

(21 August 2015 - to date)

PREVENTION AND COMBATING OF TRAFFICKING IN PERSONS ACT 7 OF 2013

Government Notice 544 in Government Gazette 36715 dated 29 July 2013. Commencement date: 9 August 2015 - except sections 15, 16 and 31(2)(b)(ii) [Proc. No. 32, Gazette No. 39078 dated 7 August 2015]

PREVENTION AND COMBATING OF TRAFFICKING IN PERSONS REGULATIONS RELATING TO PROSECUTOR'S REFERRAL OF SUSPECTED VICTIMS OF TRAFFICKING IN PERSONS, 2015

Government Notice R737 in Government Gazette 39119 dated 21 August 2015. Commencement date: 21 August 2015.

The Minister of Justice and Correctional Services has, under section 43(1)(a) of the Prevention and Combating of Trafficking in Persons Act, 2013 (Act No. 7 of 2013), made the regulations in the Schedule.

SCHEDULE

PREVENTION AND COMBATING OF TRAFFICKING IN PERSONS REGULATIONS RELATING TO PROSECUTOR'S REFERRAL OF SUSPECTED VICTIMS OF TRAFFICKING IN PERSONS

1. Definitions

In these Regulations, any word or expression to which a meaning has been assigned in the Act shall bear the meaning so assigned and, unless the context indicates otherwise—

"the Act" means the Prevention and Combating of Trafficking in Persons Act, 2013 (Act No. 7 of 2013).

2. Referral of children and adult persons suspected of being victims of trafficking in terms of section 22(2)(b) of the Act

When a prosecutor, during the criminal prosecution of a person, suspects that that person is a victim of trafficking referred to in section 22(2) of the Act and the court has granted a postponement as provided for in section 22(2)(a) of the Act, the prosecutor must without delay—

- (a) complete a referral form which must correspond substantially with the Form in the Annexure;
- (b) forward that referral form by facsimile or e-mail to a designated facsimile number or e-mail address in the office of the provincial department of social development indicated in the referral form;

- (c) if the person concerned is escorted by a police official or a social worker of a designated child protection organisation or an organisation which provides services to adult persons, hand a copy of the referral form to that police official or social worker;
- (d) provide a copy of the referral form to the person concerned;
- (e) file the sent form and proof of sending and the acknowledgement of receipt of the form in the *B-section* of the case docket; and
- (f) record or cause to be recorded each step taken in terms of this regulation in the investigating diary of the case docket.

3. Short title

These regulations are called the Prevention and Combating of Trafficking in Persons Regulations relating to Prosecutor's Referral of Suspected Victims of Trafficking in Persons, 2015.

SIGNED at CAPE TOWN on this eleventh day of August Two thousand and fifteen.

T M MASUTHA

Minister of Justice and Correctional Services

ANNEXURE

FORM

***Referral of accused person in terms of section 22(2)(b) of the Prevention and
Combating of Trafficking in Persons Act, 2013 (Act No. 7 of 2013)***

IMPORTANT NOTICE: THE UNAUTHORISED ACCESS TO AND DISCLOSURE OF INFORMATION OF A VICTIM OF TRAFFICKING OR SUSPECTED VICTIM OF TRAFFICKING OR CHILD IN THE CARE OF A VICTIM OF TRAFFICKING IS AN OFFENCE FOR WHICH THE PENALTY IS A FINE OR IMPRISONMENT FOR A PERIOD NOT EXCEEDING 15 YEARS OR BOTH (SECTION 23 READ WITH SECTION 13(c) OF THE ACT)

NOTICE TO THE PROVINCIAL DEPARTMENT OF SOCIAL DEVELOPMENT,

.....

PLEASE NOTE THE FOLLOWING:

- 1. THE PROVINCIAL DEPARTMENT OF SOCIAL DEVELOPMENT MUST ACKNOWLEDGE RECEIPT OF THIS FORM VIA FAX OR E-MAIL TO THE PROSECUTOR CONCERNED.**
- 2. THE CASE HAS BEEN POSTPONED UNTIL**

PLEASE ASSESS THE PERSON WHOSE PARTICULARS APPEAR IN PART A BELOW WITHOUT DELAY AND PROVIDE THE PROSECUTOR WITH YOUR ASSESSMENT IN TERMS OF SECTION 18(6) OR 19(8) OF THE ACT ON OR BEFORE

CASE No

(Court)

The State vs

PART A

To the office of the provincial department of social development,

E-mail address:

Fax no:

Town/city

The person whose particulars appear below is referred to you in terms of section 22(2)(b) of the Prevention and Combating of Trafficking in Persons Act, 2013 for an assessment in terms of section 18(6) or 19(8) of that Act.

Particulars of person:

Full names and surname:

South African national from (town/city)

Province:

Age: Gender:

Date of birth and Identity number if available

Foreign national from: (city/country).

The person appears to be in transit from (country) to
..... (country).

Passport number, if available:

Prepared by:

Particulars of charge against person:
.....
.....

Briefly give reasons for suspecting that that person is a victim of trafficking:

.....
.....
.....

Any other additional information (which does not reveal the whereabouts of the person):

.....
.....
.....

Note: The person is speaking and requires an interpreter/does not require an interpreter.

The person can be contacted through the following investigating police official:

Rank and name of investigating official:

Contact details:

.....

Name of Prosecutor

Official date stamp

.....

Signature of Prosecutor

.....

Court

Contact details:

E-mail address:

Tel no:

Fax no:

PART B

To be completed by the provincial department of social development that has assessed the person:

To:

Name of Prosecutor

Contact details:

E-mail address:

Fax no:

.....

(Court)

Reference number of provincial department of social development:

The person, (full name) has been assessed as requested in terms of section 18(6) or 19(8) of the Prevention and Combating of Trafficking in Persons Act, 2013 and the following conclusion has been made:

- (a) The person is a child who is a victim of trafficking and it is recommended that
.....; or
- (b) the person is a child who is not a victim of trafficking and it is recommended that
.....;or
- (c) the person is an adult who is a victim of trafficking and a letter of recognition has been issued to him or her as provided for in section 19(10) of the Prevention and Combating of Trafficking in Persons Act, 2013 and it is recommended that
.....; or
- (d) the person is an adult who is not a victim of trafficking and it is recommended that
.....

.....
Name of social worker on behalf of
the provincial department of social
development

.....
Signature

Office of provincial department of social development,

.....

Provincial Head

**Official date stamp of provincial
department of social development**

Contact details:

E-mail address:

Tel no:

Fax no:

The following additional particulars and documents are attached, if applicable:

Children's Act, 2005 (Act No. 38 of 2005) Form 22 of the General Regulations Regarding Children, 2010.

The finding by the provincial department of social development, that a child is a victim of trafficking.

A copy of the letter of recognition referred to in section 19(10) of the Prevention and Combating of Trafficking in Persons Act, 2013.

Prepared by: