

Letter of Request for Restraint of Proceeds of Crime

The Competent Legal Authority of the United Kingdom
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(or 0870-3369016)

*[insert case reference number/
contact details as appropriate]*

Dear Sir

Introduction

[CONFIDENTIAL / URGENT] LETTER OF REQUEST: [NAMES OF OPERATION OR SUSPECT(S)]

I [*Judge/Prosecutor/ other authority competent under domestic law to make the request*] have responsibility in [*state territory outside the United Kingdom*]

(a) for making a request to an authority in another country or territory (including the United Kingdom) to prohibit dealing with relevant property,
(b) for carrying out an investigation into whether property has been obtained as a result of or in connection with criminal conduct, or
(c) for carrying out an investigation into whether a money laundering offence has been committed. *Delete as applicable*] and am duly empowered to make this request pursuant to [*- insert relevant domestic law authorising you to make this request*]

I have the honour to request your assistance in relation to [a criminal investigation being conducted by [insert details] into / a criminal prosecution being conducted by [insert details] for offence(s) of [brief description of offence(s)].

I would be grateful if this request could be forwarded to the Director of the Serious Fraud Office for execution. [*the SFO may apply for restraint orders or to register an overseas restraint order in cases of serious and complex fraud*]

Basis of the Request

I make this request pursuant to

[Cite legal base – for example: Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime 1990.]

Purpose of the Request

The request seeks the restraint of the assets specified in the attached schedule (“Assets Schedule”) which are suspected to represent [in part] the proceeds of crime of the following:

Suspects

SUBJECT	DATE OF	PLACE	NATIONALITY	PASSPORT	ADDRESS
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BIRTH OF NUMBER
BIRTH

Suspected offences

In respect of the following offences:

[use appropriate wording from charge or proposed charge referring to statutory. State the maximum penalty. Annex extracts of relevant domestic law.]

Criminal Proceedings

[Provide details of the stage of the investigation or prosecution and, as appropriate, the court, date of next hearing and any date by which the assistance requested is required – if the request is urgent, explain the reasons.]

Domestic Restraint and Confiscation Regime

[It is sometimes useful to provide a brief explanation of your domestic regime for restraint and confiscation. The English Court may make a restraint order even if under domestic law an equivalent order cannot be obtained. This is because the English legislation allows a restraint order to be made if the assets are needed to satisfy an external order e.g. forfeiture or confiscation order that will be made following conviction.]

Summary of Facts relevant to this Request

[Give a clear, concise, considered summary of the case. The information provided here is the foundation for the request; it will be considered critically by a judge or other judicial authority. The information provided here should provide a legitimate and clear nexus between the investigation/proceedings and the funds which may be the subject of forfeiture /confiscation at the conclusion of the trial and the assets in the schedule. Please also carefully select and annex any documents which may be necessary to enable the execution of the request.]

Risk of Dissipation

[Here state why it is thought that if the order is not made there is a risk that the funds will be transferred out of the jurisdiction or otherwise dissipated]

Overseas Assets and Orders

[Here state the relevant domestic law concerning confiscation and/or forfeiture appending relevant legislation. Also state whether and what steps have been taken or why it is thought that such steps are not expedient to obtain a restraint order in the requesting state. Also state what if any proceedings for restraint have been taken in other jurisdictions and what the result was]

In the light of the above I confirm that it is likely that upon conviction the domestic court is likely to make the following confiscation/ forfeiture orders:

Assets to be restrained

Specify the assets

Any other Material Facts

[If the request fails to disclose facts which the court considers relevant in deciding whether to restrain or not the suspect may apply to discharge the order.]

Supplementary

I additionally request that any requisite court order or other order necessary to enable the provision of the above requested assistance be sought.

Unless you indicate otherwise, any evidence obtained pursuant to this request may be used in any criminal prosecution or other judicial proceedings connected with this investigation, including any restraint or confiscation proceedings, whether relating to the above named subject(s) or to any other person who may become a subject of this investigation.

[Confidentiality]

[The entirety of this request will be disclosed to the Judge at the restraint hearing and will be disclosed to the suspect when the restraint order is served on him. If there are particular matters which must be kept confidential it is suggested that these are put in a confidential annex and the reasons for not disclosing the information once the restraint order is served is explained]

Contacts

[Insert contact details where appropriate.]

I extend my thanks in anticipation of your valued co-operation and assistance in this matter.

Yours faithfully,