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IRIPHABLIKI YASENINGIZIMU AFRIKA

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**No. 36715**

## THE PRESIDENCY

No. 544 29 July 2013

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

**Act No. 7 of 2013: Prevention and Combating of Trafficking in Persons Act, 2013**

## LIHHOVISI LEMENGAMELI

No. 544 29 July 2013

Ngaloku kwentiwa satiso sekutsi uMengameli uwuvumile lomTsetfo lolandzelako, lekungumTsetfo lokhishwako lapha kutsi watiwe ngumphakatsi wonkhe:—

**No. 7 wa 2013: uMtsetfo Lovikela futsi uLwisane Nekushushunjiswa Kwebantfu, wanga-2013**



**AIDS HELPLINE: 0800-0123-22 Prevention is the cure**

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*(English text signed by the President)*  
*(Assented to 28 July 2013)*

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# ACT

**To give effect to the Republic's obligations concerning the trafficking of persons in terms of international agreements; to provide for an offence of trafficking in persons and other offences associated with trafficking in persons; to provide for penalties that may be imposed in respect of the offences; to provide for measures to protect and assist victims of trafficking in persons; to provide for the coordinated implementation, application and administration of this Act; to prevent and combat the trafficking in persons within or across the borders of the Republic; and to provide for matters connected therewith.**

## PREAMBLE

**RECOGNISING** that the search for improved socio-economic circumstances and the demand for the services of victims of trafficking contribute to making persons vulnerable to becoming victims of trafficking;

**CONCERNED** by the increase of trafficking in persons, especially women and children, and the role played by organised criminal networks in the trafficking of persons globally;

**SINCE** the South African common law and statutory law do not deal with the problem of trafficking in persons adequately;

**AND SINCE** the Bill of Rights in the Constitution of the Republic of South Africa, 1996, enshrines the right to human dignity, equality, the right to freedom and security of the person, which includes the right not to be deprived of freedom arbitrarily or without just cause, and not to be treated in a cruel, inhuman or degrading way, the right not to be subjected to slavery, servitude or forced labour, and the right of children to be protected from maltreatment, neglect, abuse or degradation; and

**MINDFUL** of the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, Supplementing the United Nations Convention against Transnational Organised Crime, 2000, and other international agreements which place obligations on the Republic of South Africa towards the combating and ultimately, the eradication of trafficking in persons,

**P**arliament of the Republic of South Africa therefore enacts as follows:—

*(English text signed by the President)  
(Assented to 28 July 2013)*

## UMTSETFO

**Kwentela kuphunyeleliswa kwemsebenti wase Riphabhulikhi lophatselene nekushushunjiswa kwebantfu ngalokuhambisana netivumelwano tamhlaba-wonkhe; kuniketela ngelicala lekushushunjiswa kwebantfukanye nalamanye emacala lahambisana naloko; kubeka tinhlawulo letinganiketwa ngekuhambisana nalamacala; kubeka tindlela tekuvikela nekusita labatsintsekako ekushushunjisweni kwebantfu; kuniketa kusetjentiswa lokuyinhlanganisela, kusebentisa nekulawulwa kwaloMtsetfo; kuvikela nekucedza kushushunjiswa kwebantfu ekhatsi nangaphandle kwemincele yaseRiphabhulikhi; kanye nekuniketela kutindzaba letiphatselene naloko.**

### SENDLALELO

**KUBONA** kutsi kutfungatfwa kwematfuba etemnotfo lancono kanye nekudzingeka kwemsebenti webantfu labashushunjisiwe kufaka sandla ekwenteni bantfu babe sengcupheni yekuhlukunyetwa ngekuhushunjiswa;

**KUTSINTSEKA** ngekwandza kwekushushunjiswa kwebantfu, ikakhulukati bantfu besifazane kanye nebantwana, kanye nenzima ledlalwa tindlela tekuchumana tebugebengu lobuhleliwe ekushushunjisweni kwebantfu emhlabeni jikelele;

**NJENGOBA** umtsetfo kanye nemtsetfo webantfu bonkhe ungabukani ngokwanele nenkhinga yekushushunjiswa kwebantfu;

**FUTSI NJENGOBA** Umtsetfo Wemalungelo Eluntu kuMtsetfosisekelo waseriphabhulikhi yeNingizimu Afrika, yanga-1996, ivikela lilungelo lekuhlonishwa kwesitfunti semuntu, kulingana, lilungelo lenkhululeko kanye nekuvikeleka kwemuntu, lekufaka ekhatsi lilungelo lekungancishwa inkululeko noma ngaphandle kwesizatfu, kantsi bangaphatfwa ngebudlova, kungakhombisi buntu noma ngendlela leyehlisa sitfunti, lilungelo lekungentiwa sigcila, bugcila noma kucindzetelwa kutsi usebente, kanye nelilungelo lebantwana lekutsi bavikeleke bangaphatfwa kabi, bangahlhlwa, bangahlukunyetwa noma bangabukelwa phansi; kanye

**KUCAPHELA** Incubo yeNkhambiso Yekuvikela yeMave Elubumbano, kucedza kanye nekujezisa kushushunjiswa Kwebantfu, ikakhulukati Bantfu Besifazane kanye Nebantwana, kulekelela ngesiVumelwano semave emhlaba kuMave Elumbano silekelele Ebugebengwini Lobuhleliwe Lobusekhatsi kweMave lahlukene, nga-2000, kanye naletinye tivumelwano temave ngemave letitfwsa tibopho kuRiphabhulikhi yaseNgingintimu Afrika kutsi ilwisane futsi ekugcineni, icedze kushushunjiswa kwebantfu,

**N**GAKO-KE iPhalamende yeriphabhulikhi yaseNingizimu Afrika ibeka ngalendlela lelandzelako:—

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*Tigaba*

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## CHAPTER 1

## DEFINITIONS, INTERPRETATION AND OBJECTS OF ACT

<b>Definitions</b>	5
1. In this Act, unless the context indicates otherwise—	
“ <b>abuse of vulnerability</b> ” for purposes of section 4(1), means any abuse that leads a person to believe that he or she has no reasonable alternative but to submit to exploitation, and includes but is not limited to, taking advantage of the vulnerabilities of that person resulting from—	10
(a) the person having entered or remained in the Republic illegally or without proper documentation;	
(b) pregnancy;	
(c) any disability of the person;	
(d) addiction to the use of any dependence-producing substance;	15
(e) being a child;	
(f) social circumstances; or	
(g) economic circumstances;	
“ <b>accredited organisation</b> ” means an organisation, including a government institution, accredited in terms of section 24 to provide services to adult victims of trafficking;	20
“ <b>body part</b> ” for purposes of this Act, means any blood product, embryo, gamete, gonad, oocyte, zygote, organ or tissue as defined in the National Health Act, 2003 (Act No. 61 of 2003);	
“ <b>carrier</b> ” includes a person who is the owner or employee of the owner, an agent, an operator, a lessor, a driver, a charterer or a master, of any means of transport;	25
“ <b>child</b> ” means a person under the age of 18 years;	
“ <b>Children’s Act</b> ” means the Children’s Act, 2005 (Act No. 38 of 2005);	
“ <b>children’s court</b> ” means a children’s court referred to in section 42 of the Children’s Act;	30
“ <b>court</b> ” means a High Court or a magistrate’s court for any district or for any regional division;	
“ <b>Criminal Law (Sexual Offences and Related Matters) Amendment Act</b> ” means the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007);	35
“ <b>Criminal Procedure Act</b> ” means the Criminal Procedure Act, 1977 (Act No. 51 of 1977);	
“ <b>debt bondage</b> ” means the involuntary status or condition that arises from a pledge by a person of—	
(a) his or her personal services; or	40
(b) the personal services of another person under his or her control, as security for a debt owed, or claimed to be owed, including any debt incurred or claimed to be incurred after the pledge is given, by that person if the—	
(i) debt owed or claimed to be owed, as reasonably assessed, is manifestly excessive;	45
(ii) length and nature of those services are not respectively limited and defined; or	
(iii) value of those services as reasonably assessed is not applied towards the liquidation of the debt or purported debt;	
“ <b>designated child protection organisation</b> ” has the meaning ascribed to it in section 1 of the Children’s Act;	50
“ <b>electronic communications</b> ” means the emission, transmission or reception of information, including without limitation, voice, sound, data, text, video, animation, visual images, moving images and pictures, signals or a combination thereof	



ISHEJULI

Imitsetfo lecitsiwe noma lechitjijyelwe

SAHLUKO 1

TINCHAZELO, KUHUNYUSHWA NETINJONGO TEMTSETFO

Tinchazelo

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1. KuloMtsetfo, ngaphandle uma ingcikitsi iveta ngalenywe indlela—
  - “**kuhlukumeta loswelako**” kwentela tinjongo tesigaba 4(1), kuchaza noma ngabe nguluphi luhlobo lwekuhlukumeta emtimbeni noma engcondvweni lekuholela ekutseni umuntu akholelwe ekutseni akanako llokunye langakwenta ngaphandle kwekuniketela kutsi acaphatwe, akugcini lapho kuphindze kubandzakanye kusebentisa ngalokungafanele kuswela kwalowo munftu lokuholela ekutseni—
    - (a) umuntu angeniswe noma agcinwe eRiphabhulikhi ngaphandle kwetincwadzi letifanele;
    - (b) akhulelwe;
    - (c) akhubateke;
    - (d) asebenzise tinto letilawula umtimba nengcondo;
    - (e) abe nemtfwana;
    - (f) timo tenhlalo; kanye
    - (g) netimo temnotfo;
  - “**inhlango leligunyatiwe**” ichaza inhlango leligunyatiwe ngekwemigomo yesigaba 24 kutsi isite bantfu labadzala labahlukunyetwe kushushunjiswa;
  - “**incenye yemtimba**” kwentela tizatfu taloMtsetfo, kushiwo noma muphi umkhicito wengati, lokusengakabi mtfwana esuswini, igamethi, igonadi, i-oocyte, izayigothi, sitfo noma ithishu njengoba kuchazwe ku-*National Health Act, 2003* (Umtsetfo nom. 61 wanga 2003);
  - “**umtfutsi**” kufaka ekhatsi umuntu lomnikati, inhloli, umsebeni, lobolekile, umshayeli, umcashi wesittutsi noma umnikati wanoma nguluphi luhlobo lwesitfutsi;
  - “**umntfwana**” ichaza umuntu loneminyaka lengaphansi kwema-18;
  - “**Children’s Act**” ichaza i-*Children’s Act, 2005* (Act No. 38 of 2005);
  - “**inkhantolo letsetsa emacala ebantfwana**” ichaza inkhantolo letsetsa emacala ebantfwana lleshiwo sigaba 42 se-*Children’s Act*;
  - “**inkhantolo**” ichaza inkhantolo leNkhulu noma inkhantolo yamantji yesigodzi noma yesifundza lesihlukene;
  - “**Criminal Law (Sexual Offences and Related Matters) Amendment Act**” ichaza i-*Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007* (Act No. 32 of 2007);
  - “**Criminal Procedure Act**” ichaza i-*Criminal Procedure Act, 1977* (Act No. 51 of 1977);
  - “**sibambiso sesikweleti**” sichaza indlela noma simo lesibangelwa kufunga kwemuntu—
    - (a) ngalakwentako; noma
    - (b) lokwentiwa ngumunye umuntu lamlawulako, kute kube sibambiso sesikweleti lesikweletwako, noma lekutsiwa kuyakweletwa, kubandzakanya noma siphikweleti lesentiwe noma lokutsiwa sentiwe ngemuva kwekuniketela sifungo, ngulowo muntu uma ngabe—
      - (i) linani laloko lakwentako uma kuhlolwa lingeke likwati kuvala sikweleti noma kutsatfwa njengesikweleti; noma
      - (ii) budze besikhatsi kanye nemsuka waloko lakwentako kungenaso sincumo lesitsite futsi kungakachava; ne
      - (iii) linani laleyo misebentinjengoba ihlolwe ngalokuvakalako akuse-tjentiswa ngalokuphatselene nekuhlakatwa kwesikweleti noma sikweleti;
  - “**inhlango lekhetselwe kuvikela bantfwana**” inenchazelo leniketwe yona kusigaba 1 se-*Children’s Act*;
  - “**tekuchumana nge-elektronikhi**” kushiwo kudlulisa, kutsintsana noma kwamukelwa kwelwatiso, kufaka ekhatsi indlela lengenamkhawulo, livi, umsindvo, idatha, umbhalo, ividiyo, bopopayi, titfombe letibukelwako, titfombe

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by means of magnetism, radio or other electromagnetic waves, optical, electromagnetic systems or any agency of a like nature, whether with or without the aid of tangible conduct;

**“electronic communications identity number”** means a technical identification label which represents the origin or destination of electronic communications traffic, as a rule clearly identified by a logical or virtual identity number or address assigned to a customer of an electronic communications service provider (such as a telephone number, cellular phone number, e-mail address with or without a corresponding address, web address with or without a corresponding IP address or other subscriber number);

**“electronic communications service provider”** means a person who is licensed or exempted from being licensed in terms of Chapter 3 of the Electronic Communications Act, 2005 (Act No. 36 of 2005), to provide an electronic communications service;

**“exploitation”** includes, but is not limited to—

- (a) all forms of slavery or practices similar to slavery;
- (b) sexual exploitation;
- (c) servitude;
- (d) forced labour;
- (e) child labour as defined in section 1 of the Children’s Act;
- (f) the removal of body parts; or
- (g) the impregnation of a female person against her will for the purpose of selling her child when the child is born;

**“forced labour”** means labour or services of a person obtained or maintained—

- (a) without the consent of that person; and
- (b) through threats or perceived threats of harm, the use of force, intimidation or other forms of coercion, or physical restraint to that person or another person;

**“forced marriage”** means a marriage concluded without the consent of each of the parties to the marriage;

**“foreigner”** means a person who is not a citizen or permanent resident of the Republic;

**“guardian”** has the meaning ascribed to it in section 1 of the Children’s Act;

**“illegal foreign child”** means a child who is present in the Republic in contravention of the Immigration Act;

**“immediate family member”** means the spouse, civil partner or life partner and dependant family members of a victim of trafficking;

**“Immigration Act”** means the Immigration Act, 2002 (Act No. 13 of 2002);

**“letter of recognition”** means a formal written recognition that an adult person is a victim of trafficking issued in terms of section 19(10);

**“MEC”** means the member of the Executive Council of a province to whom the powers and functions relating to social development in that province have been assigned by the Premier of that province;

**“Minister”** means the Cabinet member responsible for the administration of justice;

**“National Director of Public Prosecutions”** means the person referred to in section 179(1)(a) of the Constitution of the Republic of South Africa, 1996, and appointed in terms of section 10 of the National Prosecuting Authority Act, 1998 (Act No. 32 of 1998);

**“parent”** has the meaning ascribed to it in section 1 of the Children’s Act;

**“parental responsibilities and rights”**, in relation to a child, means the responsibilities and rights referred to in section 18 of the Children’s Act;

**“person”**, for purposes of this Act, includes a natural person, a juristic person and a partnership, unless the context indicates otherwise;

**“police official”** means a member of the South African Police Service as defined in the South African Police Service Act, 1995 (Act No. 68 of 1995);

**“prescribe”** means prescribe by regulation in terms of section 43 of this Act;

**“protective custody”**, for purposes of section 19, means the detention or confinement of a person by the South African Police Service for the purpose of protecting that person in any place which is used for the reception, detention or confinement of a person who is in custody of the South African Police Service and includes all land, buildings and premises adjacent to that place and used in connection therewith;

letihambako nemifanekiso, timphawu noma inhlanganisela yako konkhe lekushokako, iwayilesi noma emagagasi elektronikhi, lokubukelwako, tihlelo te-elektronikhi noma lesinye sikhungo lesifana naleso, noma ngabe sinentfo lephatsekako nalengaphatseki;

**“inombolo lengumtisi wekuchumana nge-elektronikhi”** kushiwo 5  
lokuyikhomba yetetheknikhilokukhumbisa imvelaphi noma lapho i-elektronikhi icondze khona ngekuhamba kwetekuchumana, njengoba kumgumtsetfo kutsi kukhonjiswe ngemombolo leyinkhomba noma likheli leliniketwe likhasimende lelingumphakeli wetekuchumana nge-elektronikhi (njengenombolo yelucingo, makhalekhukhwini, i-imeyili lenelikheli lelihambisanako noma lelingahambisani, 10  
likheli lelihambisanako noma lelingahambisani nelikheli le-IP noma lenye inombolo yalomunye umphakeli);

**“Umphakeli ngetinsita tekuchumana nge-elektronikhi”** kushiwo umuntfu lonelayisensi noma loniketwe imvume yekutsi angabhi nelayisensi ngekuhambisana neSahluko 3 se-*Electronic Communications Act, 2005* (Umtsetfo 15  
Nom. 36 wanga 2005), kuniketa tinsita tekuchumana nge-elektronikhi;

**“kucaphatwa”** kubandzakanya, kodvwa akugcini—

(a) ngetindlela tekugcilatwa noma tento letifana nebugcila;

(b) kucaphatwa ngekwemacansi;

(c) bugcila; 20

(d) kuphocwa kutsi usebente;

(e) kusebentisa bantfwana njengoba kuchazwe esigabeni 1 se-*Children’s Act*;

(f) kucwiywa titfo tentimba; kanye

(g) nekukhulelisa umuntfu wesifazane ngaphandle kwentsando yakhe ngenhloso yekushushumbisa bantfwabakhe uma sebatelwe; 25

**“kuphocwa kutsi usebente”** kuchaza umsebenti noma lokwentiwa muntfu akwenta noma lokutfolakala—

(a) Ngaphandle kwemvume yalowo muntfu; kanye

(b) ngekusatjiswa noma ngekusongelwa ngekulinyatwa, kucindzetelwa, kusatjiswa noma letinye tindlela tengcindzetelo, noma kwalelwa kwalowo muntfu noma lomunye umuntfu; 30

**“kushadiswa ngenkhani”** kuchaza umshado lowentiwe ngalokungasiyo intsa-ndvo noma ngaphandle kwekuvuma kwebantfu lababili labashadanako, noma uma umuntfu aphocelwe emshadweni ngencindzetelo, ngekungcugcutela ngalokungakafaneli, kumsabisa, kusongelwa noma ngekunglimata emtimbeni noma 35  
ngekwengcondvo;

**“umchamuki”**, kuloMtsetfo, kuchava umuntfu lokunguye noma lokungasuye umhlali ngalokugcwele eriphabhulikhi;

**“umondli”** unenchazelo laniketwe yona kusigaba 1 se-*Children’s Act*;

**“umntfwana longumchamuki longekho emtsetfweni”** kuchava bantfwana 40  
lokhona eriphabhulikhi ngekuphula i-*Immigration Act*;

**“lilunga lemndeni lelisondzelenene”** kushiwo umlingani, umlingani ngalokusemtsetfweni noma sofa silahlane kanye nemalunga londliwa kulomndeni walona lohushunjisiwe;

**“Immigration Act”** ichaza i-*Immigration Act, 2002 (Act No. 13 of 2002)*; 45

**“incwadzi yekubonakala”** kushiwo incwadzi yekubonakala lebhale ngalokusemtsetfwenikutsi umuntfu lomdzala ube yincenye yekushushunjiswa lekhishwe ngekwesigaba 19(10);

**“MEC”** kushiwo lilunga Lemkhandlu Wesigungu Lesiphakeme esifundzeni lapho khona emandla nemsebenti lophatselene nekutfutukiswa kwem mango kuleso 50  
sifundza uniketwe yena nguMphatsi sifundza waleso sifundza;

**“Ngcongcoshe”** uchaza lilunga leSigungu sesiShayamtsetfo lelibukene nekusi-ngatfwa kwetebulungiswa;

**“uMcondzisi waVelonkhe wetekuShushiswa kweMphakatsi”** uchaza umuntfu loshiwo kusigaba 179(1)(a) seMtsetfosisekelo waseRiphabuliki yaseNingizimu 55  
Afrika, wanga-1996, futsi lokhetfwe ngekwemigomo yesigaba 10 se-*National Prosecuting Authority Act, 1998 (Act No. 32 of 1998)*;

**“umtali”** unenchazelo laniketwe yona kusigaba 1 se-*Children’s Act*;

**“tibopho kanye nemalungelo emtali”**, mayelana nemntfwana, kuchaza tibopho kanye namalungelo lashiwo kusigaba 18 se-*Children’s Act*; 60

**“umuntfu”**, kuloMtsetfo, ubandzakanya umuntfu lojwayelekile, umuntfu longamangalela noma amangalele kanye nalosebentisana naye, ngaphandle uma ingcikitsi iveta ngalenywe indlela;

- “**provincial department of social development**” means the department within a provincial administration responsible for social development in the province;
- “**provincial head**” has the meaning ascribed to it in section 1 of the Public Service Act, 1994 (Proclamation No. 103 of 1994);
- “**removal of body parts**” means the removal of or trade in any body part in 5  
contravention of any law;
- “**servitude**” means a condition in which the labour or services of a person are provided or obtained through threats of harm to that person or another person, or through any scheme, plan or pattern intended to cause the person to believe that, if 10  
the person does not perform the labour or services in question, that person or another person would suffer harm;
- “**sexual exploitation**” means the commission of—
- (a) any sexual offence referred to in the Criminal Law (Sexual Offences and Related Matters) Amendment Act; or
- (b) any offence of a sexual nature in any other law; 15
- “**slavery**” means reducing a person by any means to a state of submitting to the control of another person as if that other person were the owner of that person;
- “**social worker**” means a person registered as a social worker in terms of section 17 of the Social Service Professions Act, 1978 (Act No. 110 of 1978);
- “**temporary safe care**” for purposes of section 19, means care of an adult person 20  
suspected of being a victim of trafficking in a shelter, private home or any other place approved by the Director-General: Social Development where that person can be accommodated safely pending the placement of that person in an accredited organisation;
- “**trafficking in persons**” has the meaning assigned to it in section 4(1); 25
- “**UN Protocol to Prevent, Suppress and Punish Trafficking in Persons**” means the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, Supplementing the United Nations Convention against Transnational Organised Crime, 2000; and
- “**victim of trafficking**” means— 30
- (a) a child who is found to be a victim of trafficking after an assessment in terms of section 18(6); or
- (b) an adult person who has been issued with a letter of recognition as provided for in section 19(10).

### Interpretation of certain expressions 35

2. (1) For purposes of this Act, a person is regarded as having knowledge of a fact if—
- (a) that person has actual knowledge of the fact; or
- (b) the court is satisfied that—
- (i) the person believes that there is a reasonable possibility of the existence 40  
of the fact; and
- (ii) the person has failed to obtain information to confirm the existence of that fact,

and “knows” or “knowing” must be construed accordingly.

- (2) For purposes of this Act, a person ought reasonably to have known or suspected a fact if the conclusions that he or she ought to have reached are those which would have 45  
been reached by a reasonably diligent and vigilant person having both—
- (a) the general knowledge, skill, training and experience that may reasonably be expected of a person in his or her position; and

- “**sisebenti lesiliphoyisa**” Kushiwo lilunga Lemaphoyisa aseNingizimu Afrika njengoba lichaziwe kuMtsetfo weMsebenti Wemaphoyisa aseNingizimu Afrika, 1995 (Umtsetfo Nom. 68 wanga 1995);
- “**kuncuma**” kuchava kuncunywa ngemtsetfo wesigaba 43 saloMtsetfo; 5
- “**indzawo levikelekile**” kwentela tinjongo tesigaba 19, kushiwo kuvalelwa noma kuhlaliswa kwemuntfu Maphoyisa aseNingizimu Afrika kwentela kumvikela lowo muntfu kunoma yiphi indzawo lesetjentiselwa kufikela, kuvalela noma kuhlalisa umuntfu lovikelwe ngeMaphoyisa aseNingizimu Afrika kantsi kufaka ekhatsi wonkhe umhlaba, takhiwo nemageceke lakuleyo ndzawo nalasetjentiswa ngekuhambisana naloko; 10
- “**litiko lesifundza lekutfufukiswa kwemphakatsi**” unenchazelo leniketwe yona kusigaba 1 se-*Children’s Act*;
- “**inhloko yesifundza**” inenchazelo leniketwe yona kusigaba 1 se-*Public Service Act, 1994 (Proclamation No. 103 of 1994)*;
- “**kucwiya tiffo temtimba**” kuchaza kucwiya noma kutsengiswa kwelilunga lemtimba ngekungahambisani nemtsetfo; 15
- “**bugcila**” buchaza simo sekusebenta kanye neseqwentiswa lokutsite kumuntfu ngekumsabisa nangekumlimata lowo muntfu noma lomunye umuntfu, noma ngelicebo, ngelisu noma ngelluhlelo lekuhloswe ngalo kutsi lowo muntfu akholelwe kutsi, uma angawenti umsebenti noma loko lokutsiwa akakwente, lowo muntfu noma lomunye umuntfu utawulinyatwa; 20
- “**kucaphatwa ngekwemacansi**” kuchaza kwenta—
- (a) noma nguliphi licala lekuhlukumeta ngekwelicansi ngekwemigomo ye-*Criminal Law (Sexual Offences and Related Matters) Amendment Act*, noma
- (b) Noma ngabe nguliphi licala lekuhlukunyetwa ngemacansi kunoma ngabe ngumuphi umtsetfo; 25
- “**kungcilatwa**” kuchaza ukubukela phansi umuntfu nganoma ngaluphi luhlobo kute kufike esimeni lapho atinikela ekulawulweni ngulomunye umuntfu sengatsi lowo muntfu atinikela kuye ungunnikati wakhe;
- “**sonhlalakahle**” uchaza umuntfu lobhalise ngalokusemtsetfweni kutsi ngsonhlalakahle ngekwemigomo yesigaba 17 se-*Social Service Professions Act, 1978 (Act No. 110 of 1978)*; 30
- “**kunakekelwa ngalokuphephile kwesikhashane**” kwentela tinjongo tesigaba 19, kushiwo kunakekelwa kwemuntfu lomdzala losolwa ngatsi uyatsintseka ekushushunjisweni endzaweni, likhaya lelingasese noma lenye indzawo levunyelwe nguMcondzisi Jikelele: Bekutfufukisa Kwetehlalo lapho lomuntfu anganiketwa khona indzawo ngalokuphephile ngalesikhatsi kusalindzelwe kutsi lomuntfu ayohlaliswa edzaweni legunyatiwe; 35
- “**kushushunjiswa kwebantfu**” kunalenchazelo lekuniketwe yona kusigaba 4(1);
- “**iNchubo yeMave Elubumbano yekuVikela, Kuvimbela kanye Nekuzejisa Kushushunjiswa Kwebantfu**” ichaza iNchubo yeMave Elubumbano yekuVikela, Kucedza kanye Nekuzejisa Kushushunjiswa Kwebantfu, Lengeta ku-*United Nations Convention against Transnational Organised Crime, 2000*, kanye
- “**kuba nguloshushunjiwe**” kushiwo—
- (a) umtswana lotfolakele atsintseka ekushushunjisweni ngemuva kwekuhlolwa ngekwalesigaba 18(6); noma 45
- (b) umuntfu lomdzala loniketwe incwadzi yekubonakala njengoba kuniketwe kusigaba 19(10).

