



Restraint Orders

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Welcome to the Kirwans Guide on 'Restraint Orders'.

Restraint Orders provide the Courts with the power to prevent an individual, or company, from dealing with any property owned by them. The immediate effect of a Restraint Order can have a devastating and detrimental impact on your business and personal life, often leaving you without sufficient financial resources to pay your everyday household bills or run a business.

In this guide our leading Criminal Defence experts provide an overview of Restraint Orders and what you can do if served with a Restraint Order.

It is important to remember that by seeking legal advice at the earliest opportunity you can help to ensure that any complexities and potential implications are effectively managed. Having access to expert advice can bring peace of mind at a time when you face uncertainty and concerns for what lies ahead.

As a multi-disciplinary law firm, Kirwans work collaboratively with a Criminal Defence team which includes experts in Crown Court, Post Conviction, and Regulatory & Business Prosecutions. This ensures that clients receive the best possible representation. Our leading lawyers invest time to provide you with the support and guidance you need throughout your legal journey.

Our Client Commitment

- 24/7 access to Criminal Defence legal specialists
- Day to day support and advice
- Concise and honest advice tailored to your needs
- Regular updates ensuring you are fully informed
- Transparent pricing with no hidden costs
- Prompt and thorough response to enquiries

Q. What is a 'Restraint Order'?

A Restraint Order provides the Court with the power to prevent an individual, or company, from dealing with any property owned by them. It has the effect of freezing property anywhere in the world that maybe liable for confiscation.

If during an investigation the Court has reasonable grounds to suspect that an individual has benefited from any crime then a Restraint Order can be issued to prevent an individual, or company, from continuing to deal with their assets in any way.

The purpose of a Restraint Order is to safeguard any assets so should the individual be convicted of a criminal offence their assets can be easily confiscated by the Court.

The amount of property that is restrained will depend upon the amount that the State seek to confiscate at the end of the proceedings. More often than not a "general" Restraint Order is imposed which prohibits a person from dealing with all of their property.

Q. What is the impact of a 'Restraint Order'?

The impact of a Restraint Order is significant and far reaching.

Bank accounts can be frozen, preventing cash withdrawals, direct debit payments, standing orders, and transfers. It can ultimately make day to day life very difficult as it limits financial resources.

You can be prohibited from buying or selling property, including houses, cars, shares or any other assets of significant value.

Q. Do I have to do anything?

The Order may require you to make a disclosure statement or repatriate all your assets held overseas back to the UK.

Q. Can a 'Restraint Order' be made without my knowledge?

Yes. An application for a Restraint Order is usually made without the person's knowledge and without a Court hearing. Once granted, the Order is served on third parties. This can include banks, the Land Registry or any person(s) who holds assets on behalf of the individual, or company.

Q. Do all assets have to be disclosed?

A disclosure provision in the Order requires the individual to disclose the nature, extent and location of ALL their realisable property and this witness statement is undertaken and verified by a statement of truth.

It is important to remember that whilst the statement cannot be used as evidence of any other crime, they are routinely used in confiscation proceedings.

Q. What are the consequences of breaching a 'Restraint Order'?

If an individual breaches a Restraint Order they can be prosecuted with contempt of Court and face a hefty fine or even a prison sentence.

Important Notice: The information in this guide is based upon current law of England and Wales, which is subject to change. We cannot accept responsibility for any liability that may arise as a result of any action taken or not taken as a result of this information. This guide does not constitute legal advice. To be fully aware of the implications it is important to seek advice from a qualified Solicitor.

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Restraint Orders: What You Should Know

- ✓ A Restraint Order has the effect of 'freezing' assets anywhere in the world.
- ✓ An application for a Restraint Order can be made without your knowledge.
- ✓ If an individual breaches a Restraint Order they could face prosecution for contempt of Court.
- ✓ An individual can apply for Legal Aid to assist with legal fees. However where an individual is ineligible for Legal Aid they will be required to fund any legal representation. Given the financial restrictions of a Restraint Order this can result in the reliance of goodwill from friends and family who can help to support funding for legal representation.
- ✓ A Restraint Order often allows the individual to withdraw a modest allowance for living expenses. You can apply to the Court to increase the living allowance or vary the Order. However, this is a complex process which requires the guidance of an experienced Solicitor or Barrister.
- ✓ A Restraint Order should only be wide enough to cover the value of any Confiscation Order that may apply at the end of criminal proceedings. It is possible to challenge the scope and extent of the Order.
- ✓ An individual can apply for a Restraint Order to be discharged if;
 - a) They can show that there isn't reasonable cause for the Court to believe that they have benefited from any crime related to the Order;
 - b) The investigation has failed to proceed within reasonable time or;
 - c) There has been undue delay in the investigation which the Restraint Order relates to.