

CRIMINAL CASES REVIEW COMMISSION (INFORMATION) BILL

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Criminal Cases Review Commission (Information) Bill as brought from the House of Commons on 8 February 2016 (HL Bill 95).

- These Explanatory Notes have been provided by the Ministry of Justice, on behalf of Lord Ramsbotham, the Peer in charge of the Bill, in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Bill will mean in practice; provide background information on the development of policy; and provide additional information on how the Bill will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Bill. They are not, and are not intended to be, a comprehensive description of the Bill. So where a provision of the Bill does not seem to require any explanation or comment, the Notes simply say in relation to it that the provision is self-explanatory.

Table of Contents

Subject	Page of these Notes
Overview of the Bill/Act	2
Policy background	2
Legal background	2
Territorial extent and application	3
Commentary on provisions of Bill/Act	3
Commencement	3
Financial implications of the Bill	3
Parliamentary approval for financial costs or for charges imposed	3
Compatibility with the European Convention on Human Rights	3
Related documents	3
Annex A - Territorial extent and application	4

Overview of the Bill

1. The Bill seeks to extend the Criminal Cases Review Commission's powers to obtain documents and other material so that they can acquire them from a person who is not employed by or serving in a public body.

Policy background

2. Since 31 March 1997 there has been a Criminal Cases Review Commission ("CCRC") with the power to investigate alleged miscarriages of justice and to refer convictions and sentences to the relevant appeal court for a new appeal. The CCRC took over some functions previously carried out by the Secretary of State. Parliament established the CCRC to be a body independent of Government.
3. Section 17 of the Criminal Appeal Act 1995 gives the CCRC the power to require public bodies to disclose and provide the documents or other material which may assist them in discharging their functions. However, unlike their counterpart in Scotland, the CCRC has no powers to require private organisations and individuals to do so.
4. When the Forensic Science Service was a public body, the CCRC could use their powers to secure disclosure of documents or other material. However, that route no longer exists in relation to forensic evidence and the CCRC have to find other ways of obtaining material. This can cause unnecessary delay and wasted resources.
5. The Justice Committee, in its 12th Report of the 2014/15 Session, looking at the Criminal Cases Review Commission, recommended that "it should be a matter of great urgency and priority for the next Government to bring forward legislation to implement the extension of the CCRC's powers so that it can compel material necessary for it to carry out investigations from private bodies through an application to the courts. No new Criminal Justice Bill should be introduced without the inclusion of such a clause. Our successor Committee should monitor the progress of this to ensure that it happens promptly, and should continue to put pressure on the Government if necessary." (Paragraph 50). The Government's Response to this Report referred to the Bill which is the subject of these Explanatory Notes.

Legal background

6. Section 17 of the Criminal Appeal Act 1995 gives the CCRC the power to require public bodies to provide them with the documents or other material needed to discharge their functions, but does not provide for the CCRC to require private organisations and individuals to do so.
7. The Scottish Criminal Cases Review Commission has power to require "persons" (public or private bodies) to provide documents or other material.

Territorial extent and application

8. The provisions of the Bill will extend to England and Wales and Northern Ireland (in

relation to which, the Northern Ireland Assembly has been invited to pass a legislative consent motion).

9. The Bill does not contain any provision which gives rise to the need for a legislative consent motion in the Scottish Parliament or the National Assembly for Wales.

Commentary on provisions of Bill

10. The Bill inserts a new section 18A into the Criminal Appeal Act 1995 to enable the CCRC, for the exercise of their functions, to seek an order from the Crown Court requiring a person (in the private sector) to give the CCRC access to documents or other material in that person's possession or control.
11. As with the power to require material held by public bodies, the new disclosure requirements would apply notwithstanding any obligations of secrecy or other limitation on disclosure (including statutory obligations or limitations). The CCRC should attempt first to obtain the information voluntarily before applying to the court for a disclosure order.

Commencement

12. The provisions of the Bill will commence two months after Royal Assent.

Financial implications of the Bill

13. The Bill has no financial implications.

Parliamentary approval for financial costs or for charges imposed

14. The Bill will not impose any financial costs or charges.

Compatibility with the European Convention on Human Rights

15. As this is a Private Member's Bill, no statement under section 19 of the Human Rights Act 1998 is required. Nevertheless, the Government considers the provisions of the Bill to be compatible with the Convention rights, including the right to respect for private life under Article 8, the right to peaceful enjoyment of possessions under Article 1 of Protocol 1 and the right to a fair trial under Article 6.

Related documents

16. The following documents are relevant to the Bill and can be read via the links provided in the online version of these Notes or using the stated URLs.

- <http://www.legislation.gov.uk/ukpga/1995/35/section/17>
- <http://www.legislation.gov.uk/ukpga/1995/46/section/194I>
- <http://www.publications.parliament.uk/pa/cm201415/cmselect/cmjust/850/850.pdf>
- <http://www.parliament.uk/documents/commons-committees/Justice/ccrc-response.pdf>

Annex A - Territorial extent and application

Provision	England	Wales		Scotland		Northern Ireland	
	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Legislative Consent Motion required?	Extends to Scotland?	Legislative Consent Motion required?	Extends to Northern Ireland?	Legislative Consent Motion required?
1	Yes	Yes	No	No	No	Yes	Yes

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