## Kuchazwa kwemibhalo letsite

2. (1) Kwentela tinjongo taloMtsetfo, umuntfu ubonakala njengalonelwati leliciniso uma ngabe— 50
- (a) lowo muntfu unelwati loluliciniso; noma
- (b) inkhantolo icinisekisile kutsi—
- (i) lomuntfu utsembela kwekutsi kunesizatfu lesivakalako salokuba khona kwaleliciniso; kanye 55
- (ii) lomuntfu uhlulekile kutfolala lwatiso lwekucinisekisa lokuba khona kwaleliciniso,
- kantsi “uyati” noma “bekati” kufanele kuvisiwe ngendlela.
- (2) kwentela tinjongo taloMtsetfo, umuntfu kufanele abe bekati noma asolele liciniso uma ngabe siphetho lekufinyelelwe kuso nguleso lebekungafinyelelwa kuso ngumuntfu lonakako nalohlakaniphile noma abe nako kokubili— 60
- (a) lwati lolwetayelekile, likhono, kucecehwa nelwati lwemsebenti lolungadzi-ngeka kumuntfu lasesikhundleni sakhe; kanye

(b) the general knowledge, skill, training and experience that he or she in fact has.

(3) A reference in this Act to any act, includes an omission and “acting” must be construed accordingly.

### Objects of Act

3. The objects of this Act are to— 5
- (a) give effect to the Republic’s obligations concerning the trafficking of persons in terms of international agreements;
  - (b) provide for the prosecution of persons who commit offences referred to in this Act and for appropriate penalties;
  - (c) provide for the prevention of trafficking in persons and for the protection of and assistance to victims of trafficking; 10
  - (d) provide services to victims of trafficking;
  - (e) provide for effective enforcement measures;
  - (f) provide for the co-ordinated implementation, application and administration of this Act, including the development of a draft national policy framework; 15
  - and
  - (g) combat trafficking in persons in a co-ordinated manner.

## CHAPTER 2

### OFFENCES, PENALTIES AND EXTRA-TERRITORIAL JURISDICTION

#### Trafficking in persons 20

4. (1) Any person who delivers, recruits, transports, transfers, harbours, sells, exchanges, leases or receives another person within or across the borders of the Republic, by means of—

- (a) a threat of harm;
- (b) the threat or use of force or other forms of coercion; 25
- (c) the abuse of vulnerability;
- (d) fraud;
- (e) deception;
- (f) abduction;
- (g) kidnapping; 30
- (h) the abuse of power;
- (i) the direct or indirect giving or receiving of payments or benefits to obtain the consent of a person having control or authority over another person; or
- (j) the direct or indirect giving or receiving of payments, compensation, rewards, benefits or any other advantage, 35

aimed at either the person or an immediate family member of that person or any other person in close relationship to that person, for the purpose of any form or manner of exploitation, is guilty of the offence of trafficking in persons.

(2) Any person who—

- (a) adopts a child, facilitated or secured through legal or illegal means; or 40
- (b) concludes a forced marriage with another person,

within or across the borders of the Republic, for the purpose of the exploitation of that child or other person in any form or manner, is guilty of an offence.

#### Debt bondage

5. Any person who intentionally engages in conduct that causes another person to enter into debt bondage is guilty of an offence. 45

#### Possession, destruction, confiscation, concealment of or tampering with documents

6. Any person who has in his or her possession or intentionally destroys, confiscates, conceals or tampers with any actual or purported identification document, passport or

- (b) lwati lolwetayelekile, likhono, kuceceshwa nelwati lwemsebenti lolungadzi-  
ngeka lekavele analo.
- (3) Kubukisa kuloMtsetfo kubuketwe kulomunye umtsetfo, kufaka ekhatsi  
lokukhishiwe kanye “nekwenta” kufanele kuvisiswe kahle.

**Tinjongo teMtsetfo**

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**3. Tinjongo taloMtsetfo—**

- (a) kufinyelela kumtfwalo wase Ningizimu Afrika lophatselene nekushushu-  
njiswa kwebantfu ngalokufaka ekhatsi tivumelwano tamhlabawonkhe;
- (b) ukususisa kanye netigwebo letifanele kubantfu lababandzakanyekako  
ekushushunjisweni kwebantfu; 10
- (c) kugwema kanye nekuvikela kushushunjiswa kwebantfu kanye nekuvikela  
kanye nekusita bantfu labashushunjisiwe;
- (d) kuniketa bantfu labashushunjisiwe labakudzingako;
- (e) kuniketela tinyatselo letibonakalako letiphocako;
- (f) kuniketela ngekusebentisa lokuhlanganyelwe, kusetjentiswa nekulawulwa 15  
kwaloMtsetfo, kufaka ekhatsi kutfutukiswa kweluhlaka lwenchubomgomo  
yavelonkhe; kanye
- (g) nekulwisana nekushushunjiswa kwebantfu ngendlela lehlelekile.

**SAHLUKO 2**

**EMACALA, TIGWEBO KANYE NELIGUNYA LEMAVE ANGAPHANDLE 20**

**Kushushunjiswa kwebantfu**

4. (1) Noma ngabe ngubani lowetfula, afune, ahambise, andlulisele, agcine, atsengise,  
antjintjelane, acashise noma atfole lomunye umuntfu lobuya kum incele yangaphandle  
kwaseRiphabhulikhi, ngekusebentisa—

- (a) kumsabisa ngekumlimata; 25
- (b) kumsabisa noma kusebentisa emandla noma lenye indlela yeludlame;
- (c) kuhlukumeta kuba nemtselela;
- (d) inkhohlakalo
- (e) kukhohlisa
- (f) kutsatsa ngenkhani 30
- (g) kumvalela ngaphandle kwentsandvo yakhe;
- (h) sebentisa kabi emandla esikhundla;
- (i) kuniketa ngco noma lokweyamilee noma kutfole imali noma tinzuzo tekutfole  
imvume yemuntfu lophetse noma kuba nemandla ngetulu kwalomunye  
umuntfu; noma 35
- (j) kuniketa ngco noma lokweyamile noma kukhokhelwa imali, sincepheteliso,  
imiklomela, tinzuzo noma lokunye lokunganiketa ematfuba,

Lokucondzise kulomuntfu noma emalunga emndeni lasondzelene naye noma  
lomunye umuntfu lonebudlelwano nalowo muntfu, ngenjongo lenganoma luphi luhlobo  
noma indlela yekucaphata, unelicala lekushushunjiswa kwebantfu. 40

(2) Noma ngabe ngubani lo—

- (a) lotsatsa umntfwana kute amnonde, lokwentiwe ngetindlela letisemtsetfweni  
noma letingekho emtsetfweni kushiwo, noma
- (b) lowenta umshado wekushadiswa ngenkhani nalomunye umuntfu,

kuleli noma kuletinye tindzawo tase Riphabhulikhi, kwentela kucaphata lowo mntfwana 45  
noma lomunye umuntfu ngaleny indlela, unelicala.

**Sibambiso sesikweletu**

5. Noma ngngubani lonemcondvo wekutimbhandzakanya kusento asenta lomunye  
umuntfu abopheleke kusibambiso sesikweletu unelicala.

**Kuphazamisa, kutsatsa, kuphatsa, kufihla noma kona tincwadzi**

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6. Noma ngubani lotfolakala noma lobukela phansi, logodla, lophetse, lofihla noma  
lowenta lokungakalungi ngamatisi noma lokutsatfwa njengbomatisi, incwadzi  
lekhombisa kutsi usakhamuti saleyo ndzawo letsizwe futsi lekugunyata kutsi ungaya

other travel document of a victim of trafficking in facilitating or promoting trafficking in persons is guilty of an offence.

### Using services of victims of trafficking

7. Any person who intentionally benefits, financially or otherwise, from the services of a victim of trafficking or uses or enables another person to use the services of a victim of trafficking and knows or ought reasonably to have known or suspected that such person is a victim of trafficking, is guilty of an offence. 5

### Conduct facilitating trafficking in persons

8. (1) Any person who—

- (a) intentionally leases or subleases any room, house, building or establishment for facilitating or promoting trafficking in persons or allows it to be used or ought reasonably to have known or suspected that it will be used to facilitate or promote trafficking in persons; 10
- (b) subsequent to the lease or sublease of any room, house, building or establishment, becomes aware or ought reasonably to have known or suspected that it is being used to facilitate or promote trafficking in persons and fails to report that knowledge to a police official; 15
- (c) intentionally advertises, publishes, prints, broadcasts, distributes or causes the advertisement, publication, printing, broadcast or distribution of information that facilitates or promotes trafficking in persons by any means, including the use of the internet or other information technology; or 20
- (d) finances, controls or organises the commission of an offence under this Chapter, 25

is guilty of an offence.

(2) (a) An electronic communications service provider operating in the Republic must take all reasonable steps to prevent the use of its service for the hosting of information referred to in subsection (1)(c). 25

(b) An electronic communications service provider that is aware or becomes aware of any electronic communications which contain information referred to in subsection (1)(c) and which is stored upon or transmitted over its electronic communications system must— 30

- (i) without delay report the electronic communications identity number from which those electronic communications originated and any other particulars available to such electronic communications service provider which can be used to identify the person or electronic communications service provider (including an electronic communications service provider operating outside the Republic) from who or from which those electronic communications originated, to the South African Police Service; 35
- (ii) take such reasonable steps as are necessary to preserve evidence as may be required by the relevant investigation and prosecuting authorities, for purposes of investigation and prosecution by the relevant authorities; and 40
- (iii) without delay take such reasonable steps as are necessary to prevent continued access to those electronic communications—
  - (aa) by any of the customers of that electronic communications service provider; or 45
  - (bb) by any person if they are stored on the system of the electronic communications service provider. 45

(3) An electronic communications service provider which fails to comply with the provisions of subsection (2)(a) or (b) is guilty of an offence.

(4) Nothing in this section places a general obligation on an electronic communications service provider to— 50

- (a) monitor the data which it transmits or stores; or
- (b) actively seek facts or circumstances indicating an unlawful activity.

(5) An electronic communications service provider is not liable for any loss sustained by or damage caused to any person as a result of any action taken in good faith in terms of subsection (2)(b)(iii). 55

### Liability of carriers

9. (1) A carrier who transports a person within or across the borders of the Republic, and who knows that the person is a victim of trafficking or ought reasonably to have



kulamanye emave noma incwadzi lekugunyaza kutsi ungangahamba nemuntfu lohlu-kunyetwe kushushunjiswa unelicala.

### **Kusebentisa lohlu-kunyetwe kushushunjiswa**

7. Noma ngubani lohlose kuzuza, imali noma ngaleny indlela, kulokwentiwa ngumuntfu noma kusebentisa noma lovumela kutsi kusetjentiswe lowo muntfu lamatiko noma abe ati ngalokuphelele kutsi uhlu-kunyetwe kushushunjiswa unelicala. 5

### **Tento tekushushunjiswa kwebantfu**

8. (1) Noma ngabe ngubani—

(a) locashisa ngendlu ngalokuyinhloso, umuti, sakhiwo noma ngesikhungo noma acashisa ngendzawo layicashile noma avuma kutsi isetjentiswe noma lowatiko kutsi loko kutawusetjentiswa kusita noma kukhutsata kushushunjiswa kwebantfu; 10

(b) afune kucashisa noma kucashiswa kwanoma liphi likamelo, indlu, sakhiwo noma indzawo lefutukisiwe, ati noma kucatjangwe kutsi bekati noma kusolelwe kutsi beyisetjentiselwa kushushunjiswa kwebantfu ahluleke kubika lolo lwati emaphoyiseni; 15

(c) akhangisa ngamabomu, amemetela, abhala, asakata, aphakela noma enta tikhangiso, simemetelo, kubhala, kusakatwa noma kuphakela ngeminini-ngwane lesita noma lekhusata kushushunjiswa kwebantfu nganoma nguyiphi indlela, kubandzakanya nekusebentisa i-inthanethi noma lenye indlela yelwati lwetebuchwepheshe; noma 20

(d) anikete timali, alawule noma ahlele ikhomishini yesigwebo ngaphansi kwaleSahluko.

(2) (a) Umphakeli lophakela ngekushumana nge-elektronikhi losebentela eRiphabhulikhi kufanele atsatsa tinyatselo letifanele kuvikela kusetjentiswa kwetinsita takhe kubeka lwatiso lekukhulunywa ngalo kusigatjana (1)(c). 25

(b) Umphakeli ngetekuchumana nge-elektronikhi lowatiko noma lotfolo lwati lanoma kuphi kuchumana nge-elektronikhi lokucuketse lwatiso lolubalwe kusigatjana (1)(c) nalolugcinwe noma loludluliswa ngetinsita takhe tekuchumana kufanele—

(i) ngaphandle kwekucitsa sikhatsi abike lenombolo yekuchumana nge-elektronikhi lapho kuvele khona lokuchumana nge-elektronikhi lokungasetjentiselwa kutfolo lomuntfu noma lomphakeli walokuchumana nge-elektronikhi (kufaka ekhatsi umphakeli wetekuchumana nge-elektronikhi losebentela ngaphandle kweRiphabhulikhi) lapho khona lokuchumana kwe-elektronikhi kucake khona, kumaPhoyisa ase Ningizimu Afrika; 30 35

(ii) atsase leti tinyatselo letifanele kugcina bufakazi njengoba kungabe kudzingwa nguloluhlobo lwekuphenya kanye nalabashushisako, kwentela tizatfu tekuphenya nekushushisa ngulaba labasemtsetfweni; kanye

(iii) ngaphandle kwekubambeleleka atsatsa letinyatselo letifanele njengoba tingafanela kuvimbela kuchubeka basebentise lokuchumana kwe-elektronikhi— 40

(aa) ngunoma nguliphi likhasimende lalowo lophakela ngetinsita tekuchumana nge-elektronikhi; noma

(bb) ngunoma ngabe ngubani uma ngabe babekwe kuloluhlelo lwemphakeli lwale-elektronikhi yekuchumana. 45

(3) Noma ngabe ngumuphi umphakeli wetinsita tekuchumana lohlu-leka kulandzelela lemibandzela yesigatjana (2)(a) noma (b) unelicala.

(4) Akukho kulesigaba lokubeka umtfwalo lowetayelekile kumphakeli ngetinsita tekuchumana kutsi—

(a) ahlule lolwati lolukhishwako noma lolugcinwako; noma 50

(b) abuke emaciniso lahambisana nesento lesingekho emtsetfweni.

(5) Umphakeli ngetinsita tekuchumana angeke abe nelicala lekulahleka lokubangelwe noma kulimala lokwenteke kunoma bani ngenca yanoma siphiso sento lesitsetfwe ngesihle ngenca yesigatjana (2)(b)(iii).

### **Licala lelitfweswe batfutsi** 55

9. (1) Umfutso loletsa umuntfu kumincele noma ekhatsi kwemincele yase-Riphabhulikhi, ati kahle kutsi lomuntfu uhlu-kunyetwe kushushunjiswa noma bekufa-

known that the person is a victim of trafficking, is guilty of an offence.

(2) A carrier who, on reasonable grounds, suspects that any of its passengers is a victim of trafficking must immediately report that suspicion to a police official for investigation.

(3) A carrier who fails to comply with the provisions of subsection (2) is guilty of an offence. 5

(4) A carrier is liable to pay the expenses incurred or reasonably expected to be incurred in connection with the care, accommodation, transportation and repatriation or return of the victim to his or her country of origin or country or place from where he or she was trafficked, if the court finds, on a balance of probabilities, that the carrier has knowingly transported a victim of trafficking or ought reasonably to have known or suspected that it was transporting a victim of trafficking. 10

### **Involvement in offences under this Chapter**

**10.** (1) Any person who—

(a) attempts to commit or performs any act aimed at participating in the commission of; 15

(b) incites, instigates, commands, directs, aids, promotes, advises, recruits, encourages or procures any other person to commit; or

(c) conspires with any other person to commit,

an offence under this Chapter is guilty of an offence. 20

(2) A person who is found guilty of an offence referred to in subsection (1) is liable, on conviction, to the penalties for the offence in question, as provided for in section 13.

### **Liability of persons for offences under this Chapter**

**11.** (1) It is no defence to a charge of contravening section 4, 5, 6, 7, 8, 9(1) or 10 that— 25

(a) a child who is a victim of trafficking or a person having control or authority over a child who is a victim of trafficking has consented to the intended exploitation, or the action which was intended to constitute an offence under this Chapter or that the intended exploitation or action did not occur, even if none of the means referred to in section 4(1)(a) to (j) have been used; or 30

(b) an adult person who is a victim of trafficking has consented to the intended exploitation, or the action which was intended to constitute an offence under this Chapter or that the intended exploitation or action did not occur, if one or more of the means referred to in section 4(1)(a) to (j) have been used.

(2) In order to establish liability in terms of section 4, 5, 6, 7, 8, 9(1) or 10 of an employer or principal, the conduct of an employee or agent of, or any other person acting on behalf of the employer or principal may be attributed to the employer or principal if that person is acting— 35

(a) within the scope of his or her employment;

(b) within the scope of his or her actual or apparent authority; or 40

(c) with the express or implied consent of a director, member or partner of the employer or principal.

(3) Subsection (2) does not exclude the liability of an employee or agent of, or any other person acting on behalf of the employer or principal for committing an offence under this Chapter. 45

(4) (a) A finding by a court that an employer or principal has contravened section 4, 5, 6, 7, 8, 9(1) or 10 serves as a ground for the revocation or cancellation of any licence or registration that the employer or principal may require in order to conduct its business.

(b) The clerk or registrar of the court which makes the finding referred to in paragraph (a) must, in writing, notify the South African authority that granted the licence or registration of the finding. 50

(c) The South African authority that granted the licence or registration may review the licence or registration and, where necessary, revoke or cancel the licence or registration.

### **Extra-territorial jurisdiction**

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**12.** (1) A court of the Republic has jurisdiction in respect of an act committed outside the Republic which would have constituted an offence under this Chapter had it been committed in the Republic, regardless of whether or not the act constitutes an offence at the place of its commission, if the person to be charged—

nele kutsi ngabe uyati kutsi lomuntfu ushushunjisiwe, unelicala.

(2) Umtfutsi, ngetindlela letivakalako, losola ngatsi munye webantfu bakhe uyashushunjiswa kufanele kutsi abike ngekushesha loko kusolela emaphoyiseni kute baphenye.

(3) Umtfutsi lohluleka kuhambisana nemibandzela yesigatjana (2) unelicala. 5

(4) Umtfutsi utawubukana nekukhokhela tindleko letidalwe noma lokulindzeleke tidalwe kunakekela, kugcina, kutfutswa kanye nekubuyiselwa eveni kwemuntfu lohlukunyetwe kushushunjiswa, uma ngabe inkhantolo itfola kutsi, ngematfuba lalinganene, kutsi lomtfutsi bekati uma atfutsa lomuntfu kutsi uyashushunjiswa noma ucabangele kutsi utfutsa umuntfu loshushunjiswako. 10

### **Kubandzakanyeka kumacala langaphansi kwaleSahluko**

10. (1) Noma bani lo—

- (a) alinge kwenta noma ente sento lesihlose kungenelela kunkhomishana we;
- (b) ucala, ubhebhetselisa, ugunyata, uholo, usita, utfutukisa, ubonisa, ubita, ukhutsata noma ente lomunye muntfu kutsi ente; noma; 15
- (c) ubopha lizungu nanoma bani kutsi bente licala ngaphansi kwaleSahluko, unelicala.

(2) Umuntfu lotfolwe anelicala lelishiwo kusigatjana (1) utawutfweswa sigwebo, lesitawuniketwa ngalelo cala lanalo, njengoba kubekiwe kusigaba 13.

### **Umtfwalo webantfu labanemacala ngaphansi kwaleSahluko 20**

11. Akukho kumelwa uma ubekwe licala lekwephula sigaba 4, 5, 6, 7, 8, 9(1) noma 10 lesitsi—

- (a) umntfwana loshushunjisiwe noma umuntfu lolawula umntfwana loshushunji-siwe abe afakazele lokucaphatwa lokuhlosiwe, noma lesento lebesihloswe kwenta licala ngaphansi kwaleSahluko noma sento asikenteki, noma ngabe akukho kwaloku lokubalwe kusigaba 4(1)(a) kuya ku (j) lokusetjentisiwe; noma 25
- (b) umuntfu lomdzala loshushunjisiwe ucinisekisile kulokucashatwa, noma lebekuhlolswe kuchubeka nelicala ngaphansi kwaleSahluko noma lokuhlo-swe kucaphata noma sento asikenteki, uma ngabe kunye noma ngetulu kwalemitamo lebalwe kusigaba 4(1)(a) kuya ku (j) kusetjentisiwe. 30

(2) Kute kutsi kusungulwe umtfwalo ngekwesigaba 4, 5, 6, 7, 8, 9(1) noma 10 wemcashi noma umholi, kutiphatsa kwemsebenti noma sitfunywa, noma ngabe bani losebenta ngekumelela umcashi noma umphatsi angabika kumcashi noam umphatsi uma ngabe lowo muntfu alibambela— 35

- (a) kulomsebenti lawentako yena
- (b) kundzawo lapho aphetse khona ngempela; noma
- (c) ngebufakazi lobuvelwe ngumcondzisi jikelele, lilunga noma umlingani walomsebenti noma umphatsi.

(3) Sigatjana (2) asikhiphi lomtfwalo wemsebenti noma sitfunywa se, noma lomunye umuntfu losebenta ngekumelela umcashi noma umphatsi longadzinga kwentela kwenta umsebenti wakhe. 40

(4) (a) Lokutfolwe yinkhantolo kutsi umcashi noma umsebenti uphule sigaba 4, 5, 6, 7, 8, 9, (1) noma 10 kusebenta njengesisusa sekucitsa noma kunisa noma yiphi imvume noma kubhaliswa kanye, lapho kufanele khona, kucitfwe noma kusulwe lemvume noma kubhaliswa. 45

(b) Mabhalane noma nobhala wenkhantolo lekatfole loku lekukhulunywa ngako kundzinyana (a) kufanele, ngalokubhalwe phansi, atise baphansi baseNingizimu Afrika labanikete ilayisensi noma kubhaliswa kwaloku lokutfolakele.

(c) Baphatsi baseNingizimu Afrika labanikete ilayisensi noma lokubhaliswa bangabuyeketa lelayisensi noma lokubhaliswa kanye, lapho kufanele khona, bacitise noma basule lelayisensi noma lokubhaliswa. 50

### **Ligunya lemave angaphandle**

12. (1) Inkhantolo yaseriphabhulikhi inemandla eligunya lesento lesentiwe ngaphandle kwaseriphabhulikhi lebesingaba licala ngekwemigomo yaloMtsetfo kube besentiwe eriphabhulikhi, noma ngabe lesa sento sibandzakanya licala noma asilibandzakanyi endzaweni lapho sentelwe khona, uma lowo lobekwe licala— 55

- (a) is a citizen of the Republic;
- (b) is ordinarily resident in the Republic;
- (c) has committed the offence against a citizen of the Republic or a person who is ordinarily resident in the Republic;
- (d) is, after the commission of the offence, present in the territory of the Republic, or in its territorial waters or on board a ship, vessel, off-shore installation, a fixed platform or aircraft registered or required to be registered in the Republic; 5
- (e) is, for any reason, not extradited by the Republic or if there is no application to extradite that person; or 10
- (f) is a juristic person or a partnership registered in terms of any law in the Republic.
- (2) Only a High Court has jurisdiction in respect of a person referred to in subsection (1)(d).
- (3) A person who commits an offence referred to in subsection (1) is liable on conviction to the penalty prescribed for that offence. 15
- (4) (a) Subject to paragraph (b), the National Director of Public Prosecutions must, in writing, designate an appropriate court in which to conduct a prosecution against any person accused of having committed an offence under this Chapter in a country outside the Republic as provided for in subsection (1). 20
- (b) For the purposes of determining the jurisdiction of a court to try the offence, the offence is deemed to have been committed—
- (i) at the place where the accused person is ordinarily resident; or
- (ii) at the accused person's principal place of business.
- (5) The institution of a prosecution in terms of this section must be authorised in writing by the National Director of Public Prosecutions. 25

### Penalties

- 13.** A person convicted of an offence referred to in—
- (a) section 4(1) is, subject to section 51 of the Criminal Law Amendment Act, 1997 (Act No. 105 of 1997), liable to a fine not exceeding R100 million or imprisonment, including imprisonment for life, or such imprisonment without the option of a fine or both; 30
- (b) section 4(2) is liable to a fine not exceeding R100 million or imprisonment, including imprisonment for life, or such imprisonment without the option of a fine or both; 35
- (c) section 5, 7 or 23 is liable to a fine or imprisonment for a period not exceeding 15 years or both;
- (d) section 6 or 8(1) is liable to a fine or imprisonment for a period not exceeding 10 years or both; or
- (e) section 8(3), 9, 18(9) or 19(13) is liable to a fine or imprisonment for a period not exceeding five years or both. 40

### Factors to be considered in sentencing

- 14.** If a person is convicted of any offence under this Chapter, the court that imposes the sentence must consider, but is not limited to, the following aggravating factors:
- (a) The significance of the role of the convicted person in the trafficking process; 45
- (b) previous convictions relating to the offence of trafficking in persons or related offences;
- (c) whether the convicted person caused the victim to become addicted to the use of a dependence-producing substance;
- (d) the conditions in which the victim was kept; 50
- (e) whether the victim was held captive for any period;
- (f) whether the victim suffered abuse and the extent thereof;
- (g) the physical and psychological effects the abuse had on the victim;
- (h) whether the offence formed part of organised crime;
- (i) whether the victim was a child; 55
- (j) the nature of the relationship between the victim and the convicted person;

- (a) angumhlali waseriphabhulikhi;
  - (b) angumhlali ngalokujwayelekile waseriphabhulikhi;
  - (c) ente licala kulomunye umhlali waseriphabhulikhi noma kumuntfu longumhlali lojwayelekile waseriphabhulikhi;
  - (d) ngemuva kwekwenta licala, sekakuleli laseriphabhulikhi, noma emantini aseriphabhulikhi noma sekagibele umkhumbi, umkhumbi noma sikebhe, lesisegwini laselwandle, losesitimeleni noma ngebhanoyi laseNingizimu Afrika noma lokubhaliswe njengekwase Ningizimu Afrika;
  - (e) kunesizatu, lesenta lowo lowente licala angabuyiswa eriphabhulikhi noma uma singekho sicelo sekubuyisa lowo lowente licala kulelinye live; noma
  - (f) angumuntfu longamangalelwa futsi naye amangalele noma losebentisana nalobhaliswe ngalokusemtsetfweni ngekwemigomo yanoma ngumuphi umntsetfo waseriphabhulikhi.
- (2) Inkhantolo Lenkhulu kuphela leneligunya ecaleni lelishiwo sigatjana (1)(d).
- (3) Umuntfu lowenta licala lelishiwo sigatjana (1) utawutfweswa sigwebo lesitawuniketwa ngalelo cala.
- (4) (a) Ngekuya ngendzima (b), Umcondzisi Wavelonkhe Wetekushushiswa Kwe-mphakatsi futsi, babhale incwadzi, bakhetse inkhantolo lefanele letawushushisa noma ngumuphi umsolwa losolwa ngekwenta licala ngaphandle kwaseriphabhulikhi njengoba kuniketwe kusigatjana (1).
- (b) Kwentela tizatfu tekuncuma ngalokulawulakwenkhantolo kushushisa lelicala, lelicala libukeka njengalentiwe—
- (i) endzaweni lapho lona lobekwe licala ungumhlali lowetayelekile; noma
  - (ii) kulenzawo yalomuntfu lophetse lobekwe licala labhizinisela kuyo.
- (5) Sikhungo lesishushisako ngekwemigomo yalesigaba kumele sigunyatwe ngalokubhalwe phansi nguMcondzisi waVelonkhe wetekuShushiswa kweMphakatsi.

