If the case comes to court and the court rules that the Icelandic State was not legally bound to guarantee deposits held by the customers of Icelandic banks, then negotiations will be opened with the British and Dutch authorities, and other parties, regarding the implications.

x Yes

x No

If the majority votes YES

- Then the Act No. 96/2009 will have been amended by the Act No. 1/2010, and the state guarantee provided for under that act will be in accordance with the Icesave agreements.
- The Icesave agreements of June and October 2009 will be able to take effect.
- After that, the instalments will have to be met, at the terms provided for in the Icesave Agreements, to the extent that they are not covered by the assets of Landsbanki Íslands hf.

Principal Uncertainties

- How much will be recovered from the winding-up of Landsbanki Íslands hf., and when?
- What the future holds regarding the exchange rate, economic growth and other factors in Iceland's economy which have an effect on the amounts to be paid under the Icesave Agreements?

If the majority votes NO

- Then the Act No. 96/2009 will remain in force without amendment. However, the liability of the Icelandic State as defined in that act does not correspond exactly to what is stated in the Icesave Agreements.
- Under the present circumstances, the Icesave agreements, whether of June or October 2009, will not be able to take effect.
- The question of the deposit guarantees covering the Icesave accounts will remain to be settled between the governments of Iceland, the United Kingdom, the State of the Netherlands and the Depositors' and Investors' Guarantee Fund of Iceland.

Principal Uncertainties

- What decisions will the Icelandic, British and Dutch governments take, each on their own premises, regarding the next steps in the matter?
- How much will be recovered from the winding-up of Landsbanki Íslands hf., and when?

www.thjodaratkvaedi.is – an information website on the referendum on 6 March 2010.

www.kosning.is – the website of the Ministry of Justice and Human Rights on the conduct of elections.

www.althingi.is – the Althingi's website.