

Council of Europe Octopus Conference

Workshop 5: The Global State Of Cybercrime Legislation

South African Overview

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Relevant Legislation

- Various legislation that impact on cybersecurity and cybercrime. Includes but not limited to the following:
 - ❑ **National Cyber Security Policy Framework**
 - <https://www.gov.za/documents/national-cybersecurity-policy-framework-4-dec-2015-0000>
 - ❑ **Electronic Communications and Transactions Act, No 25 of 2002**
 - Providing for measures dealing with electronic evidence
 - Cyber offences, which will be repealed by the new Cybercrimes Act, No 19 of 2020)
 - <https://www.gov.za/documents/electronic-communications-and-transactions-act>
 - ❑ **Cybercrimes Act, No 19 of 2020**
 - <https://www.gov.za/documents/cybercrimes-act-19-2020-1-jun-2021-0000>
 - ❑ **Protection of Personal Information Act, No 4 of 2013**
 - <https://www.gov.za/documents/protection-personal-information-act>
 - ❑ **Cybersecurity Bill** still being drafted
 - ❑ **Constitution of the Republic of South Africa**
 - <https://www.gov.za/documents/constitution/constitution-republic-south-africa-1996-1>



Key Areas of the Cybercrimes Act



Definitions

Important to lay foundation for understanding Act



Chapter 2: Cybercrimes

Cybercrimes, malicious communications inciting violence/damage to property, threatening messages, distribution of intimate images (real and simulated), sentencing and orders to protect complainants from harmful effect of malicious communications.



Chapter 3: Jurisdiction

Offences committed inside and outside the borders of South Africa



Chapter 4: Powers to Investigate, Search, Seize and Access

Standard Operating Procedures, rules on search, seize, access procedures



Chapter 5: Mutual Assistance

Spontaneous Information, requests for assistance (in addition to MLA processes)



Chapter 6: Designated Point of Contact

Within existing structures of SAPS, rendering assistance local/international



Chapter 7: Evidence

Proof of facts



Chapter 8: Reporting Obligations and Capacity Building

Obligations of electronic communications service providers and financial institutions, capacity building to detect, prevent and investigate cybercrime



Chapter 9: General Provisions

National Executive and new agreements, several Acts amended/repealed by the Cybercrimes Act, commencement date to be announced



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Roadmap

- Commencement date for the Cybercrimes Act to be announced
- Comprehensive legislation to assist in addressing a borderless crime
- Training and awareness imperative: this includes investigators, prosecutors and the judiciary
- Word of thanks to Council of Europe for assistance with reviewing draft Standard Operating Procedures

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