### Tinhlawulo

#### 13. Umuntfu lotfolakele anelicala lobalwe—

- (a) sigaba 4(1), ngekuya ngesigaba 51 se-Criminal Law Amendment Act, 1997 (Umntsetfo Nom. 105 wanga 1997), kutawufanele ahlawule imali lengadluli tigidzi leti-100 noma kuboshwa, kufaka ekhaya kugwetja kudzikela lijele, noma kuboshwa lokunjalo ngaphandle kwekuniketwa inhlawulo;
- (b) sigaba (4) ungahlawuliswa imali lengadluli tigidzi leti-100 noma uboshwe, kufaka ekhatsi kudzikelwa lijele, noma kuboshwa lokunjalo ngaphandle kwekuniketwa inhlawulo noma kokubili;
- (c) sigaba 5, 7 noma 23 ungahlawuliswa noma uboshwe sikhatsi lesingadluli iminyaka leli-15 noma kokubili;
- (d) sigaba 6 noma 8(1) ungahlawuliswa noma uboshwe sikhatsi lesingadluli iminyaka leli-10 noma kokubili; noma
- (e) sigaba 8(3), 9, 18(9) noma 19(13) ungahlawuliswa noma aboshwe sikhatsi lesingadluli iminyaka lesihlanu noma kokubili.

### Imigomo lekumele ilandzelwe uma kukhishwa sigwebo

#### 14. Uma umuntfu alahlwa licala ngaphansi kwaleSahluko, inkhantolo letfwese lesigwebo kumele ibuke, bubi baletimo letilandzelako:

- (a) Kufakwa kwendzima ledlalwe ngumuntfu lolahlwe licala ekushushunjisweni kwebantfu;
- (b) emacala aphambilini lahlobene nebugebengu bekushushunjiswa kwebantfu noma emacala lahambelanako;
- (c) uma lowo lolahlwe licala abangela kutsi lowo lohlukumetekile abe sigcila saletidzakamiva;
- (d) timo lowo lohlukumetekile bekagcinwe ngaphansi kwato;
- (e) noma ngabe lowo lohlukumetekile bekatfunjwe sikhatsi lesitsite;
- (f) noma ngabe lowo lohlukumetekile bekalukunyetwa kufinyelela lapho;
- (g) lomtselela lokuhlukunyetwa lokube nawo emtimbeni nasengcondvweni yalohlukunyetiwe;
- (h) noma ngabe lelo cala liyincenye yebugebengu lobuhleliwe;
- (i) noma ngabe lowo lohlukumetekile bekangumntfwana;
- (j) simo sebudlelwano emkhatsini walomuntfu lobekwe licala nalohlukunyetiwe;

- (k) the state of the victim's mental health; and
- (l) whether the victim had any physical disability.

### CHAPTER 3

#### STATUS OF FOREIGN VICTIMS OF TRAFFICKING REQUIRED TO ASSIST IN INVESTIGATIONS AND PROSECUTIONS

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##### Protective measures for purposes of investigation and prosecution in respect of foreign victims of trafficking

15. (1) Despite the provisions of the Immigration Act, the Director-General: Home Affairs may, in the prescribed manner and subject to the prescribed conditions, issue, a foreigner in respect of whom—

- (a) a report has been made to a police official as provided for in section 19; and
- (b) the National Commissioner of the South African Police Service has, in writing, confirmed to be a person who might be able to assist in a police investigation relating to an offence under Chapter 2,

a visitor's visa in terms of section 11(1)(a) of the Immigration Act to remain in the Republic for a recovery and reflection period not exceeding three months which may be extended once in terms of subsection (4) for a further period not exceeding three months for the purpose of accessing the programmes referred to in section 26 with the view to enabling the foreigner to make informed decisions regarding his or her cooperation with law enforcement and prosecuting authorities in the investigation and prosecution of a case of trafficking in persons as referred to in section 16(1)(b).

(2) If a foreigner referred to in subsection (1), after a period of 30 days after he or she has been issued with a visitor's visa to remain in the Republic for a recovery and reflection period, is unwilling or unable to co-operate with law enforcement and prosecuting authorities in the investigation of and the prosecution of a trafficker, an investigation into his or her circumstances must be conducted by the Director-General: Social Development in order to determine whether it is safe to repatriate him or her to his or her country of origin or the country from where he or she has been trafficked.

(3) If a foreigner referred to in subsection (2) is still unwilling or unable to co-operate with law enforcement and prosecuting authorities in the investigation of and the prosecution of a trafficker upon expiration of the visitor's visa the person must be dealt with in terms of sections 31(2) and 32.

(4) If the Director-General: Social Development is unable to complete an investigation referred to in subsection (2) before the expiration of the recovery and reflection period, he or she must, in the prescribed manner, request the Director-General: Home Affairs to extend, in the prescribed manner, that period for a further period not exceeding three months.

(5) The issuing of a visitor's visa as provided for in subsection (1) does not prevent or prejudice the competent authority from conducting any relevant investigation, provided that due regard is given to the emotional state of the victim.

(6) A foreigner referred to in subsection (1) in respect of whom a decision by the Director-General: Home Affairs in terms of subsection (1) or (4) is pending, may not be deported.

##### Facilitation of police investigation or prosecution in case of foreign witnesses

16. (1) (a) The Director-General: Home Affairs may, despite the provisions of the Immigration Act, and subject to paragraph (b), issue a visitor's visa in terms of section 11(1)(b)(iv) of the Immigration Act to a victim of trafficking if that person is present in the Republic and has agreed in writing to cooperate with the law enforcement or

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- (k) simo sekuphila kwengcondvo salona lohlukunyetiwe; kanye
- (l) uma ngabe lolohlukunyetiwe uchwalile emtimbeni.

### SAHLUKO 3

#### SIMO SEBACHAMUKI LABAHLUKUNYETWE KUSHUSHUNJISWA LESIDZINGEKAKO KUTSI BASITE KULUPHENYO 5 NASEKUSHUSHISWENI

#### Tindlela tekuvikela kwentela kuphenya nekushushiswa ngalokuphatselene nalaba- shushunjiswiwe

15. (1) Noma kunemibandzela ye-*Immigration Act*, uMcondzisi-Jikelele: wetiNdzaba taseKhaya, ngendlela lencunyiwe futsi nangaletimo letincunyiwe, kumele avumele 10 umchamuki lokucinisekisiwe lapho khona—

- (a) umbiko wentiwe ephoyiseni njengoba kushiwo kusigaba 19; kanye
- (b) Nkhomishana waVelonkhe weTemsebenti Wemaphoyisa ase Ningizimu Afrika, ngalokubhaliwe, acinisekise kuba ngumuntfu loingahle akhone kusita kuluphenyo lwemaphoyisa lokuphatselene nemacala ngaphansi 15 kweSahluko 2,

ivisa yalovakashile ngalokuhambisana nesigaba 11(1)(a) seMtsetfo weTifikanamtfwa- lokutsi uhlale eRiphabhulikhi kute welulame kanye nesikhatsi sekubuyeketa lesingadluli kutinyanga letintsatfu letingakhuliswa kanye ngekwesigatjana (4) lesinye sikhatsi lesingadluli tinyanga letintsatfu kwentela inchubo yekuhlola letinhlelo 20 letibalwe kusigaba 26 ngembono wekuvumelalomchamuki kutsi ente sincumo lesifanele ngalokuphatselene nekuchumana kwakhe nemtsetfo kanye nebashushisi kuluphenyo nekushushiswa kwelicala lekushushumbisa umuntfu njengoba kubalwe kusigaba 16(1)(b).

(2) Uma lowo mchamuki loshiwo sigatjana (1), ngemuva kwaletinsuku letingema-30 25 aniketwe imvume yekuvakasha kutsi ahlale eRiphabhulikhi sikhatsi sekululama nekubuyeketa, utimisele kusebentisana nemtsetfo kanye neluphiko lwetekushushisa kuluphenyo lekushushiswa kwalowo loshushumbisa ngebantfu, luphenyo mayelana nesimo sakhe kumele lwentiwe nguMcondzisi-Jikelele: WetekuTfutukiswa kwe- Miphakatsi kute kuncunye kutsi ngabe kuphephile uma abuyiselwa eveni lakhe 30 ladzabuka kulo noma kuleyo ndzawo lashushunjiselwe kuyo.

(3) Uma lowo mchamuki loshiwo sigatjana (2) angakatimisele futsi kusebentisana nemtsetfo kanye neluphiko lwetekushushisa ekuphenyeni kanye nasekushushisweni kwalowo loshushumbisa bantfu ngemuva kwekuphela kwesikhatsi semvume yekuhlala kuleli, imininingwane letfolakele ngesikhatsi kuphenywa lesiwo kusigatjana (2) 35 kumele iniketelwe kuMcondzisi-Jikelele: WaletiNdzaba taseKhaya kuze ibukwe kusenesisikhatsi kutsatfwa sincumo sekutsi ngabe lowo mchamuki kumele yini abuyiselwe eveni lakhe. Ngemuva kwekuphela kwalevisa yekuvakasha lomuntfu kufanele kusetjentwe ngaye ngekwesigaba 31(2) na 32.

(4) Uma uMcondzisi-Jikelele: WetekuTfutukiswa kweMiphakatsi angakwatanga 40 kucedzela luphenyo lolushiwo kusigatjana (2) ngaphambi kwekuba kuphele sikhatsi semvume yekuhlala kuleli, kumele, ngendlela lencunyiwe, acele uMcondzisi-Jikelele: WetiNdzaba taseKhaya kutsi anwebe sikhatsi sekuhlala kuleli, ngendlela lencunyiwe, asinwebe sibe tinyanga letintsatfu.

(5) Kuniketela ngevisa yekuvakasha kuleli nesekululama lokushiwo sigatjana (1) 45 vimbeli noma kubandlulule lwati leluphiko lwabosolwati kutsi luphenye ngendlela lefanele, ngesizatfu sekutsi loludzaba selubucayi kulohlukumetekile.

(6) Umchamuki lobalwe kusigatjana (1) lapho khona sincumo lesiphatselene navesentiwe nguMcondzisi Jikelele: Tindzaba Tasekhaya ngekwesigatjana (1) noma (4) 50 silengisiwe, angeke wafunyelwa emuva.

#### Kuhanjiswa kweluphenyo lwemaphoyisa noma kushushiswa kwafakazi longu- mchamukiKuhlala kwesikhashana eriphabhulikhi

16. (1) (a) Umcondzisi Jikelele: Tindzaba Tasekhaya anga, ngekungabuki imibandzela yeMtsetfo Wetifikanamtfwalo, nangekuya ngesugaba (b), anganiketa ivisa yekuvakasha ngekwesigaba 11(1)(b)(iv) seMtsetfo Wetifikanamtfwalo kulohluku- 55 nyetwe kushushunjiswa uma ngabe lowo muntfu ukhona eRiphabhulikhi kantsi uvumule ngalokubhalwe phansi kubambisana nebemtsetfo noma bashushisi kulu-

prosecuting authorities in the investigation of and the prosecution of a case of trafficking in persons, as the case may be.

(b) The Director-General: Home Affairs may only issue a visitor's visa in terms of paragraph (a) if the National Commissioner of the South African Police Service or the National Director of Public Prosecutions, in writing, confirms that the person is required for purposes of a police investigation or criminal prosecution, as the case may be, and that the continued presence of the person in South Africa is essential for the successful prosecution of a person who is alleged to have committed an offence under Chapter 2. 5

(c) The Director-General: Home Affairs may despite the provisions of the Immigration Act, extend or withdraw a visitor's visa referred to in paragraph (a) if he or she is requested in writing to do so by the National Commissioner of the South African Police Service or the National Director of Public Prosecutions in the prescribed manner. 10

(d) The Director-General: Home Affairs may, despite the provisions of this subsection, refuse to issue a visitor's visa or the extension thereof if there are substantial and compelling reasons to do so. 15

(2) A visitor's visa referred to in subsection (1) may be issued to a victim of trafficking regardless of—

(a) his or her status; or

(b) whether a visitor's visa as provided for in section 15 was issued or has expired. 20

(3) The National Commissioner of the South African Police Service or the National Director of Public Prosecutions must, in writing, request the Director-General: Home Affairs to withdraw a visitor's visa issued in terms of this section when the need for that visitor's visa no longer exists.

#### **Application for rights of permanent residence in terms of section 31(2)(b) of Immigration Act** 25

17. The National Commissioner of the South African Police Service or the National Director of Public Prosecutions may assist a foreign victim of trafficking who has in any manner rendered assistance to either the South African Police Service or the National Prosecuting Authority before or during any criminal proceedings, to apply for the rights of permanent residence in terms of section 31(2)(b) of the Immigration Act, if, as a result of that victim's assistance he or she may be harmed or killed if he or she is repatriated to his or her country of origin or the country from where he or she has been trafficked. 30

### **CHAPTER 4**

#### **IDENTIFICATION AND PROTECTION OF VICTIMS OF TRAFFICKING** 35

##### **Reporting of and dealing with child victim of trafficking**

18. (1) (a) Despite any law, policy or code of conduct prohibiting the disclosure of personal information, any person who knows or ought reasonably to have known or suspected that a child is a victim of trafficking must immediately report that knowledge or suspicion to a police official for investigation. 40

(b) A designated child protection organisation which comes into contact with a child who is suspected of being a victim of trafficking and who has not been reported as provided for in paragraph (a), must immediately report that child to a police official for investigation, whereafter the provisions of subsections (5) and (6) apply. 45

(2) Subsection (1) does not apply to the right to legal professional privilege as between a legal practitioner and his or her client in respect of communications made in confidence between that legal practitioner and—



phenyo nekushushiswa kwelicala lekushushunjiswa kwebantfu, njengoba kungabe kubekiwe.

(b) Umcondzisi Jikelele: Tinzaba Tasekhaya anganiketa kuphela ivisa yekuvakasha ngekwendzima (a) uma ngabe Nkhomishani Welive lonkhe weMsebenti Wemaphoyisa ase Ningizimu Afrika noma Umcondzisi Wavelonkhe weTekushushiswa Kwemphakatsi, ngalokubhaliwe, ucinisekisa kutsi lomuntfu uyadzingeka kwentela tizatfu tekuphenya kwemaphoyisa noma kushushiselwa bugebengu, njengoba kungabe kubekiwe, nekutsi lokuchubeka kube khona kwalomuntfu eNingizimu Afrika kubalulekile kwentela kuphumelela kwekushushiswa kwemuntfu lekucabangelwa kutsi wente licala ngaphansi kweSahluko 2. 5 10

(c) Umcondzisi Jikelele: Tinzaba Tasekhaya anga ngaphandle kwekulandzela lemibandzela yeMtsetfo Wetifikanamtfwalo, akhulise noma amise ivisa yalovakashile lebalwe kundzima (a) uma ngabe aceliwe ngalokubhalwe phansi kutsi ente njalo nguNkhomishani Wavelonkhe weTemsebenti Wemaphoyisa ase Ningizimu Afrika noma Umcondzisi wavelonkhe Wetekushushiswa Kwemphakatsi ngendlela lebekiwe. 15

(d) Umcondzisi Jikelele: Tinzaba Tasekhaya anga, ngaphandle kwemibandzela yalesigatjana, ale kuniketa ivisa yekuvakasha noma kukhuliselwa uma ngabe kunetizatfu leticindzetelako noma letivakalako kutsi ente njalo.

(2) Ivisa yesivakashi lebalwe kusigatjana (1) inganiketwa kumuntfu loshushunjisiwe ngaphandle kwekubuka— 20

(a) simo sakhe; noma

(b) noma ivisa yekuvakasha beyiniketiwe ngekwesigaba 15 noma seyindlulelwe sikhatsi.

(3) Nkhomishana Wavelonkhe Wemisebenti Yemaphoyisa ase Ningizimu Afrika noma Umcondzisi Jikelele Wetekushushiswa Kwemmango kufanele, ngalokubhaliwe, acele Umcondzisi Jikelele: Tinzaba Tasekhaya kutsi amise ivisa yalovakashile leniketwe ngekwalesigaba uma ngabe sidzingo saleyo visa yekuvakasha ingasadzingeki. 25

#### **Kufaka sicelo semalungelo ekuhlala eriphabhulikhi ngalokugcwele ngekwesigaba (31)(2)(b) seMtsetfo Wetifikanamtfwalo**

17. Nkhomishani weMsebenti Wemaphoyisa ase Ningizimu Afrika noma Umcondzisi Wavelonkhe wetekushushiswa kwebantfu bangasita umchamuki lotsintsfwe kushushunjiswa uma nganoma yiphi indlela anikete lusito mhlawumbe kuMaphoyisa ase Ningizimu Afrika noma Kumsgushisi Wavelonkhe ngalesikhatsi noma ngembi kwetinchubo telicala lebugebengu, kutsi abhalele imvume yekuhlala ngalokuphelele ngekwesigaba 31(2)(b) seMtsetfo Wetifikanamtfwalo, uma ngabe, ngenca yelusito laloshushunjisiwe uma angahlukunyetwa, abulawe noma ashushunjisiwe futsi uma abuyiselwa eveni lakhe noma eveni ladzabuka kulo noma eveni lowashushunjiselwa kulo. 30 35

### **SAHLUKO 4**

#### **KUTFOLAKALA KANYE NEKUVIKELWA KWALABAHLUKUNYETWE KUSHUSHUNJISWA** 40

#### **Kubika kanye nekuniketela ngemntfwana lohlukeyetwe kushushunjiswa**

18. (1) (a) Noma ngabe ngumuphi umtsetfo, umgomo noma indlela yekutiphatsa levimbela kuvetwa kwemininingwane yemuntfu, losebentela lluphiko lolungamele kutfutsa, umsheshi wetemisebenti, bosonhlalakahle, loceceshelwe umsebenti wemphakatsi, wetemphilo lolapha ngekwetemphilo, umhlangikati, thishela, wetemphilo lolapha ngekwendzabuko, lolapha ngekwesintfu noma umholi wendzabuko lonaletizatfu letivakalako, tekusola kutsi lowo mntfwana uhlukunyetwe kushushunjiswa kumele abikele emaphoyisa ngekushesha ngaletu tinsolo kute tiphenywe. 45

(b) Inhlango lebekelwe kuvikela bantfwana lotawuhlangana nemntfwana losolwa ngekutsi lowo mntfwana uhlukumetwe kushushunjiswa kantsi usengakabikwa ngekwesigatjana (a) kumele abikele emaphoyisa ngekushesha ngaletu tinsolo kuze tiphenywe, ngemuva kwaloko imibandzela yesigatjana (5) na (6) itawusebenta. 50

(2) Sigatjana (1) asisebenti kumalungelo etisebenti temtsetfo njengoba loku kutawuba semkhatsini wakho nemmeli ngalokuphatselene nekuchumana lenibe nako ngekutitsembe emkhatsini walowo muntfu wemtsetfo kanye— 55

- (a) his or her client for the purposes of legal advice or litigation which is pending or contemplated or which has commenced; or
- (b) a third party for the purposes of litigation which is pending or contemplated or which has commenced.
- (3) A person referred to in subsection (1)— 5
- (a) must provide reasons for that knowledge or suspicion to a police official;
- (b) who makes the report in good faith, is not liable to civil or disciplinary action on the basis of the report, despite any law, policy or code of conduct prohibiting the disclosure of personal information; and
- (c) is entitled to have his or her identity kept confidential if his or her safety is at risk as a result of the report, unless the interests of justice require otherwise. 10
- (4) A police official to whom a report has been made in terms of subsection (1) or section 8(1)(b) or (2)(b)(i) or 9(2) in respect of a child or a police official who knows or ought reasonably to have known or suspected that a child is a victim of trafficking—
- (a) may where necessary, and despite the proviso contained in section 26 of the Criminal Procedure Act, without a warrant, enter any premises if he or she, on reasonable grounds, believes that the safety of that child is at risk or that the child may be moved from those premises and may use such force as may be reasonably necessary to overcome any resistance against entry to the premises, including the breaking of any door or window of those premises, on condition that the police official must first audibly demand admission to the premises and notify the purpose for which he or she seeks to enter those premises; 15 20
- (b) must deal with that child in terms of section 110(4) of the Children's Act, pending a police investigation into the matter; and 25
- (c) may place that child in temporary safe care in terms of section 152 of the Children's Act, pending the transfer of the child to a designated child protection organisation or provincial department of social development.
- (5) The procedure provided for in section 110(5) to (8) of the Children's Act applies in respect of a child who has been dealt with in terms of subsection (4)(b) or who has been referred in terms of section 22(2)(b) or section 33(b)(iv). 30
- (6) The provincial department of social development must without delay, in the prescribed manner, assess whether the child referred to in subsection (5) is a victim of trafficking, after taking into account the prescribed information obtained from the South African Police Service. 35
- (7) A child who has been found to be a victim of trafficking in terms of subsection (6)—
- (a) must be referred to a designated social worker for investigation in terms of section 155(2) of the Children's Act; and
- (b) may, pending such investigation, be placed in temporary safe care in terms of section 151 of the Children's Act. 40
- (8) A finding in terms of section 156 of the Children's Act that an illegal foreign child who is a victim of trafficking is a child in need of care and protection, serves as authorisation for allowing the child to remain in the Republic for the duration of the children's court order. 45
- (9) A person who fails to comply with the provisions of subsection (1) is guilty of an offence.

### Reporting of and dealing with adult victim of trafficking

- 19.** (1) (a) Despite any law, policy or code of conduct prohibiting the disclosure of personal information, any person who knows or ought reasonably to have known or suspected that an adult person who he or she comes into contact with during the execution of his or her duties, is a victim of trafficking, must immediately report that knowledge or suspicion to a police official for investigation. 50
- (b) An accredited organisation which comes into contact with an adult person who is suspected of being a victim of trafficking and who has not been reported as provided for in paragraph (a), must immediately report that person to a police official, whereafter the provisions of subsections (8) to (12) apply. 55

- (a) iklayenti yakhe kwentela tinjongo tekubonisa ngekwemtsetfo noma kushushiswa lekusalindzele noma lokuvetiwe noma lokusacaliwe; noma;
- (b) umuntfu wesitsatfu kwentela tizatfu tekushushiswa lokusalindzele noma kuvetwe nomalesekucalile.
- (3) Umuntfu lobalwe kusigatjana (1)— 5
- (a) kufanele anikete tizatfu talolo lwati noma tinsolo kulosebenta emaphoyiseni;
- (b) ente lombiko ngekutsembeka, angeke wacondziswa tigwegwe ngalokusemtsetfweni ngalokuvetwa ngulombiko, ngekunganaki noma muphi umtsetfo, inchubomgomo noma indlela yekutiphatsa levimbela kuvetwa kwelwatiso; kantsi 10
- (c) ufanele kutsi imvelaphi yakhe igcinwe ngalokuyimfihlo uma ngabe kuphepha kwakhe kusengotini ngenca yalombiko, ngaphandle kwekutsi uma ngabe umtsetfo unenshisekelo ngalenywe indlela.
- (4) Liphoyisa lapho lekwentelwe kulo umbiko lowentiwe ngekwesigatjana (1) noma sigaba 8(1)(b) noma (2)(b)(i) noma 9(2) ngalokuphatselene nemtswana noma liphoyisa lelatiko noma lekufanele ngabe liyati noma lisolele kutsi umntswana ushushunjisiwe— 15
- (a) anga lapho kufanele khona, nangaphandle kwalemibandzela lekhona kusigaba 26 seCriminal Procedure Act, ngaphandle kwewaranti, angene noma kuphi uma ngabe, ngetizatfu letivakalako, akholelwa kutsi kuphepha kwlomtswana kusengotini noma lowo mntswana angasuswa kuleyo ndzawo noma angasebentisa lawo mandla ngendlela ledzingekako kuvikela noma kuphi kwalelwa kungena kuleyondzawo, kufaka ekhatsi kuphula umnyango noma lifasitelo laleyo ndzawo, uma ngabe lelo phoyisa licala ngekumemeta lavakala kutsi lifuna imvume yekungena lasho nesizatfu sekutsi kungani lifuna kungena kuleyo ndzawo; 20
- (b) kufanele asebente ngalomntswana ngekuhambisana nesigaba 110(4) se-*Children's Act*, kusamelwe luphenyo lwemaphoyisa ngaloludzaba; kanye 25
- (c) Nekutsi angabeka lomntswana endzaweni lephephile kwesikhashane ngekwesigaba 152 se-*Children's Act*, ngalesikhatsi kusalindzelwe kudluliselwa kwalomntswana kunhlangano lebekiwe yekuvikela bantswana noma litiko letekutfufukiswa kwetenhlalakahle esifundzeni. 30
- (5) Lenchubo leniketiwe kulesigaba 110(5) kuya ku 8 se-*Children's Act* siyasebenta ngalokuphatselene nemntswana lekusetjentwe ngaye ngalokuphatselene nesigatjana (4)(b) noma lodluliselwe ngekwesigaba 22(2)(b) noma sigaba 33(b)(iv).
- (6) Litiko letenhlalakahle lasesifundzeni kufanele ngaphandle kwepholisa emaseko, ngendlela lebekiwe, lihlole kutsi ngabe lomntswana lobalwe kusigatjana (5) ushushunjisiwe, ngemuva kwekunaka lolwatiswe loluniketiwe lolubuya eMaphoyiseni aseNingizimu Afrika. 35
- (7) Umntswana lotfolakele ashushunjisiwe ngekwesigatjana (6)—
- (a) kufanele adluliselwe kusonhlalakahle lobekiwe kutsi aphenye ngekwesigaba 155(2) se-*Children's Act*; kanye 40
- (b) anga, ngalesikhatsi kusaphenywa, abekwe lapho anganakekelwa khona kwesikhashane endzaweni lephephile ngekwesigaba 151 se-*Children's Act*.
- (8) Kunalokutfolakele ngekuhambisanaq nesigaba 156 se-*Children's Act* kutsi umntswana longasuye wakuleli ngalokusemtsetfweni loshushunjisiwe ngumntswana lodzinga kunakekelwa nekuvikelwa, kutawuba ngumtsetfo lotawudzinga kutsi lomntswana abe seRiphabhulikhi ngalesikhatsi salombandzela wenkhantolo. (9) Umuntfu lohluleka kuhambisana nemibandzela yesigatjana (1) unelicala. 45
- (9) Umuntfu lohluleka kuhambisana nemibandzela yesigatjana (1) unelicala.

**Kubika kanye nekuniketela ngemuntfu lomdzala lohlukunyetwe kushushunjiswa 50**

- 19.** (1) (a) Ngaphandle kwanoma muphi umtsetfo, inchubomgomo noma indlela yekutipohatsa levimbela kuvetwa kwelwatiso lwakho, umuntfu lowatiko noma lotsatfwa njengalebekati noma locabangele kutsi umuntfu lomdzala lahlangene naye ngalesikhatsi asemsebenzini wakhe, ushushunjisiwe, kufanele abike leto tinsolo emaphoyiseni kute kucalwe luphenyo. 55
- (b) Inhlangano leniketwe imvume lehlanga nemuntfu lomdzala losolelwa kuba nguloshishunjisiwe longakabikwa njengoba kubalwe kundzima (a), kufanele kutsi abike lowo muntfu emaphoyiseni, lapho khona kutawusebenta imibandzela yesigatjana (8) kuya ku 12.

