

## **History of LOCs**

Even though LOCs were first officially recognised in 1979, they have recently been used, frequently, to telling effect. In 1979, the Ministry of Home Affairs (**MHA**) for the first time issued guidelines for issuing LOCs, followed by two more such communications:

- A letter dated September 5, 1979 (25022/13/78-F.I) (**1979 MHA Letter**);
- An office memorandum dated December 27, 2000 (25022/20/98/F.IV) (**2000 Memorandum**)
- An office memorandum dated October 27, 2010 (25016/31/2010-Imm) (**OM**)

In its 1979 MHA Letter, which stated that LOCs are issued to check the arrival/departure of foreigners and Indians “*whose arrival/departure has been banned by the concerned authorities*”, the MHA also set out some basic guidelines for issuing such a notice. The said letter clarifies that apart from the Government of India, the authorities which could issue LOCs included the following:

- Ministry of External Affairs
- Customs and Income Tax Departments
- Directorate of Revenue Intelligence
- Central Bureau of Investigation
- Interpol
- Regional Passport Officers
- Police Authorities in various states.

The 2000 Memorandum specifies the steps for issuing a LOC in respect of an Indian Citizen: - ie, a request for a LOC should be made to all the Immigration Check Posts in India as prescribed, and include the accused's complete particulars. Such a LOC would require the approval of an Officer not below the rank of Deputy Secretary to the Government of India/Joint Secretary in the State Government/concerned Superintendent of Police at the district level.

## **Issuance of Look Out Circulars (LOC) in respect of Indian citizens and foreigners**[\[edit\]](#) [\[edit source\]](#)

1. Under the existing practice, the issuance of LOCs is governed by this Ministry's letter number **25022/13/78-F.I dated 5.9.1979** and OM number **25022/20/98-F.IV dated 27.12.2000**.
2. It has, inter-alia, been stated in the letter dated 5.9.1979 of MHA that '*apart from the Governor India in the Ministry of Home Affairs, circulars are issued by various authorities for keeping a watch on arrival/departure of Indians and foreigners. These authorities include the Ministry of External Affairs, the Customs and Income Tax Departments, Directorate of Revenue intelligence, Central Bureau of Investigation, Interpol, Regional Passport Officers, Police authorities in various States, etc.*' It has further been stated that '*unless otherwise specified in the warning circular itself, the circulars issued by any of the various authorities specified above will be regarded as invalid if it is more*

*than one year old and the card will be weeded out. For the future, it is considered that whenever any authority issues a warning circular to the immigration authorities, the period of validity should be clearly specified in the circular. If this is not done, the circular will be considered to be valid only for a period of one year from the date of issue and a watch will be maintained by the person concerned at the immigration check posts only for that period.'*

3. The OM dated 27.12.2000 of MHA specifies the steps required to be taken for opening an LOC in respect of an Indian citizen. It has been mentioned in the said OM that the request for opening an LOC in respect of an Indian citizen is required to be made to all the Immigration Check Posts (ICP) in the country in a prescribed proforma.<sup>[321]</sup> It has further been stated that the request for opening of LOC must invariably be issued with the approval of an Officer not below the rank of Deputy Secretary to the Government of India / Joint Secretary in the State Government / concerned Superintendent of Police at district level. Further, '*Care must be taken by the originating agency to ensure that complete identifying particulars of the person, in respect of whom the LOC is to be opened, are indicated in the Proforma...*' It is further provided that '*an LOC is valid for a period of one year. It can, however, be extended further before the expiry of the one year period. In case no request for extension of LOC is received before expiry of one year period, an LOC will automatically be closed by the Immigration Officer concerned after expiry of one year period.*'
4. The Hon'ble High Court of Delhi, in Writ Petition (Civil) No. 10180 of 2009 Shri Vikram Sharma vs. Union of India and Ors.], considered the question whether a request for the issuance of an LOC could be made by the National Commission for Women (NCW). While disposing of the said Writ Petition, the High Court, in its order dated 26.7.2010, observed that a request for the issuance of an LOC could not have emanated from the NCW. It had to come from either the Central or the State Government and that too only in the prescribed form and then again only by the officers of a certain rank. In this context, while criminal courts dealing with cases of criminal law enforcement can issue directions, which may result in the issuance of an LOC, there is no such power vested either under the Cr.P.C. or the Passports Act or under the MHA's circular, in statutory bodies like NCW. Being granted the powers of a civil court for a limited purpose does not vest the NCW with the powers of a criminal court and it has no authority as of today to make a request for the issuance of an LOC...."
5. The Court further observed, "*there are a large number of statutory commissions at the level of the Centre and the States which perform judicial functions and are vested with, for the purpose of conducting inquiries upon receiving complaints, the powers of a civil court. These include the National Human Rights Commission (NHRC), the NCW, the National Commission for Protection of Children's Rights. These statutory bodies, however, have not been vested with the powers of a criminal court and do not have powers to enforce criminal law. It is for the Government of India to take a policy decision on whether it wants to vest such statutory tribunals/commissions with criminal law enforcement powers. Since as of today, they have no such power, it is imperative that the MHA should issue further clarificatory circulars or office memoranda clearly stating that the request for issuance of LOCs cannot 'emanate' from statutory bodies like the NCW. If at all, such bodies should bring the necessary*

