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## EXPLANATORY NOTE

*(This note is not part of the Order)*

Part 1 of the Crime (International Co-operation) Act 2003 (“the 2003 Act”) provides statutory powers pursuant to which the United Kingdom can both seek and provide various forms of mutual legal assistance concerning criminal matters. Some of those statutory powers can, however, only be exercised where the country in question is a “participating country” as defined in section 51(2) of the 2003 Act. A country must be designated as a participating country for the purpose of the relevant provision.

Those powers which can only be exercised in relation to participating countries include the power—

- for the Lord Advocate to facilitate a witness in the UK giving evidence in overseas proceedings by telephone (section 31 of, and paragraph 15 of schedule 2 to, the 2003 Act);
- for the Lord Advocate to direct that an application seeking information about banking transactions in Scotland for use abroad be made (sections 37 and 40);
- for requests to be made to other countries for information about banking transactions for use in the UK (sections 43 to 45);
- for the Scottish Ministers to facilitate the transfer of a UK prisoner to a participating country to assist in an investigation (section 47); and
- for the Scottish Ministers to enable an overseas prisoner to be transferred to the UK in order to assist with an investigation in this country (section 48).

Georgia, Liechtenstein, Luxembourg, Moldova, Switzerland and Turkey have ratified the Second Additional Protocol to the 1959 European Convention on Mutual Legal Assistance in Criminal Matters (Cm 5603 of 2002) (“the Protocol”). Article 2 of this Order designates Georgia, Liechtenstein, Luxembourg, Moldova, Switzerland and Turkey as participating countries for the purposes of the provisions mentioned above.

Article 2 includes designation of Switzerland. Switzerland was previously designated for more limited purposes. Accordingly, article 4 makes a consequential amendment to the Crime (International Co-operation) Act 2003 (Designation of Participating Countries) (Scotland) (No. 3) Order 2009, to remove Switzerland from that limited designation.

Armenia, Chile and Ukraine have all ratified the Protocol. Article 3 of this Order designates Armenia, Chile and Ukraine for the purposes of sections 31, 47 and 48 of, and paragraph 15 of schedule 2 to, the 2003 Act.