(2) Any person, other than the persons referred to in subsection (1)(a), who on reasonable grounds suspects that an adult person is a victim of trafficking, may report that suspicion to a police official for investigation.

(3) Subsection (1) does not apply to the right to legal professional privilege as between a legal practitioner and his or her client in respect of communications made in confidence between the legal practitioner and—

- (a) his or her client for the purposes of legal advice or litigation which is pending or contemplated or which has commenced; or
- (b) a third party for the purposes of litigation which is pending or contemplated or which has commenced.

(4) A person referred to in subsection (1) or (2)—

- (a) must provide reasons for that knowledge or suspicion to a police official;
- (b) who makes the report in good faith, is not liable to civil or disciplinary action on the basis of the report, despite any law, policy or code of conduct prohibiting the disclosure of personal information; and
- (c) is entitled to have his or her identity kept confidential if his or her safety is at risk as a result of the report, unless the interests of justice require otherwise.

(5) A police official to whom a report has been made in terms of subsection (1) or (2), or section 8(1)(b) or (2)(b)(i) or 9(2) in respect of an adult person or a police official who knows or ought reasonably to have known or suspected that an adult person is a victim of trafficking—

- (a) (i) may where necessary, and despite the proviso contained in section 26 of the Criminal Procedure Act, without a warrant, enter any premises if he or she on reasonable grounds believes that the safety of that person is at risk or that the person may be moved from those premises and may use such force as may be reasonably necessary to overcome any resistance against entry to the premises, including the breaking of any door or window of those premises, on condition that the police official must first audibly demand admission to the premises and notify the purpose for which he or she seeks to enter those premises;
- (ii) must where necessary, as a measure of last resort and with the written consent of the person concerned, take him or her into protective custody if there is an immediate threat to the safety of that person, for a period until the station commander of the police station in question is satisfied that the threat has ceased to exist, whereafter the police official may place that person in temporary safe care referred to in subsection (6);
- (b) must, within 24 hours, refer the person to an accredited organisation and notify the provincial department of social development of that person; and
- (c) must inform the person suspected of being a victim of trafficking that he or she may apply for a visitor's visa to remain in the Republic for a recovery and reflection period in terms of section 15 if he or she is a foreigner.

(6) A police official may place an adult person referred to in subsection (5) in temporary safe care, pending the transfer of that person to an accredited organisation.

(7) A police official must, if it is reasonably possible to do so, render such assistance to an adult person referred to in subsection (5), as may be necessary in the circumstances, including, but not limited to—

- (a) assisting that person to obtain medical treatment; and
- (b) transporting that person to a place of temporary safe care or an accredited organisation.

(8) The provincial department of social development which has been notified as provided for in subsection (5)(b), or to which an adult person has been referred as provided for in section 22(2)(b) or section 33(b)(v), must without delay, in the prescribed manner, assess whether the person concerned is a victim of trafficking, after taking into account the prescribed information obtained from the South African Police Service.

(9) An accredited organisation which has an adult person who is a victim of trafficking

- (2) Noma ngabe ngubani, ngaphandle kwalomuntfu lobalwe kusigatjana (1)(a), ngalokuvakalako asole kutsi umuntfu lomdzala ushushunjiyiwe, angabika ngaletso tinsolo emaphoyiseni kutsi aphenye.
- (3) Sigatjana (1) asisebenti ngemalungelo ekuba nemmeli njengoba kusemkhatsini wesisebenti semtsetfo neklayenti yakhe ngalokuphatselene nekuchumana labakwentile ngekutsembana emkhatsini wemmeli kanye— 5
- (a) iklanyenti yakhe kwentela kuboniswa ngalokusemtsetfweni noma kutsetfwa kwelicala lokusamisiwe noma lokubekiwe, noma lesekuvele kucaliwe; noma
  - (b) umuntfu wesitsatfu kwentela tizatfu tekutsetfwa kwelicala lelisamisiwe noma lelibekiwe noma leselivele licalile. 10
- (4) Umuntfu lobalwe kusigatjana (1) noma (2)—
- (a) kufanele anikete tizatfu talolo lwati noma tinsolo ephoyiseni;
  - (b) lowente lombiko ngekutsembeka, angeke watsatselwa tinyatselo temtsetfo ngalokuphatselene nalombiko, nanoma kungasetjentiswa muphi umtsetfo, inchubomgomo noma indlela yekutiphatsa levimbela kuvetwa kwelwatiso; kanye 15
  - (c) unelilungelo lekutsi angavetwa uma ngabe kuphepha kwakhe kusengotini ngenca yalombiko, ngaphandle kwekutsi inshisekelo yemtsetfo ikudzinga ngalenywe indlela.
- (5) Liphoyisa lekweniwe kulo umbiko ngekwasigatjana (1) noma (2), noma sigaba 8(1)(b) noma (2)(b)(i) noma 9(2) ngalokuphatselene nemuntfu lomdzala noma liphoyisa lelatiko noma lekufanele kutsi ngabe belati noma acabangele kutsi umuntfu lomdzala ushushunjiyiwe—
- (a) (i) lapho kufanele khona, nangaphandle kwetigaba letikhona kusigaba 26 se*Criminal Procedure Act*, ngaphandle kwekuba newanti, angangena noma kuphi uma ngabe ngetizatfu letiphatsakako akholelwa ekutseni kuphepha kwalowo muntfu kusengcupheni nekutsi lowo muntfu angasuswa kuleyo ndzawo kantsi angasebentisa lawo mandla njengoba kungaba kudzingekile kuncoma noma kuphi kungavumeleki kutsi angene kuleyo ndzawo, kufaka ekhatsi kuphulwa kwanoma muphi umnyango noma lifasitelo laleyo ndzawo, uma ngabe lelo phoyisa kufanele lifune ngalokuvakalako kutsatfwa kulenzawo bese latisa ngesizatfu sekutsi kungani afuna kungena kuleyo ndzawo; 30
  - (ii) Lapho kunesidzingo khona, njengentfo langayenta ekugcineni nange-mvume lebbhalwe phansi yalomuntfu lotsintsekako, amtsatse ayombeka endzaweni lephephile uma ngabe kunekusatjiswa lokuphutfumako kwalowo muntfu, sikhatsi lesitsite adzimate umphatsi siteshi walesiteshi semaphoyisa kutsi lokusatjiswa kwentiwe kube ngatsi kukhona, lapho ke leliphoysi lingabeka lowo muntfu endzaweni lephephile kwesikhashane leyibalwe kusigatjana (6); 40
  - (b) kufanele, kungakapheli emahora langema-24, ayise lomuntfu kunhlangano lesemtsetfweni abuye atise litiko letenhlahakale esifundzeni ngalomuntfu; kanye
  - (c) kufanele atise lomuntfu losolelwa ngekutsi uyatsintseka ekushushunjisweni kutsi angabhalela ivisa yetivakashi kutsi ahlale eRiphabhulikhi kute alulame kanye nesikhatsi sekubuyeketa ngekusho kwesigaba 15 uma ngabe angumchamuki. 45
- (6) Liphoyisa lingabeka umuntfu lomdzala lobalwe kusigatjana (5) endzaweni lephephile kwesikhashane, kutawuba kusalindzelwe kudluliselwe lowo muntfu kunhlangano lesemtsetfweni. 50
- (7) Liphoyisa kufanele, uma ngabe kufanele kutsi kwentiwe njalo, aniketwe lolu lusito kumuntfu lomdzala lobalwe kusigatjana (5), njengoba kungafanele ngaleso sikhatsi, kufaka ekhatsi, kungavaleli ngaphandle—
- (a) kusita lowo muntfu kutfola lusito lwetempilo; kanye
  - (b) kutfutsa lowo muntfu umyise endzaweni lephephile noma inhlangano leniketwe imvume. 55
- (8) Litiko letekutfufukisa tenhlalakale esifundzeni lelatisiwe njengoba kuniketiwe kusigatjana (5)(b), noma lapho umuntfu lomdzala lodluliselwe khona njengona kubekiwe kusigaba 22(2)(b) noma sigaba 33(b)(v), kufanele ngaphandle kwekucitsa sikhatsi, ngendlela lebekiwe, ahlale kutsi ngabe lomuntfu lotsintsekako uyatsintseka ekushushunjisweni, ngemuva kwekunaka lolwatiso lolubaliwe lolutfolakele kuma-Phoyisa ase Ningizimu Afrika. 60
- (9) Inhlangano leniketwe imvume lenemuntfu lomdzala lotsintseka ekushushu-

in its care and whose safety is at risk, must, where necessary, as a measure of last resort and with the written consent of the person concerned, request the South African Police Service to take the person into protective custody, for a period until the station commander of the police station in question is satisfied that the threat has ceased to exist, whereafter that person must, without delay, be returned to the accredited organisation. 5

(10) If the provincial department of social development, after having completed the assessment referred to in subsection (8), is satisfied that the person is a victim of trafficking, the provincial head must immediately issue a letter of recognition, as prescribed, to the victim.

(11) The provincial head may, at any time, withdraw a letter of recognition in the prescribed manner if he or she receives information that a person in respect of whom a letter of recognition was issued, was not a victim of trafficking at the time the letter of recognition was issued. 10

(12) An adult person who—

(a) is suspected of being a victim of trafficking referred to in subsection (1); 15

(b) in respect of whom a letter of recognition has—

(i) not been issued; or

(ii) been withdrawn as provided for in subsection (11); or

(c) in respect of whom the 14-day period referred to section 20(1)(b) has not yet expired; or 20

(d) has lodged an appeal as provided for in section 20(1)(b),

may be accommodated temporarily at an accredited organisation, pending a decision in terms of subsection (10) or section 20(2).

(13) Any person who fails to comply with the provisions of subsection (1) is guilty of an offence. 25

#### **Appeals against decision of provincial head**

**20.** (1) If a provincial head is not satisfied that the person referred to in section 19(8) is a victim of trafficking, or withdraws a letter of recognition in terms of section 19(11)—

(a) that provincial head must provide written reasons to the person affected by his or her decision; and 30

(b) the person affected by the decision not to issue a letter of recognition in terms of section 19(10) or to withdraw a letter of recognition in terms of section 19(11) may, within 14 days of being informed of that decision, lodge an appeal in the prescribed manner to the MEC having jurisdiction. 35

(2) The MEC must, within 30 days of the appeal being lodged, finalise the appeal in the prescribed manner.

(3) If the appeal is unsuccessful or the affected person does not lodge an appeal, and the affected person is an illegal foreigner, he or she must be referred by the provincial department of social development in the prescribed manner to the Department of Home Affairs, to be dealt with in terms of the Immigration Act. 40

#### **Provision of health care services to a foreigner who is a victim of trafficking**

**21.** A foreigner who is a victim of trafficking is entitled to public health care services as provided for in section 27 of the Constitution of the Republic of South Africa, 1996.

#### **Criminal prosecution of victim of trafficking** 45

**22.** (1) When deciding whether to prosecute a victim of trafficking, the prosecutor must give due consideration to whether the offence was committed as a direct result of the person's position as a victim of trafficking.

(2) If, during a criminal prosecution of a person, the prosecutor on reasonable grounds suspects that that person is a victim of trafficking and that the offence was committed as a direct result of the person's position as a victim of trafficking that prosecutor must— 50

(a) apply to the court for a postponement; and

(b) in the prescribed manner, refer that person to the provincial department of

njisweni lonakekelwa nguye kanye nekuphepha kwakhe lekusengotini, kufanele, lapho kufanele khona, njengesento sekugcina lesingatsatfwa nangemvume lebhalwe phansi yalowo muntfu lotsintsekako, acele emaPhoyisa ase Ningizimu Afrika kutsi ayise lomuntfu endzaweni lephephile, sikhatsi lesitawugcina senelelise umphatsi siteshi waleso siteshi semaphoyisa kutsi lokusatjiswa akusekho, ngemuva kwaloko lowo muntfu kufanele, ngaphandle kwekucitsa sikhatsi, abuyiselwe kulenhlango lesem-tsetfweni. 5

(10) Uma ngabe litiko letekutfufukisa tenhlalakahle esifundzeni, ngemuva kwekutsi kucedzelwe lokuhlola lokubalwe kusigatjana (8), uyaneliseka kutsi lomuntfu uyatsintseka ekushushunjisweni, inhloko yesifundza kufanele kutsi ikhiphe incwadzi yekunaka loko ngekushesha, njengoba kubekiwe, inikwe lolotsintsekako 10

(11) Inhloko yesifundza inga, noma sikhatsini, ahocise incwadzi yekunaka ngale-ndlela lebekiwe uma ngabe atfola lwatiso lwekutsi umuntfu lekakhishjelwe incwadzi yekunakwa, bekangasuye lotsintseka ekushushunjisweni ngalesikhatsi lencwadzi yekunakwa lekhishwe ngaso. 15

(12) Umuntfu lomdzala lo—

(a) uyasolwa ngekutsi abe nguloshushunjiswako ngalokubalwe kusigatjana (1);

(b) lowo incwadzi yekunakwa—

(i) ingakakhishwa; noma

(ii) ihocisiwe njengoba kubaliwe kusigatjana (11); noma 20

(c) lapho khona lamalanga la-14 labalwe kusigaba 20(1)(b) sekaphelile; noma

(d) ufake sikhalo njengoba kubekiwe kusigaba 20(1)(b),

angabekwa kwesikhashane kunhlango lesem-tsetfweni, ngalesikhatsi asamele sincumo ngekwasigatjana (10) noma sigaba 20(2).

(13) Noma ngabe ngubani lohluleka kuhambisana nemibandzela yalesigatjana (1) unelicala. 25

#### **Tikhalo letimelana netincumo tenhloko yesifundza**

**20.** (1) Uma ngabe lophetse sifundza akaneliseki kutsi lomuntfu lobalwe kusigaba 19(8) uyatsintseka ekushushunjisweni, noma ahocise incwadzi yekunakwa ngekwe-sigaba 19(11)— 30

(a) kutsi inhloko yesifundza kufanele inikete tizatfu letibhalwe phansi kulomuntfu lotsintsekako ngesincumo sakhe; kanye

(b) lomuntfu lotsintfwe ngulesincumo kutsi anganiketi incwadzi yekunakwa ngekwasigaba 19(10) noma kumisa incwadzi yekunakwa ngekwasigaba 19(11) anga, kungakapheli emalanga lali-14 atiswe ngalesincumo, afake sikhalo ngendlela lechaziwe ku-MEC lanemandla kuleyo ndzawo. 35

(2) I-MEC kufanele, kungakapheli emalanga langema-30 ekufakwa kwalesicelo, acedzele lesikhalo ngendlela lebekiwe.

(3) Uma ngabe lesikhalo singakavumeleki noma lomuntfu lotsintsekako akakafaki sicelo, kantsi lomuntfu lotsintsekako ungumchamuki, kufanele kutsi adluliselwe litiko lekutfufukiswa kwetenhlakahle esifundzeni ngendlela lefanele kuLitiko Letasekhaya, kutsi kusetjentwe ngaye ngekusebentisa Umtsetfo Wetifikanamtfwalo. 40

#### **Kuniketa tinsita tetemphilo**

**21.** Umchamuki lohlukunyetwe kushushunjiswa unelilungelo lekutfola temphilo ngendlela lebekwe kusigaba 27 seMtsetfosisekelo wase Riphabhulikhi neNingizimu Afrika. 45

#### **Kushushiswa ngebugebengu kulohlukunyetwe kushushunjiswa**

**22.** (1) Uma ngabe uncuma kutsi ushushise lohlukunyetwe kushushujiswa, umshushisi kufanele anake kusenesikhatsi kutsi ngabe lelicala lentiwe njengemphumela locondzile kusimo salomuntfu njengemuntfu lohlukunyetiwe. 50

(2) Uma, ngalesikhatsi kushushiswa umuntfu ngelicala lebugebengu, umshushisi ngetizatfu letivakalako asolela kutsi lomuntfu ushushunjisiwe nekutsi lelicala lentiwa njengemphumela walesimo salomuntfu njengaloshushunjisiwe kutsi lomshushisi kufanele—

(a) kufaka sicelo enkhantolo kutsi kuhociswe; kanye 55

(b) nangendlela lebekiwe, adlulisele lomuntfu kulitiko letekutfufukisa lasesifu-

social development, which must conduct an assessment in terms of section 18(6) or 19(8), as the case may be.

(3) A letter of recognition that an adult person is a victim of trafficking or a finding by the provincial department of social development after an assessment referred to in section 18(6) that a child is a victim of trafficking serves as a ground for the withdrawal of the criminal prosecution or the discharge of the victim of trafficking if the prosecutor is satisfied that the offence was committed as a direct result of the person's position as a victim of trafficking. 5

(4) No criminal prosecution may be instituted against a person referred to in subsection (1) or be proceeded with against a person referred to in subsection (2) without the written authorisation of the Director of Public Prosecutions having jurisdiction. 10

### Unauthorised access to and disclosure of information

23. Any person who—

- (a) allows any unauthorised person to gain access to a victim of trafficking or suspected victim of trafficking or to a child in the care of that victim or suspected victim; or 15
  - (b) except for the purpose of giving effect to the provisions of this Act or required by a competent court to do so, discloses—
    - (i) the identity of a victim of trafficking or suspected victim of trafficking or the identity of a child in the care of that victim of trafficking or suspected victim of trafficking; 20
    - (ii) the place where a victim of trafficking or suspected victim of trafficking or child in the care of that victim or suspected victim is accommodated or treated; 25
    - (iii) any information which could lead to the identification of a victim of trafficking or suspected victim of trafficking or child in the care of that victim or suspected victim or the place where the victim of trafficking or suspected victim of trafficking or child is accommodated or treated; or
    - (iv) any information which undermines or compromises or could undermine or compromise the investigation or prosecution of a case of trafficking, 30
- is guilty of an offence .

## CHAPTER 5

### ACCREDITATION OF ORGANISATIONS TO PROVIDE SERVICES TO ADULT VICTIMS OF TRAFFICKING 35

#### Accreditation of organisations to provide services

24. (1) Subject to section 49(2), an adult victim of trafficking may only be referred in terms of section 19(5)(b) to an organisation that has been accredited in terms of this section and has a valid certificate of accreditation, referred to in subsection (4)(a). 40

(2) The Minister of Social Development must prescribe—

- (a) a system for the accreditation of organisations which will provide services to adult victims of trafficking; and
- (b) the circumstances in which accredited organisations qualify for financial assistance, within available resources.

(3) The system for accreditation referred to in subsection (2) must contain— 45

- (a) criteria for the evaluation of the programmes offered by organisations to ensure that they comply with the norms and minimum standards referred to in section 25;
- (b) mechanisms to monitor the programmes in question; and
- (c) measures for the removal of organisations from the system, where appropriate. 50

(4) (a) The Director-General: Social Development must, in the manner prescribed by the Minister of Social Development and within the time limits set out in the system of accreditation, consider all applications by organisations for accreditation and issue a certificate prescribed by the Minister of Social Development to each organisation that is accredited in terms of this section. 55



ndzeni, lekufanele bente luhlolo ngekwesigaba 18(6) noma 19(8), njengoba kungabe kubekiwe.

(3) Incwadzi yekunaka kutsi lomuntfu lomdzala uhlukunyetwe kushushumbisa noma lokutfolakele kulitiko letenhlalakahle esifundzeni ngemuva kwekuhlolwa lokubalwe kusigaba 18(6) kutsi umntfwana loshushunjisiwe usebenta njengesendlalelo sekuhuciswa kwaletento tebugebengu noma kukhishwa kwalotsintsekako ekushushunjisweni uma ngabe umshushisi uyaneliseka kutsi lelicala lentiwa njengemphumela ngco walowo muntfu ngesimo sakhe njengaloshushunjisiwe. 5

(4) Alikho licala lebugebengu lelitawusghushiswa lelingabekwa umuntsu lobalwe kusigatjana (1) noma lichubeke ngekumelana nemuntfu lobalwe kusigatjana (2) ngaphandle kwemvume lebalwe phansi yeMcondzisi weTekushushiswa Kwemphakatsi lobusa kuleyo ndzawo. 10

### **Kufinyelela lokungakavumeleki kanye nekuvetwa kwelwatiso**

23. Noma bani lo—

(a) kuvumela noma bani longekho emtsetfweni kutsi afinyelele kumuntfu lohlu- 15  
kukunyetwe kushushunjiswa noma losolwa njengaloshushunjisiwe noma  
umntfwana lonakekelwa ngulowo lotsintsekako noma losoleka kutsi  
uyatsintsekako; noma

(b) ngaphandle kwekwentela tizatfu tekuniketa umphulela wekusebenta kwale- 20  
mibandzela yaloMtsetfo noma kudzingwe yinkhantolo lesebentako kutsi  
kwentiwe njalo, kuvetwe—

(i) buve bemuntfu loshushunjisiwe noma losolelwa kutsi ushushunjisiwe  
noma buve bentfwana lonakekela ngulowo loshushunjisiwe noma  
losolelwa kutsi ushushunjisiwe;

(ii) indzawo lapho khona umuntfu loshushunjisiwe noma losolelwa kutsi 25  
ushushunjisiwe noma umntfwana lonakekelwa ngulowo lotsintsekako  
noma losoleka kutsi uyatsintsekako bahlaliswe khona noma balashwa  
khona;

(iii) noma luphi lwatiso lolungaholela kutsi kutfolakale umuntfu loshushu- 30  
njisiwe noma losolelwa kutsi ushushunjisiwe noma umntfwana  
lonakekelwa ngulowo lotsintsekako noma losoleka kutsi uyatsintsekako  
bahlaliswe khona noma balashwa khona; noma

(iv) noma luphi lwatiso lolubukela phansi noma luphatamisa luphenyo noma  
kushushisa licala lekushushumbisa, unelicala.

### **SAHLUKO 5**

35

### **KUGUNYATWA KWETINHLANGANO KUNIKETA TINSITA BANTFU LABADZALA LABAHLUKUNYETWE KUSHUSHUNJISWA**

#### **Kugunyatwa kwaletinhlangano letiniketa lusito**

24. (1) Ngekuya ngesigaba 49(2), umuntfu lomdzala lohlu- 40  
kukunyetwe kushushunjiswa angayiswa ngekwemigomo yesigaba 19(5)(b) enhlanganweni legunyatiwe ngekwemi-  
gomo yalesigaba futsi lonencwadzi yekufakazela kugunyatwa, leshiwo sigatjana (4)(a).

(2) Ngcongcoshe weTekuphatfwa kweMiphakatsi kufanele abeke—

(a) luhlelo lekugunyatwa kwaletinhlangano letitawuniketa lusito kubantfu 45  
labadzala labahlukunyetwe kushushunjiswa; futsi

(b) ngetimo lapho tinhlangano letligunyatiwe tingathola lusito lwetimali, 45  
ngaletinsita kusebenta letikhona.

(3) Luhlelo lekugunyatwa lolushiwo sigatjana (2) kumele luhlanganise—

(a) inchubo yekuhlola tinhlelo letiniketwa tinhlangano kucikelela kutsi tilandzela 50  
tinkhambiso kanye nemigomo lefanele leshiwo sigaba 25;

(b) tindlela tekucaphela tinhlelo lekukhulunywa ngato; futsi 50

(c) naletinyatselo tekususwa kwaletinhlangano ehlelweni uma kufanelekile.

(4) (a) Umcondzisi Jikelele: Tekufutukiswa kweMiphakatsi kumele,ngendlela 55  
lebekwe nguNgcongcoshe weTekufutukiswa kweMiphakatsi kanye nemazinga  
etikhatsi letibekiwe ahlele kuleluhlelo lwekugunyata,atsatse tonkhe ticelo letiletfwe  
tinhlangano kutsi tigunyatwe bese akhiphe sitifiketi sekufakazela kugunyatwa loku-  
ncunyiwe enhlanganweni ngayinye nguNgcongcoshe weTekufutukiswa kwemipha-  
katsi kufakazela kutsi igunyatiwe ngekwemigomo yalesigaba.

(b) A certificate of accreditation referred to in paragraph (a) is valid for a maximum of four years from the date of accreditation.

(5) A developmental quality assurance process must be conducted in the manner prescribed by the Minister of Social Development in respect of each accredited organisation. 5

(6) (a) The Director-General: Social Development must compile and maintain a list containing the particulars of each accredited organisation or organisation placed on or removed from the system within 30 days of accreditation or removal.

(b) The Director-General: Social Development must, without undue delay, provide a copy of the list referred to in paragraph (a) when it is compiled and every time it is amended in accordance with paragraph (a) to— 10

- (i) the relevant role players in his or her Department who are involved in the administration of this Act;
- (ii) the National Director of Public Prosecutions who must distribute the list to all prosecutors; and 15
- (iii) the National Commissioner of the South African Police Service, who must distribute the list to all relevant role players in the South African Police Service.

### Norms and minimum standards

25. (1) The Minister of Social Development must prescribe norms and minimum standards for accredited organisations. 20

(2) The norms and minimum standards referred to in subsection (1) must deal with—

- (a) the safety of victims of trafficking, especially those at risk of harm;
- (b) access to and provision of adequate health care;
- (c) the provision of separate facilities for male and female victims of trafficking; 25
- (d) hygienic and adequate toilet facilities;
- (e) access to refuse disposal services or other adequate means of disposal of refuse generated at the facility;
- (f) the drawing up of action plans for emergencies; and
- (g) the manner in which information— 30
  - (i) referred to in subsection (4) is to be collected and collated; and
  - (ii) relating to a victim of trafficking's particulars must be kept confidential.

(3) An accredited organisation that provides services to adult victims of trafficking who have children in their care must, in addition to the norms and minimum standards referred to in subsection (1), provide— 35

- (a) a safe environment for children;
- (b) proper care for sick children; and
- (c) safe storage of anything that may be harmful to children.

(4) (a) An accredited organisation must, in the prescribed manner, collect information on victims of trafficking relating to— 40

- (i) the number of foreign victims of trafficking who have accessed a programme referred to in section 26;
- (ii) the number of South African citizens or permanent residents who are victims of trafficking and who have accessed a programme referred to in section 26;
- (iii) the number of victims who have accessed a programme referred to in section 26 and who have not been reported to the South African Police Service; 45
- (iv) the countries from which foreign victims have been trafficked;
- (v) the countries to which South African citizens or permanent residents have been trafficked;
- (vi) the areas in the Republic to and from which victims have been trafficked; 50
- (vii) the purposes for which the victims have been trafficked;

(b) Incwadzi yekufakazela kugunyatwa leshiwo indzima (a) itawusebenta iminyaka lengadluli kwalemine kusukela ngelilanga leyagunyatwa ngalo.

(5) Inchubo yekucinisekisa kusebenta kufanele yentiwe ngalendlela lebalwe nguNgcongcoshe Wekutfutukisa Imiphakatsi ngalokuphatselene nesikhungo ngasinye lesigunyatiwe. 5

(6) (a) Umcondzisi Jikelele: Ngcongcoshe wetekuTfutukiswa kweMiphakatsi kumele ahlanganise umbiko locuketse imininingwane yehlango ngayinye leligunyatiwe, noma ihlango lekhishiwe kuluhlelo tingakapheli tinsuku letingema-30 ligunyatiwe noma likhishiwe.

(b) NguMcondzisi-Jikelele: WetekuTfutukiswa kweMiphakatsi kumele, ngaphandle kwekucitsa sikhatsi, aniketele ngekhophi yembiko loshiwo kundzima (a) uma ngabe seyentiwe nasonkhe sikhatsi uma ichitjiyelwe ngekuhambisana nendzima (a) ayinikete— 10

(i) bantfu labacondzene neLitiko lakhe labatsintsekako ekulawulweni kwalo-Mtsetfo; 15

(ii) nguMcondzisi-Jikelele wetekuShushiswa kwMiphakatsi lekumele aniketele bonkhe bashushisi lombiko; futsi

(ii) nakuNkhomishana waVelonkhe weMnyango wetemisebenti yemaphoyisa aseNingizimu Afrika, lekumele awunikezele kubantu abacondene oPhikweni lwetemisebenti yemaphoyisa aseNingizimu Afrika, lababandzakanyekako ekusingatfweni kwaloMtsetfo. 20

### Inkhambiso kanye nemigomo lefanele

25. (1) Ngcongcoshe weteKutfutukiswa kweMiphakatsi kumele aniketele ngekhambiso kanye nemigomo lefanelekile etinhlango.

(2) Inkhambiso kanye nemigomo leshiwo sigatjana (1) kumele ibukane neku— 25

(a) phepha kwlabahlukunyetwe kushushunjiswa, ikakhulukat labo lbasengcapheni yekulinyatwa;

(b) finyelela kanye nekuniketwa ngetempilo letanele;

(c) kuniketa lusito loluhlukene kubantfu besilisa kanye nabesifazane labahlukunyetwe kushushunjiswa; 30

(d) hlanteka kanye nangetindlu tangasese letanele;

(e) finyelela etindzaweni tekulahla imfucuta noma kuletinye tindlela tekulahla imfucuta letfolakala kuleyo ndzawo;

(f) kudvwetjwa kwetinhlelo letitawutsatfwa etimeni letiphutfumayo; kanye

(g) nendlela letawusetjentiswa kuze ingadzalulwa imininingwane y abahlukunyetwe kushushunjiswa. 35

(i) lebalwe kusigatjana (4) kufanele ibutselwe futsi ihlanganiswe; kanye

(ii) ngalokuphatselene nemininingwane yalotsintfwe kushushunjiswa kufanele igcinwe ngalokuyimfihlo.

(3) Inhlango leligunyatiwe leniketa lusito kubantfu labadzala labahlukunyetwe kushushunjiswa labanabantwana lekumele babanakekele kumele, kungeta enkhambisweni kanye nasemigomeni leshiwo sigatjana (1), inikete— 40

(a) ngendzawo lephephile yabantwana;

(b) ngalokunakekelwa lokufanele kubantwana labagulako noma kubantwana labahlaselwa kugula; kanye 45

(c) nendzawo lephephile yekugcina tintfo letingase tilimate bantwana.

(4) (a) Inhlango legunyatiwe kumele ibutsele imininingwane yebantfu labahlukunyetwe kushushunjiswa mayelana ne—

(i) linani labangebekufika labahlukunyetwe kushushunjiswa abakwati kusebentisa luhlelo lolushiwo sigaba 26; 50

(ii) linani lebahlali baseNingizimu Afrika noma labahlali eNingizimu Afrika ngalokugcwele labahlukunyetwe kushushunjiswa futsi abakwati kusebentisa luhlelo lolushiwo sigaba 26;

(iii) linani labahlukumetekile abakwati kusebentisa luhlelo lolushiwo sigaba 26 futsi lababikiwe kuMnyango wetemisebenti yemaphoyisa aseNingizimu Afrika; 55

(iv) emave alabo labangebekufika labahlukumetekile labashushunjiselwa kuwo;

(v) emave ebahlali baseNingizimu Afrika noma labahlali ngalokugcwele eNingizimu Afrika labashushunjiselwe kuwo;

(vi) tindzawo eriphabhulikhi laphe bantfu bashushunjiselwa khona; 60

(vii) injongo yekushushunjiswa kwalabahlukumetekile;

- (viii) the methods used to recruit and transport the victims;
- (ix) the methods and routes used for trafficking the victims to and from and within the Republic;
- (x) methods used to keep victims of trafficking in exploitative situations; and
- (xi) the types of travel documents that victims have used or attempted to use to cross the borders of the Republic and how these documents were obtained. 5

(b) An accredited organisation must provide an annual report on the information referred to in paragraph (a) to the Director-General: Social Development on a date determined by him or her. 10

(c) The Director-General: Social Development must provide an annual report on the information referred to in paragraph (b) to the Director-General: Justice and Constitutional Development, as determined by him or her. 10

#### **Programme offered by accredited organisation**

**26.** (1) An accredited organisation— 15

- (a) must offer a programme aimed at—
  - (i) the provision of accommodation to adult victims of trafficking;
  - (ii) the provision of counselling to adult victims of trafficking; and
  - (iii) the reintegration of adult victims of trafficking into their families and communities; and
- (b) may offer a programme aimed at— 20
  - (i) the provision of rehabilitation and therapeutic services to adult victims of trafficking; or
  - (ii) the provision of education and skills development training to adult victims of trafficking.

(2) An accredited organisation may refer an adult victim of trafficking to an organisation that offers a programme referred to in subsection (1)(b) for purposes of obtaining those rehabilitation and therapeutic services or education and skills development training. 25

(3) An accredited organisation that provides services to an adult victim of trafficking who has a child in his or her care must offer a programme aimed at the reception, care and development of that child. 30

(4) Subject to subsection (5), a child referred to in subsection (3) may be cared for at any other premises only with the explicit consent of the adult victim in whose care he or she is.

(5) A child referred to in subsection (3) must be referred to a designated child protection organisation or the provincial department of social development for investigation in terms of section 155(2) of the Children's Act, to determine whether the child is in need of care and protection. 35

#### **Access to programme offered by accredited organisation**

**27.** A person who has been issued with a letter of recognition is entitled to access a programme offered by an accredited organisation. 40

#### **Plan to address needs of victim of trafficking**

**28.** (1) An accredited organisation must, having due regard to the views of a person who has been issued with a letter of recognition, draw up a plan to address the immediate and reasonable future needs of that victim. 45

(2) The plan referred to in subsection (1), which must conform as far as possible to the form as prescribed, must include an exit plan and be brought to the attention of the victim and be signed by him or her.

- (viii) tindlela letisetjentsiwe kutfola kanye nekutfutsa labahlukumetekile;
  - (ix) tindlela kanye nemizila lesetjentsiwe kushushunjiswa kwalabahlukumetekile baletfwa eRiphabhulikhi futsi basuswa eRiphabhulikhi; kanye
  - (x) tindlela letisetjentsiwe kugcina labatsintsfwe kushushunjiswa ngetindlela tekubahlukumeta; kanye 5
  - (xi) naletinhlobo letincwadzi letligunyata kungena kwalamanye emave labahlukumetekile labatisebentisile noma batame kutisebentisa kweca imingcele yaseRiphabhulikhi kanye nendlela lekwatfolakala ngayo leto tincwadzi.
- (b) Inhlango legunyatiwe kumele iniketwe ngembiko wemnyaka lenemininingwane lesiwo kundzima (a) iwunikete uMcondzisi-Jikelele: WeteKutfufukisa kweMiphakatsi ngelilanga latalincuma. 10
- (c) NguMcondzisi-Jikelele: weteKutfufukiswa kweMiphakatsi kumele aniketele ngembiko wenyaka lenemininingwane lesiwo indzima (b) awunikete Umcondzisi Jikelele: Tebulungiswa Nekutfufukiswa Kwemtsetfosisekelo, njengoba kuncunye nguye. 15

### Tinhlalo letiniketwa tinhlango letligunyatiwe

26. (1) Inhlango leligunyatiwe—
- (a) kumele iniketwe ngeluhlelo lekuhloswe ngalo ku—
    - (i) niketela ngendzawo yekuhlala kubantfu labadzala labahlukunyetwe kushushunjiswa; 20
    - (ii) niketa ngeteluleko kubantfu labadzala labahlukunyetwe kushushunjiswa; kanye
    - (iii) nekuhlanganiswa kwebantfu labadzala labahlukunyetwe kushushunjiswa nemindeni yabo kanye nemiphakatsi yabo; futsi
  - (b) inganiketa ngeluhlelo lekuhloswe ngalo ku— 25
    - (i) niketela lusito lekuhlunyeleliswa kwaletimilo kubantfu labadzala labahlukunyetwe kushushunjiswa; noma
    - (ii) niketela ngetemfundvo kanye nekucecesha ngamakhono ekutitfufukisa kubantfu labadzala labahlukunyetwe kushushunjiswa.
- (2) Inhlango legunyatiwe inganiketela umuntfu lomdzala lohlukeyetwe kushushunjiswa enhlanganweni leniketela ngeluhlelo lolushiwo sigatjana (1)(b) kute atfole lolo sito lekuhlunyeleliswa kwesimilo noma temfundvo kanye nekucecesha ngemakhono ekutitfufukisa. 30
- (3) Inhlango legunyatiwe leniketa lusito kumuntfu lomdzala lohlukeyetwe kushushunjiswa lonemntfwana lamnakekelako kumele aniketwe ngeluhlelo lekuhloswe ngalo kwamukela, kunakekela kanye nekutfufukiswa kwalowo mntfwana. 35
- (4) Ngekwesigatjana (5), umntfwana lashiwo sigatjana (3) anganakekelwa kunoma ngabe nguyiphi indzawo inkhanyane nje uma kuvume umuntfu lomdzala lohlukeyetwe lekunguyena lamnakekelako lowo mntfwana.
- (5) Umntfwana loshiwo sigatjana (3) kumele aniketwe enhlanganweni lecekole kunakekela bantfwana noma kulitikoi lesifundza leteKutfufukiswa kwemiphakatsi ngekwemigomo yesigaba 155(2) se-*Children's Act*, kute incume kutsi ngabe lowo mntfwana uyakudzinga yini kunakekelwa kanye nekuvikelwa. 40

### Kufinyelela etinhlalweni letiniketwa tinhlango letigunyatiwe

27. Umuntfu loniketwe incwadzi yekunakwa unelilungelo lekutfola lusito loluniketwa inhlango legunyatiwe. 45

### Luhlelo lekudzingidza tidzingo talohlukunyetwe kushushunjiswa

28. (1) Inhlango legunyatiwe kumele, ngemuva kwekubuka imibono yemuntfu lekucinisekisiwe kutsi uhlukunyetwe kushushunjiswa ngekwemigomo yesigaba 13(7)(a), advwebe phansi luhlelo lekudzingidza tidzingo tesikhashana kanye netesikhatsi lesitako talowo muntfu lohlukeyetwe. 50
- (2) Loluhlelo lolubalwe kusigatjana (1), lekufanele lihambisane nalelifomu lelibekiwe, kufanele lufake neluhlelo lwekuphuma kantsi kufanele lwatiswe kuloloshushunjiswiwe lushicilelwe nguye.

**CHAPTER 6****COMPENSATION****Compensation to victim of trafficking**

**29.** (1) (a) A court may, on its own accord or at the request of the victim of trafficking or the prosecutor, in addition to any sentence which it may impose in respect of any offence under Chapter 2, order a person convicted of that offence to pay appropriate compensation to any victim of the offence for— 5

- (i) damage to or the loss or destruction of property, including money;
- (ii) physical, psychological or other injury;
- (iii) being infected with a life-threatening disease; or 10
- (iv) loss of income or support,

suffered by the victim as a result of the commission of that offence, whereafter the provisions of section 300(1)(a), (2), (3) and (4) of the Criminal Procedure Act apply with the necessary changes required by the context with regard to an order made under this section. 15

(b) Appropriate compensation includes expenses reasonably expected to be incurred in relation to the matters referred to in paragraph (a)(i) to (iv).

(2) In cases where the amount of the damage, injury or loss suffered exceeds an order for compensation which can be made by a magistrate's court in terms of subsection (1), a civil action may be instituted by the victim for the recovery of the excess. 20

**Compensation to State**

**30.** (1) The court may—

- (a) in addition to any sentence, including any sentence of imprisonment, which it may impose in respect of any offence under Chapter 2; or
- (b) in addition to any order for the payment of compensation to a victim in terms of section 29; or 25
- (c) in terms of section 9(4); and
- (d) upon application by the prosecutor,

make an order for payment by the convicted person or the carrier as provided for in section 9(4) to the Criminal Assets Recovery Account established under section 63 of the Prevention of Organised Crime Act, 1998 (Act No. 121 of 1998), of an amount in compensation for expenses incurred or reasonably expected to be incurred in connection with the care, accommodation, transportation, return and repatriation of the victim of the offence. 30

(2) An order for the payment of compensation as provided for in subsection (1) has the effect of a civil judgment of a magistrate's court. 35

**CHAPTER 7****RETURN AND REPATRIATION OF VICTIMS OF TRAFFICKING****Repatriation of victim of trafficking from Republic**

**31.** (1) The Director-General: Social Development may not repatriate a foreign child who is a victim of trafficking to his or her country of origin or the country from where he or she has been trafficked without giving due consideration to the— 40

- (a) best interests of the child standard as provided for in section 7 of the Children's Act;
- (b) safety of the child during the repatriation process; 45

## SAHLUKO 6

### INHLOWULO

#### Inhlawulo yalohlukunyetwe kushushunjiswa

29. (1) (a) Inkhantolo ngalokuncuma kwayo noma ngesicelo semmangali noma semshushisi, kungeta sigwebo lengase isitfweswe ecaleni lelingaphansi kwaloMtsetfo, kumele incumele umuntu lolahlwe licala kutsi akhokhe inhlawulo lefanele kulohlukunyetwe ngulelo cala nge— 5

- (i) monakalo noma kulahlekelwa noma kuphazamiseka kwemphahla yakhe, kubandzakanya imali;
- (ii) kulimala emtimbeni, engcondvweni noma lenye indlela yekulimala; 10
- (iii) kuhlaselwa sifo lesiyingoti kakhulu; noma
- (iv) kulahlekelwa imali latiphilisa ngayo noma kusekwa,

lokuhlukumete lowo lohlukumetekile ngesizatfu sekwenta lelo cala, lapho khona ngemuva kwemibandzela yesigaba 300(1)(a), (2), (3) na (4) we-Criminal Procedure Act usebenta khona kanye naletingucuko letifanele letidzingeke kungcikitsi ngalokuphatselene nemtsetfo lobekwe ngaphansi kwalesigaba. 15

(b) Inhlawulo lefanelekile ibandzakanya tindleko lekulindzeleke kutsi tidalwe nguleto tinkinga letishiwo kudzima (a)(i) kuya (iv).

(2) Esimeni lapho linani lemonakalo, kulimala noma kulahlekelwa lokwentekile kungetulu kwemyalelo wenhlawulo lowentiwe ngekwemigomo yesigatjana (1), lohlukumetekile angatsatsa tinyatselo temtsetfo kuze kukhokhwe leto tindleko. 20

#### Inhlawulo lekhokhelwa Hulumende

30. (1) Inkhantolo—

- (a) kungeta kusigwebo noma siphi, kufaka ekhatsi noma siphi sigwebo sekuboshwa, lesinganiketwa noma nguliphi licala ngaphansi kwaleSahluko 2; noma 25
- (b) kungeta noma ngumuphi umyalelo wekukhokhwa kwenhlawulo yalohlukumetekile ngekwemigomo yesigaba 29; kanye
- (c) ngekwesigaba 9(4); kanye
- (d) nasekufakeni sicelo semshushisi, 30

ingakhipha umyalelo wekutsi lowo muntu lolahlwe licala akhokhe noma lomtfutsi njengoba kubekiwe kusigaba 9(4) seCriminal Assets Recovery Account lesisungulwe ngaphansi kwesigaba 63 se-Prevention of Organised Crime Act, 1998 (Umtsetfo Nom. 121 wanga 1998), samba semali leyinhlawulo yaletindleko letidalekile noma lokulindzeleke kutsi tidaleke mayelana nekunakekelwa, kuhlaliswa, kutfutwa kanye nekubuyisela eveni lakhe lowo lohlukumetekile kulelo cala. 35

(2) Umyalelo wekukhokha inhlawulo njengoba uniketiwe kusigatjana (1) utawuncunywa ngekwemtsetfo inkhantolo yamantji.

## SAHLUKO 7

### KUDZINGISA KANYE NEKUBUYISELA LABAHLUKUNYETWE KUSHUSHUNJISWA EMAVENI ABO 40

#### Kubuyisela labahlukunyetwe kushushunjiswa emaveni abo basuswa eRiphabhulikhi

31. (1) UMcondzisi-Jikelele: WeteKutfutukisa kweMiphakatsi akumele abuyisele bantfwana labangebekufika labahlukunyetwe kushushunjiswa eveni labo labadzabuka kulo noma eveni lapho bashushunjiselwa khona ngaphandle kwekubuka— 45

- (a) emazinga alokutawuzuva bantfwana njengoba kuniketiwe kusigaba 7 se-Children's Act;
- (b) kuphepha kwemntfwana ngesikhatsi abuyiselwa eveni lakhe;

- (c) availability and suitability of care arrangements and the safety of the child in the country to which the child is to be repatriated; and
- (d) possibility that the child might be harmed or killed.
- (2) The Director-General: Home Affairs—
- (a) may not repatriate an adult who is a victim of trafficking to his or her country of origin or the country from where he or she has been trafficked without giving due consideration to the—
- (i) safety of the person during the repatriation process;
- (ii) safety of the person in the country to which the person is to be repatriated; and
- (iii) possibility that the person might be harmed or killed; and
- (b) must—
- (i) before repatriating a person referred to in paragraph (a) to his or her country of origin or the country from where he or she has been trafficked, request the Director-General: Social Development to take reasonable steps as provided for in section 32(a); and
- (ii) inform a person referred to in paragraph (a), in the prescribed manner, of any arrangements that have been made for his or her reception in the country to which he or she is to be repatriated.
- (3) This section does not prohibit the voluntary repatriation of an adult who is a victim of trafficking to his or her country of origin or the country from where he or she has been trafficked on condition that the victim has been given—
- (a) information on the protective measures offered to victims of trafficking in terms of this Act; and
- (b) a clear explanation of the procedures to be followed in respect of repatriation.

#### **Assistance to foreign victim of trafficking**

- 32.** The Director-General: Social Development must—
- (a) take reasonable steps to find suitable family members or an institution or organisation that renders assistance to victims of trafficking in the country to which a person referred to in section 31(1) or (2) is to be repatriated and that is willing to provide assistance to such a person; and
- (b) without undue delay, provide the Director-General: Home Affairs with information in respect of a request made in terms of section 31(2)(b)(i).

#### **Repatriation of suspected victim of trafficking to Republic**

- 33.** With due regard to the safety of the person and without delay—
- (a) the Director-General: International Relations and Co-operation must—
- (i) in co-operation with the Director-General: Social Development assess the risks to the safety and life of a person who is a citizen or permanent resident of the Republic and who is suspected of being a victim of trafficking, if he or she is repatriated to the Republic;
- (ii) facilitate the repatriation of a person referred to in subparagraph (i) to the Republic; and
- (iii) advise the Director-General: Home Affairs on measures to secure the reception of a person referred to in subparagraph (i) at a South African port of entry;
- (b) the Director-General: Home Affairs must—
- (i) issue travel documents or other authorisations as may be necessary to enable that person to travel to and enter the Republic;
- (ii) where necessary, take measures to secure the reception of a person referred to in paragraph (a) at a South African port of entry;
- (iii) at the request of another State that is a party to the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons or to an agreement relating to trafficking in persons to which the Republic is a party, verify



- (c) kutfolakala kanye nekusimama kwaletinhlelo tekunakekela kanye nekuphepha kwemntfwana eveni lapho itawubuyiselwa khona;
- (d) ematfuba ekutsi bantfwana balinyatwe, babulawe noma bashushunjiswe futsi.
- (2) NguMcondzisi-Jikelele: WaletiNdzaba Tasekhaya—
  - (a) akumele abuyisele umuntfu lomdzala lohlukunyetwe kushushunjiswa eveni lakhe ladzabuka kulo noma eveni lashushunjiselwe kulo ngaphandle kwekubuka—
    - (i) kuphepha kwemuntfu ngalesikhatsi abuyiselwa eveni lakhe;
    - (ii) kuphepha kwemuntfu eveni latawubuyiselwa kulo; kanye
    - (iii) nematfuba ekutsi lowo muntfu alinyatwe, abulawe noma ashushunjiswe futsi;
  - (b) kumele—
    - (i) ngaphambi kwekubuyisa umuntfu loshiwo indzima (a) eveni lakhe ladzabuka kulo noma eveni lashushunjiswe kulo, acelwe nguMcondzisi-Jikelele: WeteKutfufukisa kweMiphakatsi kutsi atsatse tinyatselo letivakalako njengoba kuniketive kusigaba 31(a); futsi
    - (ii) atise umuntfu loshiwo indzima (a), ngendlela leniketive, ngaletinhlelo letentiwe kutsi amukelwe eveni latawubuyiselwa kulo.
- (3) Lesigaba asivimbeli umuntfu lomdzala lohlukunyetwe kushushunjiswa kutsi abuyiselwe eveni lakhe ladzabuka kulo noma eveni noma eveni lashushunjiselwe kulo lofisa kwenta njalo ngemibandzela leniketwe lona lotsintsekako.
  - (a) lwatiso ngetindlela letivikelako letiniketwe bantfu labatsintsekako eku-shushunjisweni ngekwaloMtsetfo; kanye
  - (b) inchazelo lecacile yetinkhambiso lekufanele tilandzelwe ngalokuphatselene nekubuyisela bachamuki emuva.

### **Kusita umchamuki lohlukunyetwe kushushunjiswa**

- 32. UMcondzisi-Jikelele: WeteKutfufukisa kweMiphakatsi kumele—
  - (a) atsatse tinyatselo letibonakalako kutsi atfole emalunga emndeni lacondzene noma sikhungo noma inhlango leniketela lusito kubantfu labahlukunyetwe kushushunjiswa eveni umuntfu loshiwo kusigaba 31(1) noma (2) lekumele abuyiselwe kulo futsi latimisele kuniketela lusito kulowo muntfu; futsi
  - (b) ngaphandle kwekuchitsa sikhatsi, anikete uMcondzisi-Jikelele: wetiNdzaba Tasekhaya imininingwane lemayelana nesicelo lesentiwe ngekwemigomo yesigaba 31(2)(b)(i).

### **Kubuyisa lohlukunyetwe kushushunjiswa abuyiselwa eRiphabhulikhi**

- 33. Ngalokubukela kuphepha kwemuntfu futsi kungacitfwa sikhatsi—
  - (a) UMcondzisi-Jikelele: WeteBudlelwano nemave eMhlaba kanye neku-Sebentisana kumele—
    - (i) ngalokubambisana neMcondzisi-Jikelele: WeteKutfufukisa kweMiphakatsi bahlole ingcuphe ngalokuphepha kanye nemphilo yemuntfu longumhlali noma longumhlali ngalokugcwele eRiphabhulikhi futsi lokunaletizatfu letivakalako tekutsi atsatfwe njengalohlukunyetwe kushushunjiswa, uma abuyiselwa eriphabhulikhi;
    - (ii) asite ekubuyiselweni kwemuntfu loshiwo indzinyana (i) eriphabhulikhi; futsi
    - (iii) aluleke uMcondzisi-Jikelele: WaletiNdzaba Tasekhaya ngaletinyatselo letitlovikela kwamukela umuntfu loshiwo indzinyana (i) endzaweni lengenela eNingizimu Afrika;
  - (b) UMcondzisi-Jikelele-WaletiNdaba Tasekhaya kumele—
    - (i) aniketela ngaletincwadzi letligunyata kungena noma ngalokunye lokugunyatiwe njengoba kungadzingeka kusita lowo muntfu kutsi angene eriphabhulikhi;
    - (ii) uma kunesidzingo, atsatse tinyatselo kuvikela kwamukelwa kwemuntfu loshiwo indzima (a) endzaweni lengenela eNingizimu Afrika;
    - (iii) uma Live lelyiNhlango yeNchubo ye-UN yekuVikela, kuNcandza kanye nekuJezisa Labashushumbisa Ngebantfu licala noma kunesi-vumelwano lesihlobene nekushushunjiswa kwebantfu iRiphabhulikhi leyingcenyeyako, kumele lihlohlolise lowo muntfu llokubonakala

that a person who is suspected of being a victim of trafficking is a citizen or permanent resident of the Republic;

- (iv) upon entry into the Republic of a child who is suspected of being a victim of trafficking refer the child to a designated child protection organisation or provincial department of social development; and 5
- (v) upon entry into the Republic of a person who is suspected of being an adult victim of trafficking refer the person to the provincial department of social development.

#### **Return of adult victim of trafficking within Republic**

**34.** (1) An accredited organisation may not return an adult victim of trafficking to the place within the Republic from where he or she was trafficked, without giving due consideration to the— 10

- (a) safety of the person during the process of returning him or her; and
- (b) possibility that the person might be harmed, killed or trafficked again if returned to that place. 15

(2) An accredited organisation must—

- (a) take reasonable steps to find suitable family members to whom a victim referred to in subsection (1) can be returned and who are willing to provide assistance to the victim, taking into consideration the views of the victim; and
- (b) if the victim in question does not have the financial means to travel to the place from where he or she was trafficked, in the prescribed manner, facilitate the return of the victim to the place in question. 20

#### **Escorting of child victim of trafficking**

**35.** (1) If it is considered to be in the best interests of a child who has been trafficked, the Director-General: Social Development must authorise an adult at State expense to escort the child from the place where the child was found to the place within the Republic from where the child was trafficked or to the child's country of origin or the country from where the child was trafficked. 25

(2) The Director-General may not act in terms of subsection (1) unless he or she is satisfied that the parent, guardian or other person who has parental responsibilities and rights in respect of the child does not have the financial means to travel to the place where the child is in order to escort the child back. 30

### **CHAPTER 8**

#### **GENERAL PROVISIONS**

#### **Trafficking of child by parent, guardian or other person who has parental responsibilities and rights in respect of child 35**

**36.** (1) If a children's court has reason to believe that the parent or guardian of a child or any other person who has parental responsibilities and rights in respect of a child, has trafficked the child, the court may—

- (a) suspend all the parental responsibilities and rights of that parent, guardian or other person; and 40
- (b) place that child in temporary safe care in terms of section 152 of the Children's Act,

pending an inquiry by a children's court.

(2) Any action taken by a children's court in terms of subsection (1) does not exclude a person's liability for committing any offence under Chapter 2 of this Act. 45

#### **International co-operation**

**37.** (1) The President may on the conditions as he or she deems fit—

- (a) enter into an agreement with a foreign State that is not a State Party to the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons in respect of any matter pertaining to trafficking in persons; or 50

- kunaletizatfu letivakalako tekutsi lohlukunyetwe kushushunjiswa losakhamuti noma uhlala ngalokugcwele eriphabhulikhi;
- (iv) bantfwana lokubonakala kunaletizathu letivakalako tekutsi ihluku-nyetwe kushushunjiswa ngesikhatsi ingena eriphabhulikhi kumele iniketelwe kusonhlalakahle locokiwe kutsi aphenye ngekwemigomo yesigaba 155(2) se-*Children's Act*; futsi 5
- (v) umuntfu lokubonakala kunaletizathu letivakalako tekutsi ungumuntfu lomdzala lohlukunyetwe kushushunjiswa ngesikhatsi angena eriphabhulikhi kumele aniketelwe enhlanganweni legunyatiwe noma emnyangweni 10

#### **Kubuyisela umuntfu lomdzala lohlukunyetwe kushushunjiswa eRiphabhulikhi**

34. (1) Inhlangano legunyatiwe akumele ibuyisele umuntfu lomdzala lohlukunyetwe kushushunjiswa endzaweni leseRiphabhulikhi lapho ashushunjiswe khona, ngaphandle kwekubuka—
- (a) kuphepha kwemuntfu ngesikhatsi abuyiswa; kanye 15
- (b) namatfuba ekutsi lowo muntfu angase alinyatwe, abulawe noma ashushunjiswe futsi kuleyo ndzawo. wesifundza weteKutfutukisa kwemiphakatsi.
- (2) Inhlangano lesemtsetfweni kufanele—
- (a) itsatse tinyatselo letifanele kutfola emalunga emndeni lafanele lapho lona lobalwe kusigatjana (1) angabuyiselwa emuvanalekufanele aniketwe lusito kulohlukumetiwe, kunakwe lemibono yalotsintsekile; kanye 20
- (b) uma ngabe lona lohlukunyetiwe akanayo indlela imali yekuhamba abuye lapho washushunjiswa khona, ngendlela lebekiwe, akunakwe kubuyiselwa kwalona lohlukunyetiwe lekukhulunywa ngaye.

#### **Kupheleketela bantfwana labahlukunyetwe kushushunjiswa 25**

35. (1) Uma kubonakala kutsi kutamsita umntfwana loshushunjiswiwe, uMcondzisi-Jikelele: WeteKutfutukisa kweMiphakatsi kumele agunyate umuntfu lomdzala lotawukhokhelwa hulumende lotawupheleketela bantfwana labasusa endzaweni lapho yatfolakala khona ayihambise endzaweni lapho lowo mntfwana beakashushunjiswe khona. 30
- (2) UMcondzisi-Jikelele angayekela angayisebentisi imigomo yesigatjana (1) ngaphandle uma aneliseka kutsi umtali, umondli noma lomunye umuntfu logade bantfwana njengemtali futsi loneligunya ngalowo mntfwana akanayo imali yekuya endzaweni lapho bantfwana akhona khona kuze ayikhaphe ibuye emuva.

### **SAHLUKO 8 35**

#### **TIMISO LETIJWAYELEKILE**

#### **Kushushunjiswa kwebantfwana bashushunjiswa umtali, ngumondli, noma lomunye umuntfu loyigade njengemtali futsi lonemalungelo ngalowo mntfwana**

36. (1) Uma inkhantolo yebantfwana inesizatfu lesenta ikholwe kutsi umtali noma umcaphi wemntfwana noma lomunye umuntfu locaphe bantfwana njengemtali futsi loneligunya ngalowo mntfwana, ushushumbisa bantfwana, inkhantolo inga— 40
- (a) muka lilungelo lokugada bantfwana njengemtali kanye neligunya ngalowo mntfwana lowo mtali, umcaphi, noma lomunye umuntfu; futsi
- (b) beka lowo mntfwana endzaweni yesikhashana letamnakekela, ngesikhatsi inkhantolo letsetsa emacala ebantfwana isenta luphenyo. 45
- (2) Noma siphilinyatselo lesitsatfwe inkhantolo letsetsa emacala ebantfwana ngekwemigomo yesigatjana (1) ayikhipheli eceleni licala ngaphansi kweSahluko 2 saloMtsetfo.

#### **Kusebentisana kwemave ngemave**

37. (1) Mengameli ngalokubuka timo abona sengatsi tifanele— 50
- (a) angenta sivumelwano neLive langaphandle lelingasilo iNhlango yemave yeNchubo ye-UN leVikela, iCedze futsi iJezise kushushunjiswa Kwebantfu mayelana neludzaba lekushushunjiswa kwebantfu; noma

(b) enter into an agreement with a foreign State that is a State Party to the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons in respect of any matter pertaining to trafficking in persons for the purpose of supplementing the provisions of that protocol or to facilitate the application of the principles contained therein. 5

(2) An agreement referred to in subsection (1) may not be in conflict with the provisions of the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons.

(3) The President may agree to any amendment or revocation of an agreement referred to in subsection (1).

(4) An agreement referred to in subsection (1) or any amendment or revocation thereof, is not of any force or effect until that agreement, amendment or revocation has been approved by Parliament. 10

### **Legitimacy and validity of documents**

**38.** The Director-General: Home Affairs must, at the request of another State that is a party to the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons or to an agreement relating to trafficking in persons, verify, within a reasonable time, the legitimacy and validity of travel or identity documents issued or purported to have been issued by the Department of Home Affairs and suspected of being used in the commission of an offence under Chapter 2. 15

### **Annual report on abuse or deliberate neglect of child and findings by children's court that child is in need of care and protection** 20

**39.** The Director-General: Social Development must submit to the Director-General: Justice and Constitutional Development, as determined by him or her, an annual report on all cases of abuse or deliberate neglect of a child and all findings by a children's court that a child is in need of care and protection because of abuse or deliberate neglect of the child as contained in Part A of the National Child Protection Register provided for in Part 2 of Chapter 7 of the Children's Act insofar as those cases and findings relate to child victims of trafficking. 25

## **CHAPTER 9**

### **ADMINISTRATION OF ACT** 30

#### **National Policy Framework**

**40.** (1) The Minister must, after consultation with the Minister in The Presidency responsible for performance monitoring and evaluation, the Ministers of Finance, Home Affairs, Health, International Relations and Cooperation, Labour, Police, Social Development, State Security, and Women, Children and People with Disabilities and the National Director of Public Prosecutions approve a national policy framework, relating to all matters dealt with in this Act, in order to— 35

- (a) ensure a uniform, coordinated and cooperative approach by all government departments, organs of state and institutions in dealing with matters relating to the trafficking of persons; 40
- (b) guide the implementation and administration of this Act; and
- (c) enhance service delivery as envisaged in this Act by the development of a plan within available resources.

(2) The Minister must—

- (a) within one year after the commencement of this Act, approve and table the policy framework in Parliament; 45
- (b) publish the policy framework in the *Gazette* within two months after it has been tabled in Parliament;
- (c) review the policy framework within three years after its publication in the *Gazette* and at least once every five years thereafter; and 50

- (b) ente sivumelwano neLive langaphandle leliyiNhlangotho yemave yeNchubo ye-UN leVikela, iNcandze futsi iJezise labashushumbisa ngebantfu mayelana nanoma ngabe nguluphi ludzaba lekushushunjiswa kwebantfu ngenhloso yekungeta imibandzela yeNchubo noma yekusita ngalokusebentisa imigomo leyicuketse. 5
- (2) Sivumelwano lesishiwo sigatjana (1) akumele sishayisane naletimiso teNchubo ye-UN yekuVikela, kuNcandza kanye nekuJezisa kushushunjiswa Kwebantfu.
- (3) Mengameli angavumela tichibiyelo noma kuhociswa kwesivumelwano lesishiwo kusigatjana (1).
- (4) Sivumelwano lesishiwo sigatjana (1) noma sichibiyelo noma kuhociswa kwaso, 10 ngeke siphocelwe noma ngeke sisetjentiswe kuze leso sivumelwano, sichibiyelo noma lokuhociswako kugunyata iPhalamende.

### Tincwadzi letisemtsetfweni futsi letisebentako

38. UMcondzisi-Jikelele: WaletiNdzaba Tasekhaya kumele, ngalokucela lenye iNhlangotho yeLive leNchubo ye-UN yekuVikela, kuNcandza kanye nekuJezisa kushushunjiswa Kwebantfu noma live liyingcenywe yesivumelwano lesihlobene neku-shushunjiswa kwebantfu, lihlole, esikhatsini lesiniketive, kutsi ngabe tisebentweni futsi tiyasebenta yini tincwadzi letigunyata kuvakashela lamanye emave noma bomatise labakhishiwe noma lekumele bakhishwe Mnyango w aletiNdzaba Tasekhaya lekusolwa kutsi basetjentiswe ekwenteni licala ngekwemigomo yaloMtsetfo. 20

### Umbiko wemnyaka lomayelana nekuhlukumeta noma kulahla bantfwana kanye naletincumo letikhishwa inkhantolo letsetsa emacala ebantfwana ekutsi bantfwana badzinga kunakekelwa kanye nekuvikelwa

39. UMcondzisi-Jikelele: WeteKutfutukisa kweMiphakatsi kumele ahambise Umcondzisi Jikelele: Litiko Letebulungiswa Nekutfutukiswa Kwemtsetfosisekelo, njengoba kwancuma Likomidi Lelicondzisako, umbiko wemnyaka lomayelana nawo onkhe emacala ekuhlukumeta, kulahlwa kwebantfwana kanye nako konkhe lokutfolwe inkhantolo letsetsa emacala ebantfwana lamayelana nekutsi lowo mntfwana udzinga kunakekelwa kanye nekuvikelwa ngoba ihlukumetekile futsi yalahlwa ngenhloso njengoba kukuketfwe iNcenywe A yeLuhlu lwaVelonkhe lekuVikelwa kwebantfwana njengoba kuniketive iNcenywe 2 yeSahluko 7 se-Children's Act kanye nalawo macala kanye nalokutfolwe lokuhlobene nekuhlukumeta kwekudayiswa kwemntfwana. 30

## SAHLUKO 9

### KUSINGATFWA KWEMTSETFO

#### Luhlaka lweMigomo yaVelonkhe 35

40. (1) Ngcongcoshe kumele, ngemuva kwekucocisana naNgcongcoshe wetiNdzaba Tasekhaya, Temphilo, Budlelwano bemave ngemave kanye nekuSebentisana, teMisebenti, luphiko lwetemisebenti yemaphoyisa kanye nekuTfutukiswa kweMiphakatsi kumele bamukele luhlaka lwemigomo yavelonkhe, lehlobene naletindzaba lekubukwanana nato kuloMtsetfo, kute ku— 40
- (a) cinisekiswa indlela lefanako, lehleliwe futsi lenekusebentisana eminyangweni yonkhe yahulumende, tinhlaka takahulumende kanye naletikhungo letibukene naletindzaba letihlobene nekushushunjiswa kwebantfu;
- (b) caphelwe kusetjentiswa kanye nekusingatfwa kwaloMtsetfo; futsi
- (c) chakambiswe kuniketelwa kwaletidzingo njengoba kubekiwe kuloMtsetfo ngalokutfutukiswa kweluhlelo lwaletinsita letikhona. 45
- (2) Ngcongcoshe kumele—
- (a) ingakapheli iminyaka lemibili ngemuva kwekucala kusebenta kwaloMtsetfo, amukele futsi atfulele iPhalamende luhlaka lwemigomo;
- (b) ashicilele luhlaka lwemigomo ku*Gazethi* etinyangeni letimbili ngemuva kwekutsi yetfuliwe ePhalamende; 50
- (c) abuyekete luhlaka lwemigomo ingakapheli iminyaka lemitsatfu ngemuva kwekutsi ishicilelwe ku*Gazethi* futsi lokungenani kanye ngemuva kweminyaka lesihlanu; futsi

- (d) amend the policy framework when required, in which case the amendments must be tabled in Parliament and published in the *Gazette* within two months after it has been tabled in Parliament.

#### **Coordination of responsibilities, functions and duties relating to implementation of Act**

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**41.** (1) The Director-General: Justice and Constitutional Development, after consultation with the National Commissioner of the South African Police Service, the National Director of Public Prosecutions, the Chief Executive Officer of the Government Communication and Information System, the Commissioner of the South African Revenue Service and the Directors-General: Health, Home Affairs, International Relations and Cooperation, Labour, Social Development, State Security Agency and Women, Children and People with Disabilities, is responsible for—

- (a) developing a draft national policy framework, referred to in section 40(1), which must include guidelines for—
- (i) the implementation of the priorities and strategies contained in the national policy framework; 15
  - (ii) measuring progress on the achievement of the national policy framework objectives;
  - (iii) ensuring that the different organs of state comply with the roles and responsibilities allocated to them in terms of the national policy framework and this Act; and 20
  - (iv) monitoring the implementation of the national policy framework and this Act;
- (b) the establishment of an integrated information system to facilitate the effective monitoring and implementation of this Act and to recommend 25 interventions relating to trafficking in persons by collating and analysing the information obtained in terms of sections 25(4)(c), 39, 44(1)(d), 44(3), 44(5)(c), 44(7)(c) and 44(9)(c) with the view to determining, among others—
- (i) from which countries victims are being trafficked to the Republic;
  - (ii) to which countries South African citizens and other residents are being 30 trafficked;
  - (iii) the nationality of victims transiting the Republic and the countries to which they are being trafficked;
  - (iv) the number of victims that have been repatriated to the Republic and the countries to which they were trafficked; 35
  - (v) the areas in the Republic to and from which victims are being trafficked;
  - (vi) the purposes for which persons who have been identified as victims of trafficking have been trafficked;
  - (vii) the profiles of the traffickers and their victims, including the age, gender, nationality and sex of the victims; 40
  - (viii) which routes are used by traffickers to cross the borders of the Republic;
  - (ix) which routes are used by traffickers to enter the countries to which South African citizens and other residents were trafficked;
  - (x) the methods used by traffickers to recruit and transport their victims;
  - (xi) the methods and routes used for trafficking victims within the Republic; 45
  - (xii) the methods used by traffickers to keep victims in exploitative situations;
  - (xiii) the types of travel documents traffickers and their victims have used or attempted to use to cross the borders of the Republic and to enter the countries to which South African citizens and other residents were trafficked and how these documents were obtained; 50
  - (xiv) whether there is a link between trafficking operations and those involved in other forms of organised crime;
  - (xv) the number of trafficking prosecutions, convictions and the form of sentences imposed on perpetrators;

- (d) achibiyele luhlaka lwemigomo uma kunesidzingo, ngaso sonkhe sikhatsi tichibiyelo kumele titfulwe ePhalamende futsi tishicilelwe *kuGazethi*.

**Kuhlanganiswa kwemisebenti, lokwentiwako nalokuniketiwe ngalokuphatselene nekusetjentiswa kwaloMtsetfo**

41. (1) Umcondzisi Jikelele: Tebulungiswa Nekutfufukiswa Kwemtsetfosisekelo, ngemuva kwekutsintsana naNkhophmishana weMsebenti weMaphoyisa Velonkhe, Umcondzisi weTekushushisa Velonkhe, Umphatsi Lophakeme weTekuchumana kuhulumende neTelwatuso, Nkhomishana weTentsela yase Ningizimu Afrika kanye Nebacondzisi Jikelele: Temphilo, Tasekhaya, Tebudlelwano bangaphandle neKusebentisana, Temisebenti, Kutfutukiswa Kwemphakatsi, Kuvikelwa kweMbuso Nabomake, Bantfwana Nebantfu labaphila nekukhubateka, kufanele—

- (a) kutfutukisa luhlaka lwenchubomgomo, lolubalwe kusigaba 40(1), lokungafaka ekhatsi imihlahandlela ye—
- (i) kwentiwa kwalokuhambibili nemasu lacuketfwe kuluhlaka lwenchubomgomo yavelonkhe; 15
  - (ii) kulinganisa inchubekela phambili ngekuphumelela kwetinjongo teluhlaka lwenchubomgomo yavelonkhe;
  - (iii) kucinisekisa kutsi imitimba yembuso iyahambisana nemisebenti kanye nemitfwalo leniketwe bona ngekuya ngeluhlaka lwemnchubomgomo yaloMtsetfo; kanye 20
  - (iv) kulawula lokusebenta kweluhlaka lwenchubomgomo kanye nalomtsetfo;
- (b) lokusungulwa kweluhlelo lwelwatiso lolucubile kuhambisa kahle kulawulwa nekusetjentiswa kwaloMtsetfo nekuphakamisa kungenelela lokuphatselene nekushushunjiswa kwebantfu ngekuhlanganisa nekuhlatiya lolwatiso lolutfolakele ngekwetigaba 25(4)(c), 39, 44(1)(d), 44(3), 44(5)(c), 44(7)(c) na 44(9)(c) ngembono wekuncuma, kulokunye—
- (i) kusuka kumave lapho labashushunjisiwe basuka khona kuta eRiphabhulikhi;
  - (ii) emave lapho khona bantfu baseNingizimu Afrika nalamanye emave bashushunjiselwa khona; 30
  - (iii) buve bebantfu labashushunjiswako labaphuma eRiphabhulikhi kanye nalamave labashushunjiselwa kuwo;
  - (iv) inombolo yebantfu lababuyiselwe eRiphabhulikhi kanye nakumave lebebashushunjiselwe kuwo; 35
  - (v) tindzawo eRiphabhulikhi lapho khona bantfu bashushunjiselwa khona;
  - (vi) tizatfu bantfu lababonekele njengalabashushu jisiwe bashushunjiselwe khona;
  - (vii) imininingwane yalaba labashushunjisiwe kanye nalabahlukumetiwe, kufaka ekhatsi umnyaka, bulili, buve kanye nebulili balaba labahlukunyetiwe; 40
  - (viii) ngutiphi tindlela letisetjentiswa ngulabashushunjisiwe kuwela imincele yase Riphabhulikhi;
  - (ix) ngutiphi tindlela letisetjentiswa bashushumbisi kungena emaveni lapho khona bahlali base Riphabhulikhi kanye nalabanye bahlali lebebashushunjisiwe; 45
  - (x) tindlela letisetjentiswa ngulabashushumbisako kumema nekuhambisa labashushunjiswako;
  - (xi) tindlela kanye nemigwaco lesetjentiselwa kushushumbisa ekhatsi eRiphabhulikhi; 50
  - (xii) tindlela letisetjentiswa bashushumbisi kugcina labashushunjiswe bahlukumeteka;
  - (xiii) tinhlobo tetincwadzi tekuhamba letisetjentiswa bashushumbisi kanye nalababashushumbisako noma labazame kutisebentisa kweca imincele yase Riphabhulikhi nekungena emaveni lapho bahlali baseNingizimu Afrika kanye nalabanye bahlali bebashushunjiselwa khona nekutsi letincwadzi titfolakele njani; 55
  - (xiv) mhlawumbe kunekuchumana ekhatsini wemisebenti yekushushumbisi nalabo labafaka ekhatsi ngaletinye tindlela tebugebengu lobuhleliwe;
  - (xv) inombolo yemacala lashushisiwe ekushushumbisa, tigwebo kanye naloluhlobo lwetigwebo letiniketive kulaba lababhehbetsekisako; 60

- (xvi) the number of victims of trafficking who are awarded compensation orders in terms of section 29 of the Act; and
- (xvii) the number of cases the courts refrained from providing compensation orders and the reasons for doing so:
- Provided that information which identifies victims of trafficking must be kept confidential; 5
- (c) developing and reviewing guidelines on the identification of victims of trafficking and traffickers; and
- (d) establishing public awareness programmes or other measures for the prevention and combating of trafficking in persons designed to— 10
- (i) inform and educate members of the public, especially those who are vulnerable or at risk of becoming victims of trafficking, foreigners who apply for South African visas who may be victims of trafficking, and South African citizens or permanent residents who apply for South African passports or who depart abroad, on issues relating to trafficking in persons, including— 15
- (aa) common recruitment techniques used by traffickers;
- (bb) practices used to keep victims of trafficking in exploitative situations;
- (cc) the forms of abuse to which victims of trafficking may be subjected; and 20
- (dd) organisations, institutions or law enforcement agencies that may be approached for assistance or information;
- (ii) inform and educate victims of trafficking on— 25
- (aa) their rights as victims;
- (bb) legal or other measures in place to ensure their safety, recovery, return and repatriation; and
- (cc) organisations, institutions or law enforcement agencies that may be approached for assistance of information; and 30
- (iii) discourage the demand for and the supply of victims of trafficking that foster the exploitation of those victims, especially women and children.
- (2) (a) The programmes or other measures referred to in subsection (1)(d) must—
- (i) include appropriate measures aimed at reaching rural communities;
- (ii) where possible, be provided in a language understood by the persons at whom they are directed; and 35
- (iii) be reviewed every second year in order to determine their effectiveness.
- (b) The Director-General: Justice and Constitutional Development must take all reasonable steps within available resources to ensure that the programmes or other measures referred to in subsection (1)(d) are implemented throughout the Republic.
- (3) The Director-General: Justice and Constitutional Development may, after consultation with the National Commissioner of the South African Police Service, the National Director of Public Prosecutions, the Chief Executive Officer of the Government Communication and Information System, the Commissioner of the South African Revenue Service and the Directors-General: Health, Home Affairs, International Relations and Cooperation, Labour, Social Development, State Security Agency and Women, Children and People with Disabilities make recommendations to the Minister with regard to the amendment of the national policy framework. 45
- (4) The Minister may make regulations establishing and regulating the functioning of a mechanism to facilitate the implementation of this Act and to coordinate the responsibilities, functions and duties referred to in this section. 50

### Report to Parliament

42. The Minister must, after consultation with the Minister in The Presidency responsible for performance monitoring and evaluation, the Ministers of Home Affairs, International Relations and Cooperation, Labour, Police, Social Development, State



- (xvi) inombolo yebantfu labahlukunyetwe kushushunjiswa labancephete-  
lisiwe ngekwesigaba 29 saloMtsetfo; kanye
- (xvii) inombolo yemacala inkhantolo leyekele kuwaniketa sincepheteliso  
netizatzu tekwenta loko:  
Kwentelwa kutsi lwatiso lekufanele lukhombise labahlukunyetwe 5  
kushushunjiswa kufanele lube yimfihlo;
- (c) kutfutukisa nekubuyeketa imihlahandlela ekukhonjweni kwalabashushu-  
njisiwe; kanye
- (d) kusungulwa kweluhlelolwekwatisa ummango noma letinye tindlela  
tekuvikela nekulwisana nekushushunjiswa kwebantfu leluhlelelwe— 10
- (i) kwatisa nekufundzisa emalunga emmango, ikakhulukati labo labase-  
ngotini noma labatsintsekako kutsi bangashushunjiswa, bantfu  
bangaphandle labafaka sicelo sekuba nemaVisa ase Ningizimu Afrika  
labangahle babe ngulabangashushunjiswa, kanye nebahlali base Ningi-  
zimu Afrika noma bahlali ngalokugcwele labafaka sicelo semaphosi- 15  
photi ase Ningizimu Afrika noma labaya phesheya, ngetindzaba  
letiphatselene nekushushunjiswa kwebantfu, kufaka ekhatsi—  
(aa) tindlela letetayelekile tekucasha letisetjentiswa bashu-  
shumbisi;
- (bb) tindlela tekugcina labahlukunyetwe kushushumbisa etimeni 20  
letibahlukumetako;
- (cc) indlela yekuhlukunyetwa bantfu labashushunjisiwe labanga-  
hlangabetana nayo; kanye
- (dd) tinhlango, tikhungo noma tikhungo temitsetfo letinga-  
tsintfwa kute tinikete lusito noma lwatiso; 25
- (ii) kwatisa nekufundzi labashushunjisiwe nge—  
(aa) emalungelo abo njengalabahlukunyetwe;
- (bb) tindlela temtsetfo kanye naletinye letikhona kucinisekisa  
kuphepha kwabo, kubuyela esimeni, kubuyiselwa emuva  
emakhaya; kanye 30
- (cc) tinhlango, tikhungo noma tinhlango temtsetfo lekufanele  
titsintfwe ngelusito lwelwatiso; knaye
- (iii) kudvumata kufuneka nekuniketwa kwebantfu labashushunjisiwe  
lokubangela kuhlukunyetwa kwalabo bantfu, ikakhulukati bantfwana  
nabomake. 35
- (2) (a) Letinhlelo noma letinye tindlela letibalwe kusigatjana (1)(d) kufanele—  
(i) tifake tindlela letifanele letihlose kufinyelela kumimmango yasemakhaya;
- (ii) lapho kufanele khona, kuniketwe ngelulwimi loluvisiswa ngulowo muntfu  
lekucondziswe kuye; kanye
- (iii) kubuyeketwe njalo ngemuva kweminyaka lemibili kute kutsi kuncunywe 40  
imphumelelo yalo.
- (b) Umcondzisi Jikelele: Bulungiswa Nekutfutukiswa Kwemtsetfosisekelo kufanele  
atsatse tonkhe tinyatsele letifanele ngetinsita letikhona kucinisekisa kutsi letinhlelo  
noma letinye tindlela letibalwe kusigatjana (1)(d) tiyentiwa kuyo yonkhe iRipha-  
bhulikhi. 45
- (3) Umcondzisi Jikelele: Bulungiswa Nekutfutukiswa Kwemtsetfosisekelo anga,  
ngemuva kwekutsintsana aNkhomishana Wavelonkhe Wemisebenti Yemaphoyisa ase  
Ningizimu Afrika, Umcondzisi Jikelele Wetekushushisa Wevelonkhe, Umphatsi  
Losetulu Wetekuchumana Kuhulumende netinhlelo Telwatiso, Nkhomishana Wete-  
ntselo yase Ningizimu Afrika kanye nebacondzisi Jikelele: Temphilo, Tasekhaya, 50  
Tangaphandle neTekusebentisana, Temisebenti, Tekutfutukiswa Kwemphakatsi,  
Tekuvikelwa Kwembuso kanye naBomake, Bantfwana Nebantfu labaphila nekukhu-  
bateka ente tiphakamiso kuNgcongcoshe ngalokuphatselene nekuchitjiyelwa kwalolu-  
hlaka lwemchubomgomo yavelonkhe.
- (4) Ngcongcoshe angenta imitsetfo lesungula ibuye ilawule kusebenta kwendlela 55  
yekuhlola lokusetjentiswa kwaloMtsetfo nekuhlanganisa imisebenti, imitfwalo  
nalokwentiwako lokubalwe kulesigaba.

#### **Umbiko locondziswe ePhalamende**

42. Ngcongcoshe kumele, ngemuva kwekucocisana naNgcongcoshe wetiNdzaba  
Tasekhaya, weteBudlelwano bemave ngemave kanye nekuSebentisana, wetemisebenti, 60

Security and Women, Children and People with Disabilities and the National Director of Public Prosecutions—

- (a) within one year after the commencement of this Act, submit—
  - (i) reports to Parliament by each Department or institution referred to in this section on the implementation of this Act; and 5
  - (ii) a report to Parliament reflecting information relating to trafficking in persons referred to in subsection 41(1)(b); and
- (b) every year thereafter submit reports referred to in paragraph (a)(i) and a report referred to in paragraph (a)(ii) to Parliament.

### Regulations 10

43. (1) (a) The Minister must make regulations regarding the manner in which prosecutors must refer children and adult persons suspected of being victims of trafficking for assessment as provided for in section 22(2)(b).

(b) The Minister may make regulations regarding the establishment and regulation of a mechanism to facilitate the implementation of this Act as provided for in section 41(4). 15

(2) The Minister of Home Affairs must make regulations regarding—

- (a) the manner in which a foreigner referred to in section 15(1) will be issued with a visitor's visa to remain in the Republic for a recovery and reflection period and the conditions upon which that visa is issued, as provided for in section 15(1); 20
- (b) the manner in which the Director-General: Social Development must request an extension of the recovery and reflection period as provided for in section 15(4);
- (c) the manner in which any extension of the recovery and reflection period must be granted as provided for in section 15(4); and 25
- (d) the manner in which a person must be informed of arrangements that have been made for his or her reception in the country to which he or she is to be repatriated as provided for in section 31(2)(b)(ii).