*facts to the notice of law enforcement agencies like the police, which will then make the request for issuance of an LOC upon an assessment of the situation, and strictly in terms of the procedure outlined for the purpose. This clarification will be issued by the MHA, in consultation with other concerned agencies, including representatives of the statutory bodies referred to, within a period of 12 weeks from today..."*

6. In a related judgement delivered on 11.8.2010 by the Hon'ble High Court of Delhi in W.P. (Crl.) No. 1315/2008-Sumer Singh Salkan Vs. Asstt. Director & Ors and Crl. Ref.1/2006-Court on its Own Motion Re: State Vs. Gurnek Singh etc., the Court has answered four questions raised by a lower court on the LOC. These questions are as below:
  1. *What are the categories of cases in which the investigating agency can seek recourse of Look-out-Circular and under what circumstances?*
  2. *What procedure is required to be followed by the investigating agency before opening a Look-out-Circular?*
  3. *What is the remedy available to the person against whom such Look out-Circular has been opened?*
  4. *What is the role of the concerned Court when such a case is brought before it and under what circumstances the subordinate courts can intervene?*
7. The High Court has answered these questions in its judgement dated 11.8.2010 which are reproduced below for guidance of all concerned agencies:
  1. *Recourse to LOC can be taken by investigating agency in cognizable offences under IPC or other penal laws, where the accused was deliberately evading arrest or not appearing in the trial court despite NBWs and other coercive measures and there was likelihood of the accused leaving the country to evade trial/arrest.*
  2. *The Investigating Officer shall make a written request for LOC to the officer as notified by the circular of Ministry of Home Affairs, giving details & reasons for seeking LOC. The competent officer alone shall give directions for opening LOC by passing an order in this respect.*
  3. *The person against whom LOC is issued must join investigation by appearing before I.O. or should surrender before the court concerned or should satisfy the court that LOC was wrongly issued against him. He may also approach the officer who ordered issuance of LOC & explain that LOC was wrongly issued against him. LOC can be withdrawn by the authority that issued and can also be rescinded by the trial court where case is pending or having jurisdiction over concerned police station on an application by the person concerned.*
  4. *LOC is a coercive measure to make a person surrender to the investigating agency or Court of law. The subordinate courts' jurisdiction in affirming or cancelling LOC is commensurate with the jurisdiction of cancellation of NBWs or affirming NBWs.*
8. In accordance with the order dated 26.7.2010 of the High Court of Delhi, the matter has been discussed with the concerned agencies and the following guidelines are hereby laid down regarding issuance of LOCs in respect of Indian citizens and foreigners:
  1. The request for opening an LOC would be made by the originating agency to Deputy Director, Bureau of Immigration (BoT), East Block VIII, RK Puram, New

