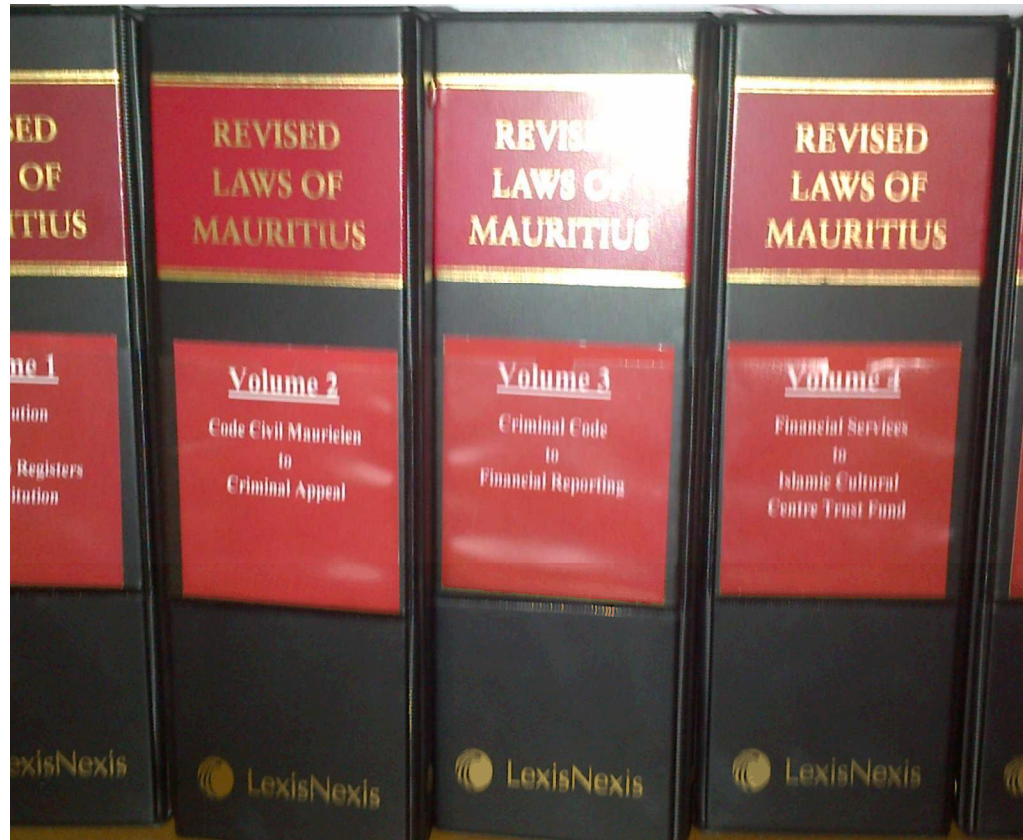


How to go about preparing Cybercrime legislation?



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AIM-

The purpose of this presentation is to provide you with an overview of the essential factors to be considered when drafting cybercrime legislation

OBJECTIVES-

At the end of the presentation you should be having a clearer idea of –

- the issues to be considered when drafting cybercrime legislation,
- the persons who should be involved, and
- the procedure to be adopted when drafting such legislation

How to go about preparing cybercrime legislation?

Issues to be considered at initial
stage –

- Why is the law being enacted?
- What is the aim of the legislation?
- What is the mischief it is intended to cure through the law?

Methodology

- What is the International best practice in the field
- Budapest Convention the benchmark??
- Look at regional/international instruments in the field
- Study existing legislation and identify loopholes in current legislation
- Formulation of policies to enact law or address a specific issue

Who decides?

- Policy decisions are taken by the relevant Government department/Ministry
- Identifies laws that are going to be amended
- Decides where there is the need to enact new legislation/amend existing laws
- Policy developed by civil servants

Who is involved?

- The relevant Government Department/parent Ministry
- Attorney General's Office/Parliamentary Counsel
- The different stakeholders
- Police
- Prosecuting authorities
- Private sector
- Communication service providers

Who takes the lead?

- The parent Ministry introducing the Bill provides drafting instructions
- Close collaboration with Parliamentary Counsel who advises and assist regarding issues such as -
 - constitutionality
 - respect for the rule of law
 - human rights issues
- Parliamentary Counsel (generally from the Attorney General's Office in Commonwealth jurisdictions) acts as architect and builder in crafting legislation/ policy translator

What is the procedure?

- Government Department/parent Ministry seeks Cabinet approval regarding the policy for the proposed legislation
- Cabinet policy approval sets the limits of the legislation to be enacted
- Drafting instructions are issued by the Government department/ parent Ministry to the Parliamentary counsel
- Draft Bill is prepared by the Parliamentary Counsel who works in close collaboration with the Government Department/parent Ministry which is piloting the Bill
- Consultation Process
- Upon finalisation the draft Bill is sent to the Government Department/Ministry with an Explanatory Memorandum

After drafting the Bill before finalisation

- Consultations with stakeholders to discuss draft Bill-
 - Police
 - Director of Public Prosecutions
 - Communication Service Providers
 - Victims support organisations
 - Non governmental organisations
 - others

Amend draft in light of input from stakeholders

- ensure law takes account of views of those affected by it (Communication Service Providers and others)
- increases compliance



Questions