(3) The Minister of Social Development must make regulations regarding—

- (a) the assessment of a person to determine whether he or she is a victim of trafficking as provided for in sections 18(6) and 19(8) as well as the information to be obtained from the South African Police Service as provided for in those subsections; 30
- (b) the letter of recognition to be issued to a person who has been found to be a victim of trafficking as provided for in section 19(10); 35
- (c) the manner in which a provincial head may withdraw a letter of recognition as provided for in section 19(11);
- (d) the manner in which a person must lodge an appeal as provided for in section 20(1)(b);
- (e) the manner in which the MEC must deal with an appeal as provided for in section 20(2); 40
- (f) the manner in which the provincial department of social development must refer a person referred to in section 20(3) to the Department of Home Affairs;
- (g) the system of accreditation of organisations to provide services to adult victims of trafficking as provided for in section 24(2)(a); 45
- (h) the circumstances in which accredited organisations qualify for financial assistance as provided for in section 24(2)(b);
- (i) the manner in which the applications for accreditation of organisations must be considered and the form of the certificate of accreditation to be issued to an organisation which provides services to adult victims of trafficking as provided for in section 24(4)(a); 50
- (j) the manner in which the developmental quality assurance process must be conducted in respect of each accredited organisation, as provided for in section 24(5);
- (k) the norms and minimum standards for accredited organisations as provided for in section 25(1); 55
- (l) the manner in which information on victims of trafficking must be collected as provided for in section 25(4);
- (m) the form of the plan referred to in section 28(2); and
- (n) the manner in which an adult victim of trafficking is to be returned as provided for in section 34(2)(b). 60

weLuphiko lwetemisebenti yemaphoyisa, kuTfutfukiswa kweMtsetfosisekelo kanye neMcondzisi-Jikelele wetekuShushiswa kweMphakatsi—

- (a) ungakapheli umnyaka munye ngemuva kwekucala kuseben ta kwaloMtsetfo, bahambise—
  - (i) umbiko ePhalamende weMnyango ngamunye noma wesikhungo lesishiwo kulesigaba ngalokusetjen tiswa kwaloMtsetfo; 5
  - (ii) umbiko loya ePhalamende love ta iminingwane lehlobene nekushushunjiswa kwebantfu labashiwo kusigatjana 41(1)(b); futsi
- (b) yonkhe iminyaka bahambise imibiko lesiwo indzima (a)(i) kanye nembiko loshiwo indzima (a)(ii) bawuhambise ePhalamende. 10

### **Umbiko locondzise ePhalamende Timiso temtsetfo**

**43.** (1) (a) Ngcongcoshe kufanele ente imitsetfo lephatselene nedlela bashushisi lekufanele kudluliselwe ngayo bantfwana nebantfu labadzala labasolelwa ngekutsi bashushunjisiwe kute bahlolwe njengoba kubekiwe kusigaba 22(2)(b).

(b) Gcingcoshe angamisa imitsetfo ngalokuphatselene nekusungulwa nekulawulwa kwendlela yekuhambisa lokusetjentiswa kwaloMtsetfo lekuniketiwe kusigaba 41(4). 15

(2) Ngcongcoshe weLitiko Lasekhaya kufanele amise imitsetfo ngalokuphatselene—

- (a) indlela lekutawuvunyelwa ngayo umchamuki lobalwe kusigaba 15(1) kutsi utawuniketwa ivisa yekuvakasha kutsi ahlale eRiphahbhulikhi kute alulame abuye abuyekete nemibandzela levisa leniketwa ngaphansi kwayo, njengoba kubekiwe kusigaba 15(1). 20
- (b) indlela uMcondzisi-Jikelele: WeteKutfutfukisa kweMiphakatsi lekumele acele ngayo kunwetjwa kwesikhatsi sekululama kanye nesekuhlala eriphahbhulikhi njengoba kuniketive sigaba 15(4);
- (c) indlela lekumele kunikezwe ngayo sikhatsi sekululama kanye nesekuhlala eriphahbhulikhi njengoba kuniketive sigaba 15(4); 25
- (d) indlela lekumele umuntfu aziswe ngayo ngamalungiselelo enziwe okwamukelwa kwakhe eveni azobuyiselwa kulo, njengoba kuniketive sigaba 31(2)(b)(ii).

(3) UNGcongcoshe weteKutfutfukisa koMtsetfosisekelo kumele ente timiso temtsetfo letimayelana— 30

- (a) kuhlolwa kwemuntfu lotawuncuma kutsi ngabe umuntfu uhlukeyetwe kushushunjiswa njengoba kuniketive kusigaba 18(6) na 19(8) kanye nalolwatiso lekufanele lutfolakale eMaphoyiseni ase Ningizimu Afrika njengoba kubekiwe kuleto tigatjana; 35
- (b) luhlobo lwencwadzi leligunyatiwe letitawuketwa inhlango kugunyatwa kutsi inganiketela lusito kubantfu labadzala labahlukunyetwe kushushunjiswa, njengoba kuniketive kusigaba 10(10);
- (c) indlela umphatsi wesifundza langahocisa ngayo incwadzi yekunakwa njengoba kubekiwe kusigaba 19(1); 40
- (d) indlela umuntfu lekufanele afake ngayo sikhalo lebekwe kusigaba 20(1)(b);
- (e) indlela MEC lekufanele asebenta ngayo nakasebenta ngesikhalo njengoba kubekiwe kusigaba 20(2);
- (f) indlela litiko letenhlahakahle yebantfu lasesifundzeni lekufanele lihlukanise umuntfu lodlulisiwe kusigaba 20(3) kuLitiko Letasekhaya; 45
- (g) luhlelo lwekuniketwa imvume kwetinhlangano letivunyelwe kutfolo lusito lwetimali njengoba kuniketive kusigaba 24(2)(b);
- (h) tindlela tinhlangano letisemtsetfweni letivunyelwe ngayo kutfolo lusito lwetimali njengoba kuniketive kusigaba 24(2)(b);
- (i) indlela lekufakwa ngayo sicelo sekuba semtsetfweni kwetinhlangano kufanele kubonwe kanye nendlela yesitifiketi sekuba semtsetfweni lekufanele siniketwe inhlango leniketa tinsita tekushushunjiswa kwebantfu labadzala njengoba kubekiwe kusigaba 24(4)(a); 50
- (j) indlela yeluhlelo lekuhlola lizinga lekumele yentiwe enhlanganweni ngayinye leligunyatiwe, njengoba kuniketive kusigaba 24(5); 55
- (k) imihambo nemazinga etinhlangano letisemtsetfweni njengoba kubekiwe kusigaba 25(1);
- (l) indlela lwatiso lwalabahlukunyetwe kushushunjiswa kufanele balandvwe ngayo njengoba kubekiwe kusigaba 25(4);
- (m) lifomu leluhlelo lolubalwe kusigaba 28(2); kanye 60
- (n) nendlela lapho khona umuntfu lomdzala loshushunjisiwe kufanele abuyiselwe emuva njengoba kubekiwe kusigaba 34(2)(b).

- (4) Any regulations made under this section—
- (a) must be submitted to Parliament for approval 60 days prior to publication thereof in the *Gazette*;
  - (b) which are not approved within the 60-day period referred to in paragraph (a) are deemed to have been approved by Parliament; and 5
  - (c) which may result in expenditure for the State, must be made in consultation with the Minister of Finance.

#### National instructions and directives

44. (1) (a) The Director-General: Justice and Constitutional Development must issue directives regarding the following matters with which all police officials, members of the prosecuting authority and officials of the Departments of Home Affairs, Labour and Social Development must comply in the execution of their functions in terms of this Act, after consultation with the National Commissioner of the South African Police Service, the National Director of Public Prosecutions, the Chief Executive Officer of the Government Communication and Information System, the Commissioner of the South African Revenue Service and the Directors-General: Health, Home Affairs, International Relations and Cooperation, Labour, Social Development, State Security Agency and Women, Children and People with Disabilities, where such consultation is necessary and relevant: 10 15

- (i) The manner in which the reporting of cases related to trafficking in persons must be dealt with; 20
- (ii) measures to be taken in instances where foreign victims of trafficking are not conversant with any of the official languages of the Republic; and
- (iii) measures to be taken to ensure the safety of victims of trafficking or other potential witnesses if there is a likelihood that harm might result to them as a result of the reporting and consequent investigation of and prosecution of the case. 25

(b) The Minister must submit all directives provided for in paragraph (a) to Parliament 30 days before they are issued.

(c) The Director-General: Justice and Constitutional Development must, after the expiry of the 30-day period, publish the directives on the website of the Department of Justice and Constitutional Development. 30

(d) The functionaries referred to in paragraph (a) must provide any relevant information to the Director-General: Justice and Constitutional Development as he or she may require in preparing the directives referred to in paragraph (a). 35

(2) The National Commissioner of the South African Police Service must issue national instructions as provided for in section 25 of the South African Police Service Act, 1995 (Act No. 68 of 1995), regarding the following matters with which all police officials must comply in the execution of their functions in terms of this Act, after consultation with the Directors-General: Health, Home Affairs, International Relations and Cooperation, Justice and Constitutional Development, Labour, Social Development, State Security Agency and Women, Children and People with Disabilities, the Chief Executive Officer: Government Communication and Information System, the Commissioner of the South African Revenue Service and the National Director of Public Prosecutions, where such consultation is necessary and relevant: 40 45

- (a) The division or divisions within the police to be tasked with the investigation of trafficking cases;
- (b) the manner in which trafficking cases are to be investigated;
- (c) the circumstances in which consultation with the prosecuting authority is required with the view to guiding the investigation of trafficking cases for purposes of obtaining the required evidence and to identify relevant witnesses; 50
- (d) measures to be taken in order to ensure the detection of trafficking in persons at South African ports of entry and borders;
- (e) the kind of information that must be obtained from a victim of trafficking with the view to provide such information to the prosecuting authority for purposes of determining the quantum of the damages suffered by the victim for which he or she may claim compensation in terms of section 29; and 55
- (f) the collection and analysis of information on reported cases of trafficking in persons, including information relating to— 60
  - (i) the countries from which victims are being trafficked to the Republic;
  - (ii) the countries to which South African citizens and other residents are being trafficked;

- (4) Noma siphil simiso semtsetfo lesentiwe ngaphansi kwalesigaba—
- (a) kumele sihanjiswe ePhalamende ngaphambi kwekuba sishicilelwe *kuGazethi*;
  - (b) lekangakavunyelwa kulamalanga langema-60 labalwe kundzima (a) bekufanele kutsi avunyelwe yiPhalamende; kanye
  - (c) lesingenta Hulumende acitse timali, kumele sentiwe ngalokucocisana naNgcongcoshe weteTimali. 5

#### Imiyalelo kanye netiyalo tavelonkhe

44. (1) (a) Umcondzisi Jikelele: Bulungiswa NekuTfutukiswa Kwemtsetfosisekelo kufanele anikete imiyalelo lephatselene netindzaba lekufanele emaphoyisa onkhe, emalunga ekushushisa kanye netisebenti teTindzaba tasekhaya, Temisebenti NekuTfutukiswa Kwemphakatsi lekufanele bahambisane nato ekwenteni imisebenti yabo ngekwaloMtsetfo, ngemuva kwekucocisana nebaCondzisi-Jikelele: WeteMphilo, tiNdzaba Tasekhaya, weteBudlelwano bemave ngemave kanye nekuSebentisana, wetemisebenti, kuTfutukiswa kweMiphakatsi kanye neMcondzisi-Jikelele wetekuShushiswa kweMphakatsi, Kuphepha Kwetekuvikela kanye naBomake, Bantfwana Nebantfu labaphila nekukhubateka, lapho lokutsintsana kubukeka kufanele khona: 10

- (i) indlela lekuphenywa ngayo emacala ekushushumbisa;
- (ii) tinyatselo letitawutsatfwa etimweni lapho lohlukunyetwe kushushunjiswa angewekufika angakwati kukhuluma tilimi letisemtsetfweni taseriphabhulikhi; 20
- (iii) tinyatselo letitawutsatfwa kucikelela kuphepha kwalabahlukunyetwe kushushunjiswa noma kanye nafakazi uma kungenteka kutsi balinyatwe ngesizatfu sekubika futsi nangeluphenyo lolulandzelako lekushushiswa kwelicala;

(b) Ngcongcoshe kufanele amikise yonkhe imiyalelo leniketwe kundzima (a) ePhalamende ngembi kwemalanga langema-30 kuniketwe. 25

(c) Umcondzisi Jikelele: Bulungiswa NekuTfutukiswa Kwemtsetfosisekelo kufanele, ngemuva kwekuphela lesikhatsi lesingemalanga langema-30, akhiphe lemiyalelo kuwebhusayithi yeLitikho Letebulungiswa NekuTfutukiswa Kwemtsetfosisekelo.

(d) Lemisebenti lebalwe kundzima (a) kufanele inikete noma luphi lwatiso lolufanele kuMcondzisi Jikelele: Bulungiswa NekuTfutukiswa Kwemtsetfosisekelo lekangaludzanga ngalesikhatsi alungiselela lemiyalelo lebalwe kundzima (a). 30

(2) Nkhomishana Wavelonkhe Wemisebenti Yemaphoyisa ase Ningizimu Afrika kumele khipe imiyalelo yavelonkhe njengoba kubekiwe kusigaba 25 seMtsetfo Wemisebenti Wemaphoyisa Velonkhe, 1995 (Umtsetfo Nom. 68 wanga 1995), ngalokuphatselene netindzaba lapho khona onkhe emaphoyisa kufanele ahambisane ekwenteni kwemisebenti wawo ngekwaloMtsetfo, ngemuva kwekucocisana nebaCondzisi-Jikelele: weTemphilo, weteBudlelwano bemave ngemave kanye nekuSebentisana, weteBulungiswa kanye nekuTfutukiswa kweMtsetfosisekelo, weTemisebenti, kuTfutukiswa kweMiphakatsi kanye neMcondzisi waVelonkhe wetekuShushiswa kweMphakatsi kanye naNkhomishana waVelonkhe weluPhiko lwetemisebenti yemaphoyisa aseNingizimu Afrika, lapho kufanele kube khona loku kutsintsana: 35

- (a) sikhungo noma tikhungo ngekhatshi emaphoyiseni letitawuniketwa luphenyo lwemacala ekushushumbisa;
- (b) indlela lekutawubukwa ngayo kubikwa kwaletinsolo temacala ekushushumbisa; 45
- (c) tindlela lekutawutsintfwana ngato nelitsembe lebashushisi iyadzingeka ngalombono wekuhola luphenyo lwemacala ekushushumbisa kwentela kutfolabufakazi lobudzingekako nekutfola bofakazi labafanele;
- (d) tinyatselo letitawutsatfwa kwentela kulandzelela kwalohlukunyetiwe kumachweba aseNingizimu Afrika kanye nemincele; 50
- (e) luhlobo lwelwatiso lekufanele lutfolakale kulabahlukunyetwe kushushunjiswa kwentela kuniketa lolo lwati kubetekushushisa kwentela kuncuma bukhulu bemonakalo lohlangabetane nalomuntfu lapho angacela kuncepheleliswa khona ngekwesigaba 9; 55
- (f) nekucokelelwa kanye nekuhlaliywa kweminingwane yalabahlukunyetwe kushushunjiswa labasuswe eriphabhulikhi ngekwemigomo yesigaba 32 lehlobene ne—

- (i) lamave lapho khona labahlukunyetiwe bashushujiselwa eRiphabhulikhi;
- (ii) emave lapho khona bantfu baseNingizimu Afrika bashushujiselwa khona nalabanye bahlali bashushunjiselwa khona; 60

- (iii) the nationality of victims transiting the Republic and the countries to which they are being trafficked;
  - (iv) the areas in the Republic to and from which victims are being trafficked;
  - (v) the purposes for which the persons who have been identified as victims of trafficking have been trafficked; 5
  - (vi) the profiles of the traffickers and their victims, including their age, gender, nationality and sex;
  - (vii) the routes used by traffickers to enter and exit the Republic;
  - (viii) the methods used by traffickers to recruit and transport their victims; 10
  - (ix) the methods used by traffickers to keep victims in exploitative situations;
  - (x) the methods and routes used for trafficking victims within the Republic;
  - (xi) the types of travel documents that traffickers and their victims have used or attempted to use to cross the borders of the Republic and how those documents were obtained; and
  - (xii) the link between trafficking operations and those involved in other forms of organised crime. 15
- (3) The National Commissioner of the South African Police Service must provide an annual report on the information referred to in subsection (2)(f) or any other relevant information to the Director-General: Justice and Constitutional Development, as determined by him or her. 20
- (4) The Director-General: Home Affairs must, after consultation with the Directors-General: Health, International Relations and Cooperation, Justice and Constitutional Development, Labour, Social Development, State Security Agency and Women, Children and People with Disabilities, the Chief Executive Officer: Government Communication and Information System, the National Director of Public Prosecutions and the National Commissioner of the South African Police Service, where such consultation is necessary and relevant, issue directives regarding the collection and analysis of information on victims of trafficking who have been repatriated from the Republic in terms of section 31 and victims who have been repatriated to the Republic in terms of section 33, relating to— 30
- (a) the number of victims who have been repatriated to the Republic and the countries to which they have been trafficked;
  - (b) the profiles of the victims, including the age, gender, nationality and sex of the victims;
  - (c) the purposes for which the victims were trafficked; 35
  - (d) the routes used by traffickers to exit the Republic and to enter the countries to which the victims were trafficked;
  - (e) the methods used by traffickers to recruit and transport the victims;
  - (f) the methods used by traffickers to keep victims in exploitative situations; and
  - (g) the types of travel documents that traffickers and their victims have used or attempted to use to exit the Republic and to enter the countries to which the victims were trafficked and how these documents were obtained. 40
- (5) (a) The Minister of Home Affairs must submit all directives provided for in subsection (4) to Parliament 30 days before they are issued.
- (b) The Director-General: Home Affairs must, after the expiry of the 30-day period, publish the directives on the website of the Department of Home Affairs. 45
- (c) The Director-General: Home Affairs must provide an annual report on the information referred to in subsection (4) or any other relevant information to the Director-General: Justice and Constitutional Development, as determined by him or her.
- (6) The Director-General: Social Development must issue directives regarding the following matters with which all police officials, members of the prosecuting authority and other functionaries must comply in the execution of their functions in terms of this Act, after consultation with the Directors-General: Health, Home Affairs, International Relations and Cooperation, Justice and Constitutional Development, Labour, State Security Agency and Women, Children and People with Disabilities, the Chief Executive Officer: Government Communication and Information System, the National 50 55

- (iii) buve bebantfu labahlukunyetiwe labasuka eRiphabhulikhi nalamave labashushunjiselwa kuwo;
- (iv) linani lalabahlukumetekile basuswa eriphabhulikhi kanye nasemaveni labashushunjiselwe kuwo;
- (v) tinjongo tekushushunjiswa kwalabahlukumetekile; 5
- (vi) imininingwane yalabahlukumetekile, kubandzakanya bulili kanye neminyaka yabo;
- (vii) imizila lesetjentiswe bashushumbisi kuphuma eriphabhulikhi kanye nekungena emaveni labahlukumetiwe labashushunjiselwa kuwo;
- (viii) tindlela letisetjentiswe bashushumbisi kutfola kanye nekutfutsa labahlukumetekile; 10
- (ix) tindlela letisetjentiswa bashushumbisi kugcina labahlukunyetiwe bacashatwa;
- (x) tindlela kanye nemizila lesetjentiselwa kushushumbisela bantfu eRiphabhulikhi 15
- (xi) naletinhlobo letincwadzi letigunyata kungena kulamanye emave letisetjentiswe bashushumbisi kanye nalabo labashushunjiwe noma labazame kutisebentisa kuphuma eriphabhulikhi kanye nekungena emaveni lekwashushunjiselwa kuwo labahlukumetekile nekutsi ngabe letincwadzi tatfolakala njani. 20
- (xii) Kuchumana kwekushushunjiswa kanye nemisebenti yebugebengu lobuhleliwe.
- (3) UMcondzisi-Jikelele: weTemisebenti Yemaphoyisa Velonkhe kumele anikete umbiko wemnyaka mayelana nemininingwane leshiwo kusigatjana (2)(f) noma ngalemnye imininingwane lecondzene ihanjiswe kuMcondzisi jikelele: Bulungiswa Nekutfufukiswa Kwemtsetfosisekelo, njengoba kuncunye nguye. 25
- (4) UMcondzisi-Jikelele: Wetemisebenti kumele, ngemuva kwekucocisana neba-Condzisi-Jikelele: weTemphilo, Budlelwano bemave ngemave kanye nekuSebentisana, Bulungiswa kanye nekuTfufukiswa kweMtsetfosisekelo, kuTfufukiswa kweMiphakatsi, kanye neMcondzisi wavelonkhe wetekuShushiswa kweMiphakatsi kanye neNkhomishana yaVelonkhe yeLuphiko lwetemisebenti yemaphoyisa aseNingizimu Afrika, lapho khona lokutsintsana kufanele khona, bakhipe imiyalelo lemayerana naletindzaba tekushushunjiswa kwalabo lababuyiselwe emuva eRiphabhulikhi ngekwesigaba 31 kanye nalabashushunjiwe labayiswe ngaphandle kweRiphabhulikhi ngekuya ngesigaba 33, kucondziswe ku— 35
- (a) sizatfu laba labahlukunyetiwe lebashushunjiselwa sona;
- (b) imininingwane yabo kufaka ekhatsi iminyaka, bulili, nebuve baloshushunjisiwe;
- (c) tizatfu lapho labahlukunyetiwe bebashushunjisiwe;
- (d) imizila lesetjentiswe ngulabashushumbisako kuphuma eRiphabhulikhi nekungena emaveni lapho bekushushunjiselwe khona labahlukunyetiwe; 40
- (e) tindlela letisebentiswa ngulabashushumbisako kutfutsa nekumema labashushunjisiwe;
- (f) tindlela letisetjentiswe bashushumbisi kugcina labashushunjisiwe basesimeni sekuhlukunyetwa; kanye 45
- (g) netinhlobo temaphepha ekuhamba lasetjentiswe bashushumbisi nalabashushunjiwe noma labazame kutisebentisa kuphuma eRiphabhulikhi kanye nekungena emaveni lapho khona labashushunjiwe bashushunjiselwe khona nekutsi lamaphepha atfolakele njani.
- (5) (a) Ngcongcoshe weTasekhaya kufanele etfule yonkhe imiyalelo leniketiwe kwentela sigatjana (4) ePhalamende ngembi kwemalanga langema-30 ngembi kwekutsi ikhishwe. 50
- (b) Umcondzisi Jikelele: weTasekhaya kufanele, ngemuva kwekuphela kwalamalanga langema-30, akhiphe lemiyalelo kuwebhusayithi yeLitiko leTasekhaya.
- (c) Umcondzisi Jikelele: weTasekhaya kufanele etfule umbiko wemnyaka kulolwatiso lolubalwe kusigatjana (4) noma lolunye lwatiso lolufanele kuMcondzisi Jikelele: Bulungiswa Nekutfufukiswa Kwemtsetfosisekelo, njengoba kuncunye nguye. 55
- (6) Umcondzisi Jikelele: Tekutfufukiswa Kwemphakatsi kufanele anikete imiyalelo lephatselene netindzaba letilandzelako kutsi onkhe emaphoyisa, emalunga ekushushisa kanye netisebenti tekushushisa kufanele tibambisane nekucalwa kwalomsebenti ngekwaloMtsetfo, ngemuva kwekucocisana nebaCondzisi-Jikelele: WeteMphilo, tiNdzaba Tasekhaya, weteBudlelwano bemave ngemave kanye nekuSebentisana,

Director of Public Prosecutions, the Commissioner of the South African Revenue Service and the National Commissioner of the South African Police Service, where such consultation is necessary and relevant:

- (a) The manner in which victims of trafficking must be identified, interviewed and treated, with particular attention to the vulnerability of children; and 5
  - (b) the referral of victims of trafficking to social, health care and psychological services.
- (7) (a) The Minister of Social Development must submit all directives provided for in subsection (6) to Parliament 30 days before they are issued.
- (b) The Director-General: Social Development must, after the expiry of the 30-day 10 period, publish the directives on the website of the Department of Social Development.
  - (c) The Director-General: Social Development must provide an annual report on any relevant information to the Director-General: Justice and Constitutional Development, as determined by him or her.
- (8) The National Director of Public Prosecutions must issue directives regarding all 15 matters which are necessary or expedient to be provided for and which are to be complied with by all members of the prosecuting authority who are tasked with the institution and conducting of prosecutions in cases relating to trafficking in persons, in consultation with the Minister and after consultation with the Directors-General: Health, 20 Home Affairs, International Relations and Cooperation, Justice and Constitutional Development, Labour, Social Development, State Security Agency and Women, Children and People with Disabilities and the National Commissioner of the South African Police Service, the Commissioner of the South African Revenue Service and the Chief Executive Officer: Government Communication and Information System, where such consultation is necessary and relevant, including the following: 25
- (a) the manner in which cases relating to trafficking in persons should be dealt with;
  - (b) the criteria to be used and the circumstances in which the prosecution must apply to court for an order that a witness and, in particular, child witnesses 30 give evidence by means of closed circuit television as provided for in section 158 of the Criminal Procedure Act, if the court does not make an order on its own accord in terms subsection (2)(a) of that section or if an application in terms of subsection (2)(b) of that section is not made;
  - (c) the criteria to be used and the circumstances in which the prosecution must request the court to consider appointing a competent person as an intermedi- 35 ary as provided for in section 170A of the Criminal Procedure Act, in respect of a child witness;
  - (d) the circumstances in which the prosecution must request the court to consider directing that the proceedings may not take place in open court as provided for in section 153 of the Criminal Procedure Act; 40
  - (e) the circumstances in which the prosecution must request the court to consider directing that the identity of a witness should not be revealed or that it should not be revealed for a period specified by the court as provided for in section 153 of the Criminal Procedure Act;
  - (f) the circumstances in which the prosecution must request the court to consider 45 prohibiting the publication of the identity of the complainant in the case as provided for in section 154 of the Criminal Procedure Act or of the complainant's family, including the publication of information that may lead to the identification of the complainant or the complainant's family;
  - (g) the need to inform victims of trafficking about their right to and the process to 50 claim compensation in terms of section 29;
  - (h) the kind of information that must be obtained from a victim of trafficking for purposes of determining the quantum of the damages suffered by the victim for which he or she may claim compensation in terms of section 29; and
  - (i) the collection and analysis of information relating to— 55
    - (i) the number of trafficking prosecutions, convictions and the form of sentences imposed on traffickers;
    - (ii) the number of victims of trafficking awarded compensation orders in terms of section 29; and
    - (iii) the number of cases where the courts did not provide compensation 60 orders in terms of section 29 and the reasons for doing so.



wetemisebenti, kuTfutukiswa kweMiphakatsi kanye neMcondzisi-Jikelele weteku-Shushiswa kweMphakatsi, Kuphepha Kwetekuvikela kanye naBomake, Bantfwana Nebantfu labaphila nekukhubateka, lapho lokutsintsana kubukeka kufanele khona:

- (a) Lendlela lapho khona bantfu labashushunjisiwe kufanele babonwe, bacociswe futsi balashwe, ngekubanakekela ngenca yekutsuntseka kwebantfwana babo; neku 5
- (b) dlulisela kwebantfu labashushunjisiwe ngetekuhlala, temphilo kanye nemisebenti lephatselene netemisebenti yengcondvo.