Deihi - 66 (Telefax: 011-2619244) in the Proforma enclosed.<sup>[33]</sup>

2. The request for opening of LOC must invariably be issued with the approval of an officer not below the rank of
  1. Deputy Secretary to the Government of India; or
  2. Joint Secretary in the State Government; or
  3. District Magistrate of the District concerned; or
  4. Superintendent of Police (SP) of the District concerned; or
  5. SP in CBI or an officer of equivalent level working in CBI; or
  6. Zonal Director in Narcotics Control Bureau (NCB) or an officer of equivalent level (including Assistant Director (Ops.) in Headquarters of NCB); or
  7. Deputy Commissioner or an officer of equivalent level in the Directorate of Revenue Intelligence or Central Board of Direct Taxes or Central Board of Excise and Customs; or
  8. Assistant Director of IB/Bol; or
  9. Deputy secretary of R&AW; or
  10. An officer not below the level of Superintendent of Police in National Investigation Agency, or
  11. Assistant Director of Enforcement Directorate; or
  12. Protector of Emigrants in the office of the Protectorate of Emigrants or an officer not below the rank of Deputy Secretary of the Government of India; or
  13. Designated officer of Interpol Further, LOCs can also be issued as per directions of any Criminal Court in India.
3. The name and designation of the officer signing the Proforma for requesting issuance of an LOC must invariably be mentioned without which the request for issuance of LOC would not be entertained.
4. The contact details of the originator must be provided in column VI of the enclosed Profo<sup>[34]</sup>rma. The contact telephone/mobile number of the respective control room should also be mentioned to ensure proper communication for effective follow up action.
5. Care must be taken by the originating agency to ensure that complete identifying particulars of the person, in respect of whom the LOC is to be opened, are indicated in the Proforma mentioned above. It should be noted that an LOC cannot be opened unless a minimum of three identifying parameters, as given in the enclosed Proforma,<sup>[35]</sup> apart from sex and nationality, are available. However, LOC can also be issued if name and passport particulars of the person concerned are available. It is the responsibility of the originator to constantly review the LOC requests and proactively provide additional parameters to minimise harassment to genuine passengers.
6. The legal liability of the action taken by the immigration authorities in pursuance of the LOC rests with the originating agency.
7. Recourse to LOC is to be taken in cognizable offences under IPC or other penal laws. The details in column IV in the enclosed Proforma<sup>[36]</sup> regarding reason for opening LOC' must invariably be provided without which the subject of an LOC will not be arrested/detained.

8. In cases where there is no cognizable offence under IPC or other penal laws, the LOC subject cannot be detained/arrested or prevented from leaving the country. The originating agency can only request that they be informed about the arrival / departure of the subject in such cases.
9. The LOC will be valid for a period of one year from the date of issue and name of the subject shall be automatically removed from the LOC thereafter unless the concerned agency requests for its renewal within a period of one year. With effect from 1.1.2011, all LOCs with more than one year validity shall be deemed to have lapsed unless the agencies concerned specifically request for continuation of the names in the LOC. However, this provision for automatic deletion after one year shall not be applicable in following cases:
  1. Ban-entry LOCs issued for watching arrival of wanted persons which have a specific duration);
  2. loss of passport LOCs ( which ordinarily continue till the validity of the document);
  3. LOCs regarding impounding of passports;
  4. LOCs issued at behest of Courts and Interpol
10. In exceptional cases, LOCs can be issued without complete parameters and /or case details against CI suspects, terrorists, anti national elements, etc in larger national interest.
11. The following procedure will be adopted in case statutory bodies like the NCW, the NHRC and the National Commission for Protection of Children's Rights request for preventing any Indian/ foreigner from leaving India. Such requests along with full necessary facts are first to be brought to the notice of law enforcement agencies like the police. The S.P. concerned will then make the request for issuance of an LOC upon an assessment of the situation, and strictly in terms of the procedure outlined for the purpose. The immigration/emigration authorities will strictly go by the communication received from the officers authorized to open LOCs as detailed in the para 8 (b) above.
9. It is requested that the contents of this OM may be brought to the notice of all concerned for strict compliance