

CRIMINAL JUSTICE AND LICENSING (SCOTLAND) ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 5 - Criminal Justice

Section 105 – Obtaining information from outwith United Kingdom

511. Prior to this section of the Act being commenced, the Scottish Criminal Cases Review Commission (SCCRC) cannot issue, or apply for, a letter to request assistance from outwith the United Kingdom because its investigations are not within the scope of the Crime (International Co-operation) Act 2003 (“the 2003 Act”).
512. **Section 105** of this Act creates a bespoke power for the SCCRC to apply to a judge of the High Court to request assistance in obtaining information from outwith the United Kingdom for the purposes of carrying out its functions.
513. Section 7 of the 2003 Act sets out the authorities which may make requests for assistance, and in which circumstances and form requests may be made. Section 8 of the 2003 Act deals with requests for assistance from the United Kingdom and sets out to which authorities requests may be sent. Section 9 of the 2003 Act sets out what may be done with the evidence obtained in relation to a request for assistance from abroad under section 7 of this Act.
514. **Section 105** of this Act inserts new section 194IA into the Criminal Procedure (Scotland) Act 1995 (“the 1995 Act”). Subsection (4) of inserted section 194IA applies section 8 of the 2003 Act to requests for assistance from abroad by the SCCRC in the same way as it applies to section 7 of the 2003 Act, so that, requests for assistance are sent to a foreign court or authority designated by government of that country, or Interpol or EuroJust in cases of urgency.
515. Subsection (5) of inserted section 194IA applies provisions of section 9 of the 2003 Act to requests for assistance from abroad by the SCCRC in the same way as they apply to section 7 of the 2003 Act. The effect is that information may not without the consent of the appropriate overseas authority be used for any purpose other than specified in the request and when information is no longer required for that purpose (or any other purpose for which consent has been obtained) it must be returned to the appropriate overseas authority, unless that authority indicates that it need not be returned.