(7) (a) Ngcongcoshe weTekutfutukiswa Kwemphakatsi kumele ahambise yonkhe imiyalelo leniketwe sigatjana (5) ePhalamende etinsukwini letingema-30 ngaphambi kwekutsi ikhishwe. 10

(b) UMcondzisi-Jikelele: weTekutfutukiswa Kwemphakatsi kumele, uma ngabe sekuphele lamalanga langema-30, aniketele ngembiko wenyaka lomayelana neminingwane lecondzene awunikete eKomidini lelicondzisako lelisungulwe ngekwesigaba 40, njengoba kuncunywe yiKomidi lecondzisako. 15

(c) UMcondzisi-Jikelele: weTekutfutukiswa Kwemphakatsi kumele kufanele anikete umbiko wemnyaka nganoma luphi lwatso lolubalulekile kuMcondzisi Jikelele: Bulungiswa Nekuitfutukiswa Kwemtsetfosisekelo, njengoba kuncunywe nguye. 15

(8) UMcondzisi waVelonkhe: WetekuShushiswa kweMiphakatsi kumele, ngemuva kwekucocisana naNgcongcoshe, Nkhomishana waVelonke weLuphiko lwetemisebenti yemaphoyisa aseNingizimu Afrika kanye neMcondzisi-Jikelele: WeteBulungiswa kanye nekuTfutukiswa kweMtsetfosisekelo, wetiNdzaba Tasekhaya, Budlelwano bemave ngemave kanye nekuSebentisana, wetemisebenti kanye neweTemphilo, bakhiphe imiyalelo lemayelana naletindzaba letifanelekile noma emasu ekusita lokufanele aniketelwe futsi lekumele alandzelwe emalunga onkhe eluphiko lwetekushushisa advutjwe nesikhungo futsi ashushisa emacala lahlobene nekushushunjiswa kwebantfu, kubandzakanya loku lokulandzelako: 20

- (a) Indlela yekubukana nematicala lahlobene nekushushunjiswa kwebantfu;
- (b) inchubo letawusetjentiswa kanye naletimo lekutawushushiswa ngaphansi kwato enkantolo umyalelo wekutsi fakazi, lowo, bammangali lababantfwana labaniketa bufakazi ngalokusebentisa imifanekiso lecoshiwe yamabonakudze njengoba kuniketiwe kusigaba 158 se-Criminal Procedure Act, kutsetfwa kwemacala nekugwetjwa kwetigebengu, uma inkantolo ingawukhiphi umyalelo wentsandvo yayo ngekwe migomo yesigatjana (2)(a) saleso sigaba noma uma sicelo ngekwe migomo yesigatjana (2)(b) saleso sigaba singakentiwa; 30
- (c) inchubo letawusetjentiswa kanye naletimo lapho luphiko lekushushisa kumele lucele inkantolo kutsi icashe umuntfu lowati umsebenti itawusebenta njengomchumanisi njengoba kuniketiwe kusigaba 170A se-Criminal Procedure Act, mayelana nemntfwana longufakazi; 40
- (d) timo lapho luphiko lwetekushushisa lekumele lucele inkantolo kutsi incume kutsi kuchutjwa kwelicala kungentelwa enkantolo levulelekile njengoba kuniketiwe kusigaba 153 se-Criminal Procedure Act;
- (e) timo lapho luphiko lwetekushushisa kumele lucele inkantolo kutsi incume kutsi fakazi angadzalulwa noma angadzalulwa sikhatsi lesincunywe inkantolo njengoba kuniketiwe kusigaba 153 se-Criminal Procedure Act; 45
- (f) timo lapho luphiko lwetekushushisa kumele lucele inkantolo kutsi ivimbele kushicilelwa kwekudzalulwa kwemangali ecaleni njengoba kuniketiwe kusigaba 154 se-Criminal Procedure Act noma kumndeni wemangali, kubandzakanya kudzalulwa kwemininingwane lengaholela ekuveteni ummangali noma umndeni wemangali; 50
- (g) sidzingo sekwatisa labahlukunyetwe kushushunjiswa ngelilungelo labo kanye nendlela yekucela inkokhelo yenhlawulo ngekwe migomo yesigaba 29;
- (h) luhlobo lwemininingwane lekumele itfolakale kulohlukunyetwe kushushunjiswa ngenjongo yekutfoa bungako bemonakalo lowenteke kulohlukumetekile lapho angafaka sicelo sekutsi akhokhelwe inhlawulo ngekwe migomo yesigaba 27; 55
- (i) kucokelelwa kanye nekuhlaliywa kwemininingwane lehlobene ne—
  - (i) linani lekushushiswa kwekushushumbisa, labahlwa ngemacala kanye neluhlobo lwetigwebo letitfwe swa bashushumbisi; 60
  - (ii) linani lalabahlukunyetwe kushushunjiswa labaniketa umyalelo weku-khokhelwa inhlawulo ngekwe migomo yesigaba 27 kanye
  - (iii) linani lemacala lapho inkantolo inganiketanga imiyalelo yekukhokhelwa inhlawulo ngekwe migomo yesigaba 27 kanye naletizatfu taloko.

(9) (a) The Minister must submit any directives provided for in subsection (8) to Parliament 30 days before they are issued.

(b) The National Director of Public Prosecutions must, after the expiry of the 30-day period, publish the directives on the website of the National Prosecuting Authority.

(c) The National Director of Public Prosecutions must provide an annual report on the information referred to in subsection (8)(i) or any other relevant information to the Director-General: Justice and Constitutional Development as determined by him or her. 5

(10) The Director-General: Justice and Constitutional Development, the National Commissioner of the South African Police Service, the National Director of Public Prosecutions and the Directors-General: Home Affairs, Labour and Social Development 10 must each develop training courses which must—

(a) include training, also incorporating social context training, on the national instructions or directives, as the case may be, referred to in this section; and

(b) provide for and promote the use of uniform norms, standards and procedures, to ensure that all police officials, prosecutors and other functionaries are able to deal 15 with matters relating to trafficking in persons in an appropriate, efficient and sensitive manner.

(11) The national instructions or directives referred to in this section must provide that adequate disciplinary steps are taken against any police official, prosecutor or other functionary who fails to comply with any duty imposed on him or her in terms of this Act 20 or the national instructions or directives issued in terms of this Act.

(12) Any national instruction or directive issued under this section may be amended or withdrawn in like manner.

#### **Delegation of powers and assignment of duties by Director-General to senior official** 25

45. (1) Any Director-General referred to in this Act may, subject to subsection (4), delegate any power or assign any duty conferred on or assigned to him or her by this Act to an official in the employ of his or her Department above the rank of director.

(2) A delegation or assignment in terms of subsection (1)—

(a) is subject to any limitations, conditions and directions which a Director-General may impose; 30

(b) must be in writing; and

(c) does not divest a Director-General of the responsibility concerning the exercise of the power or the performance of the duty.

(3) A Director-General may— 35

(a) confirm, vary or revoke any decision taken in consequence of a delegation or assignment in terms of this section, subject to any rights that may have accrued to a person as a result of the decision; and

(b) at any time withdraw a delegation or assignment.

(4) A Director-General may not delegate a power or assign a duty conferred on or assigned to him or her by section 15, 16, 31, 38, 39, 41 or 44 of this Act. 40

#### **Assignment of powers and duties by Director-General to provincial head**

46. (1) Any Director-General referred to in this Act may, subject to subsection (4), assign any power or duty conferred on or assigned to him or her by this Act to a provincial head of the corresponding provincial department, by agreement with that 45 provincial head.

(2) An assignment in terms of subsection (1)—

(a) is subject to any limitations, conditions and directions which a Director-General may impose;

(b) must be in writing; 50

- (9) (a) Ngcongcoshe kumele ahambise imiyalelo leniketiwe kusigatjana (7) ayihambise ePhalamende etinsukwini letingema-30 ngaphambi kwekutsi ishicilelwe; futsi
- (b) UMcondzisi waVelonkhe wetekuShushiswa kweMiphakatsi kufanele, ngemuva kwaletinsuku letingema-30, akhiphe lemiyalelo kuwebhusayithi lesemsetfweni weLihhovi Letekushushisa Velonkhe. 5
- (c) UMcondzisi waVelonkhe wetekuShushiswa kweMiphakatsi kumele anikete umbiko wenyaka mayelana neminingwane leshiwo kusigatjana (8)(i) noma leminyane iminingwane lebalulekile layinikete Umcondzisi Jikelele: Bulungiswa Nekutfufukiswa Kwemsetfosisekelo njengoba kuncume Likomidi Lelicondzisako. 10
- (10) Umcondzisi Jikelele: Bulungiswa Nekutfufukiswa Kwemsetfosisekelo, Nkhomishana waVelonkhe weluPhiko lwetemisebenti yemaphoyisa aseNingizimu Afrika, nguMcondzisi waVelonkhe wetekuShushiswa kweMiphakatsi kanye neba-Condzisi-Jikelele: beteKutfufukiswa kweMiphakatsi, tiNdzaba Tasekhaya kanye newetemisebenti kumele ngamunye asungule indlela yekucechesha lekumele ihlanganise— 15
- (a) kufaka ekhatsi kucechesha, lokubandzakanya imiyalelo yavelonkhe noma tiyalo, noma lokunye kwalokhu, lokushiwo kulesigaba; futsi
- (b) akukhutsate kwekusetjentiswa kwenkhambiso, imigomo kanye nenchubo lefanako, 20
- kucikelela kutsi bonkhe basebenti beluphiko lwetemisebenti yemaphoyisa, bashushisi, kanye nalabenta leminyane imisebenti bayakwati kubukana naletindzaba letihlobene nekushushunjiswa kwebantfu ngendlela lefanele, lekhombisa likhono kanye nalekhombisa simo lesibucayi.
- (11) Imiyalelo yavelonkhe noma tiyalo letishiwo kulesigaba kumele tiniketwe ngekutsi tinyatselo letanele tekucundzisa tigwegwe titsatselwa umsebenti weluphiko lwetemisebenti yemaphoyisa, umshushisi noma lowenta lomunye umsebenti lohluleka kwenta umsebenti aniketwe wona ngekwemigomo yaloMtsetfo noma lohluleka kulandzela imiyalelo yavelonkhe noma tiyalo ngekwemigomo yaloMtsetfo. 25
- (12) Noma ngumuphi umyalelo wavelonkhe noma umyalo lokhishwe ngaphansi kwalesigaba ungachitjijelwa noma uhociswe ngendlela lefanako. 30

**Kuniketela emandla kanye nekwabela timfanelo nguMcondzisi Jikelele abela basebenti labasetikhundleni letisetulu**

45. (1) Noma muphi Umcondzisi Jikelele loshiwo kuloMtsetfo, ngekwesigatjana (4), angagunyata emandla noma tibopho laniketwe tona ngekwemigomo yaloMtsetfo kunoma ngubani locashwe emnyangweni wakhe noma lowenta umsebenti longetulu kwesikhundla seMcondzisi. 35
- (2) Kuniketela ngemandla ngekwemigomo yesigatjana (1)—
- (a) kutawulandzela imikhawulo, imibandzela kanye nemiyalelo lebekwe nguMcondzisi-Jikelele noma Nkhomishana waVelonkhe; futsi 40
- (b) kumele kubhalwe phansi; futsi
- (c) akugunyati uMcondzisi-Jikelele noma Nkhomishana waVelonkhe etimisweni letihambisana nekusetjentiswa kweligunya noma kwentiwa kwetibopho.
- (3) UMcondzisi-Jikelele anga—
- (a) vumela, ahluke noma ahocise sincumo lesitsatfwe ngesizatfu salowo lebenikaniketwe emandla ngekwemigomo yalesigaba, mayelana nemalungelo laniketwe umuntfu ngesizatfu saleso sincumo; futsi 45
- (b) ahocise lowo loniketwe emandla.
- (4) UMcondzisi-Jikelele angayekela anganiketeli ngemandla noma tibopho aniketwe tona ngekwemigomo yesigaba 16, 16, 31, 38, 39, 41 noma 44 saloMtsetfo. 50

**Kuniketela emandla kanye nemsebenti kweMcondzisi-Jikelele abela inhloko yesifundzave**

46. (1) Noma ngumuphi uMcondzisi-Jikelele loshiwo kuloMtsetfo, ngekwesigatjana (4), anganiketela ngemandla noma abelane ngaletimfanelo latfweswe tona noma laniketwe tona nguloMtsetfo atabele inhloko yesifundza lasebenta ngendlela lefanako neyelitiko lesifundza noma atiniketete ngulophetse sifundza, ngendlela lefanako, ngalokuvumelana nenhloko yalowo mnyango. 55
- (2) Kwabela ngaletibopho ngekwemigomo yesigatjana (1)—
- (a) kutawulandzela imikhawulo, imibandzela kanye nemiyalelo lebekwe nguMcondzisi-Jikelele noma Nkhomishana wavelonkhe; 60
- (b) kumele kubhalwe phansi;

- (c) may include the power to delegate or assign; and
- (d) does not divest a Director-General of the responsibility concerning the exercise of the power or the performance of the duty.
- (3) A Director-General may—
  - (a) confirm, vary or revoke any decision taken in consequence of an assignment in terms of this section, subject to any rights that may have accrued to a person as a result of the decision; and
  - (b) at any time withdraw an assignment.
- (4) A Director-General may not assign a power or duty conferred on or assigned to him or her by section 15, 16, 31, 38, 39, 41 or 44 of this Act.

#### **Delegation of powers and assignment of duties by provincial head**

- 47.** (1) A provincial head to whom a power or duty has been assigned in terms of section 46 or upon whom a power or duty has been conferred or assigned by this Act, may, subject to subsection (4), delegate that power or assign that duty to an officer at director level or above in the employ of the provincial department concerned.
- (2) A delegation or assignment in terms of subsection (1)—
- (a) is subject to any limitations, conditions and directions which the provincial head may impose;
  - (b) must be in writing; and
  - (c) does not divest a provincial head of the responsibility concerning the exercise of the power or the performance of the duty.
- (3) A provincial head may—
- (a) confirm, vary or revoke any decision taken in consequence of a delegation or assignment in terms of this section, subject to any rights that may have accrued to a person as a result of the decision; and
  - (b) at any time withdraw a delegation or assignment.
- (4) A provincial head may not delegate a power or assign a duty conferred on or assigned to him or her by section 19(10) or (11).

### **CHAPTER 10**

#### **MISCELLANEOUS MATTERS**

##### **Laws repealed or amended**

**48.** The laws referred to in the second column of the Schedule are hereby repealed or amended to the extent indicated in the third column of the Schedule.

##### **Transitional arrangements**

- 49.** (1) Criminal proceedings instituted in terms of any law, in respect of conduct which constitutes an offence provided for in Chapter 2, but which were instituted prior to the commencement of this Act, must be continued and concluded as if this Act had not been passed.
- (2) Every organisation which existed at the time of the commencement of this Act and which —
- (a) provided services to victims of trafficking; and
  - (b) the Minister of Social Development has listed by notice in the *Gazette*,
- may continue to operate and provide such services after the commencement of this Act until the first application procedure as provided for in section 24(4)(a) has been finalised.

##### **Short title and commencement**

- 50.** (1) This Act is called the Prevention and Combating of Trafficking in Persons Act, 2013, and takes effect on a date fixed by the President by proclamation in the *Gazette*.
- (2) Different dates may be fixed in respect of different provisions of this Act.

- (c) kungabandzakanya kuniketela ngemandla noma kwabela ngemandla; futsi
- (d) akugunyati nguMcondzisi-Jikelele noma Nkhomishana wavelonkhe etimi-sweni letihambisana nekusetjentiswa kweligunya noma kwentiwa kwaletibopho.
- (3) UMcondzisi-Jikelele anga— 5
  - (a) vumelana, ahluke noma ahocise sincumo lesitsetfwe ngulowo lebehaniketwe emandla ngekwemigomo yalesigaba, mayelana nemalungelo laniketwe umuntfu ngekwaleso sincumo; futsi
  - (b) ahocise kuniketela ngemandla noma kwabela ngemandla.
- (4) UMcondzisi-Jikelele noma Nkhomishana wavelonkhe anganiketeli ngemandla noma anganiketeli ngaletibopho atweswe tona ngekwemigomo yesigaba 15, 16, 31, 38, 39, 41 noma 44 saloMtsetfo. 10

### **Kuniketela emandla kanye nekwabela timfanelo tinhloko tesifundza**

47. (1) Inhloko yesifundza leniketwe emandla noma ancunyelwe tibopho ngekwemigomo yesigaba 46 inganiketela, ngekuya ngesigatjana (4) ngemandla noma yabele tibopho kumuntfu losebentako losezingeni leMcondzisi noma lelingetulu kweMcondzisi locashwe emyangweni wesifundza lesicondzene. 15
- (2) Kuniketelwa kwemandla kanye nekwabela ngemandla ngekwemigomo yesigatjana (1)—
- (a) kutawulandzela imikhawulo, imibandzela kanye nemiyalelo lengabekwa inhloko yesifundza noma Nkhomishana wesifundza; 20
  - (b) kumele kubhalwe phansi; futsi
  - (c) akugunyati inhloko yesifundza noma Nkhomishana wesifundza letimisweni letihambisana nekusetjentiswa kwemandla laniketwe noma kwetibopho letabiwe. 25
- (3) Inhloko yesifundza noma Nkhomishana wesifundza anga—
- (a) vumelana, ahluke noma ahocise sincumo lesitsatfwe ngulowo lebehaniketwe emandla ngekwemigomo yalesigaba, mayelana nemalungelo laniketwe umuntfu ngaleso sincumo; futsi
  - (b) ahocise loniketwe emadla. 30
- (4) Inhloko yesifundza angeke yaniketela ngemandla noma inikete umsebeni locinisekiswe noma loniketwe yena ngekwasigaba 19(10) noma (11).

## **SAHLUKO 10**

### **TINDZABA LETICUBILE**

#### **Imitsetfo lecitsiwe noma lechitjiyelwe 35**

48. Ngako-ke imitsetfo leseluhlwini lwesibili lweShejuli iyacitfwa noma iyachitjiyelwa ngendlela lekhonjiswe eluhlwini lwesitsatfu lweShejuli.

#### **Emalungiselelo lasemkhatsini**

49. (1) Inchubo yebugebengu lebekwe ngekusebentisa noma muphi umtsetfo, ngalokuphatselene nekutiphatsa lokubangela licala leliniketwe kuSahluko 2, kodvwa lelibekwe ngembi kwekucala kwaloMtsetfo, kufanele lichubeke libuye licedzelelwe kwangatsi loMtsetfo awukaphasiswa. 40
- (2) Tonkhe tinhlangano lebetikhona ngalesikhatsi kucalwa loMtsetfo naleti—
- (a) niketwe imisebenti yalabashushunjiswi; kanye
  - (b) naNgcongcoshe weTekutfufukisa Umphakatsi lekakubale ngekwasatiso 45  
*kuGazethi,*
- angachubeka nekusebenta anikete leto tinsita ngemuva kwekucala kusebenta kwaloMtsetfo kute kufike kusebenta kwekucala njengoiba kuboniswe kusigaba 24(4)(a) sekucedziwe.

#### **Sihloko lesifishane kanye nekucala kusebenta 50**

50. (1) LoMtsetfo ubitwa ngekutsi uMtsetfo Lovikela futsi uLwisane Nekushushunjiswa Kwebantfu, wanga-2013, futsi uutawucala kusebenta ngelilanga lelitawuncu-nywa nguMengameli ngesimemetelo *kuGazethi*.
- (2) Tinsuku lethlukene tingabekwa ngekuhambisana nemibandzela yaloMtsetfo.

## SCHEDULE

## Laws repealed or amended

## (Section 48)

Number and year of law	Short title	Extent of repeal or amendment
Act No. 68 of 1969	Prescription Act, 1969	<p>The amendment of section 12 by the substitution for subsection (4) of the following subsection:</p> <p>“(4) Prescription shall not commence to run in respect of a debt based on the commission of an alleged sexual offence as contemplated in sections 3, 4, 17, 18(2), 20(1), 23, 24(2) and 26(1) [and 71(1) or (2)] of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007, and an alleged offence as provided for in sections 4, 5, and 7 and involvement in these offences as provided for in section 10 of the Prevention and Combating of Trafficking in Persons Act, 2013, during the time in which the creditor is unable to institute proceedings because of his or her mental or psychological condition.”.</p>
Act No. 51 of 1977	Criminal Procedure Act, 1977	<p>1. The amendment of section 18 by the substitution for paragraph (h) of the following paragraph:</p> <p>“(h) [trafficking in persons for sexual purposes by a person] offences as provided for in section [71(1) or (2) of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007] 4, 5 and 7 and involvement in these offences as provided for in section 10 of the Prevention and Combating of Trafficking in Persons Act, 2013;”.</p> <p>2. The insertion of the following section after section 261:</p> <p>“<b>Trafficking in persons</b></p> <p><b>261A.</b> (1) In this section—  <b>‘Basic Conditions of Employment Act’</b> means the Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997);</p>

## ISHEJULI 1

## Imitsetfo lecitshiwe noma lechitjiyelwe

(Sigaba 47)

Inombolo kanye nemnyaka wemtsetfo	Sihlokwana lesifushane	Indlela locitfwa ngayo noma lochitjiyelwa ngayo
Act No. 68 of 1969	Prescription Act, 1969	<p>Kuchibiyela sigaba 12 ngekufaka endzaweni yaso sigatjana (4) salesigatjana lesilandzelako:</p> <p>“(4) Lokwancunywa lokumayelana nesikweleti lekusolwa kutsi sakhiwa kwentiwa kwelicala lekuhlukumeta ngekwemacansi njengoba kushiwo akumele kucale kusebenta njengoba kuvetwe tigaba 3, 4, 17, 18(2), 20(1), 23, 24(2) kanye 26(1) [<b>kanye 71(1) noma (2)</b>] se-<i>Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007</i>, kanye nelicala lelisolwako njengoba kuniketiwe tigaba 4, 5 kanye nesi-7 semtsetfo lovikela futsi uLwisane nekushushunjiswa Kwebantfu, wanga-2013 ngesikhatsi lapho lokweletwako angakwati kutsatsa tinyatselo temtsetfo ngesizatfu sekungaphili kahle ngekwengcondvo.”.</p>
Act No. 51 of 1977	Criminal Procedure Act, 1977	<p>1. Kuchibiyela sigaba 18 ngekufaka endzaweni yaso indzima (h) yalenzima lelandzelako:</p> <p>“(h) [<b>kushushunjiswa kwebantfu ngenhloso yekubasebentisa bantfu ngekwemacansi</b>] ngemacala njengoba kuniketiwe sigaba [<b>71(1) noma (2) se-Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007</b>] 4, 5 na 7 kanye nekungenelela kulamacala njengoba kuniketiwe kusigala 10 Semtsetfo Lovikela futsi uLwisane nekushushunjiswa Kwebantfu, wanga-2013;”.</p> <p>2. Kufakwa kwalesigaba lesilandzelako ngemuva kwesigaba 261:</p> <p>“<b>Kushushunjiswa kwebantfu</b></p> <p><b>261A. (1)</b> Kulesigaba—‘<i>Basic Conditions of Employment Act</i>’ ichaza i-<i>Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997)</i>;</p>

Number and year of law	Short title	Extent of repeal or amendment
		<p><b><u>‘Criminal Law (Sexual Offences and Related Matters) Amendment Act’</u></b> means the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007);</p> <p><b><u>‘Immigration Act’</u></b> means the Immigration Act, 2002 (Act No. 13 of 2002; and</p> <p><b><u>‘Prevention and Combating of Trafficking in Persons Act’</u></b> means the Prevention and Combating of Trafficking in Persons Act, 2013.</p> <p>(2) If the evidence on a charge of trafficking in persons provided for in section 4 or any involvement in the offence as provided for in section 10 of the Prevention and Combating of Trafficking in Persons Act, does not prove the offence of trafficking in persons or the involvement in the offence, but the offence of—</p> <p>(a) <u>assault with intent to do grievous bodily harm;</u></p> <p>(b) <u>common assault;</u></p> <p>(c) <u>rape as provided for in section 3 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act;</u></p> <p>(d) <u>compelled rape as provided for in section 4 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act;</u></p> <p>(e) <u>sexual assault as provided for in section 5 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act;</u></p> <p>(f) <u>compelled sexual assault as provided for in section 6 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act;</u></p> <p>(g) <u>compelled self-sexual assault as provided for in section 7 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act;</u></p>



Inombolo kanye nemnyaka wentsetfo	Sihlokwana lesifushane	Indlela locitfwa ngayo noma lochitjiyelwa ngayo
		<p><b><u>‘Criminal Law (Sexual Offences and Related Matters) Amendment Act’</u></b> ichaza i-Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007); <b><u>‘Immigration Act’</u></b> ichaza i-Immigration Act, 2002 (Act No. 13 of 2002; futsi</p> <p><b><u>‘UMtsetfo Lovikela futsi uLwisane Nekushushunjiswa Kwebantfu’</u></b> uchaza uMtsetfo lovikela futsi uLwisane Nekushushunjiswa Kwebantfu, wanga-2013.</p> <p>(2) Uma bufakazi ecaleni lekushushunjiswa kwebantfu lelishiwo sigaba 4 noma Kuphi kungenelela kulelicala njengoba kuniketiwe kusigaba 10 semtsetfo lovikela futsi uLwisane Nekushushunjiswa Kwebantfu noma ngabe ngumuphi umzamo wekwenta lelo cala, longaveti licala lekushushunjiswa kwebantfu, kodvwa loveta licala loku—</p> <p>(a) shaya ngenhloso yekulimata;</p> <p>(b) shaya;</p> <p>(c) dlwengula njengoba kushiwo sigaba 3 se-Criminal Law (Sexual Offences and Related Matters) Amendment Act) noma ngumuphi umzamo wekwenta lelo cala;</p> <p>(d) phoca kuya emacansini nemuntfu njengoba kuniketiwe sigaba 4 se-Criminal Law (Sexual Offences and Related Matters) Amendment Act noma ngabe ngumuphi umzamo wekwenta lelo cala;</p> <p>(e) shaya ngalokuhlukumeta ngekwemacansi njengoba kuniketiwe kusigaba 5 se-Criminal Law (Sexual Offences and Related Matters) Amendment Act noma ngabe ngumuphi umzamo wekwenta lelo cala;</p> <p>(f) kuphocelela kuya ecansini ngalokushaya njengoba kuniketiwe kusigaba 6 se-Criminal Law (Sexual Offences and Related Matters) Amendment Act) noma lomunye umzamo wekwenta lelo cala;</p> <p>(g) phoca ngalokushaya kanye nekuhlukumeta ngekwemacansi njengoba kuniketiwe kusigaba 7 se-Criminal Law (Sexual Offences and Related Matters) Amendment Act noma ngabe ngumuphi umzamo wekwenta lelo cala;</p>

Number and year of law	Short title	Extent of repeal or amendment
		<p><u>(h) debt bondage as provided for in section 5 or any involvement in the offence as provided for in section 10 of the Prevention and Combating of Trafficking in Persons Act;</u></p> <p><u>(i) the possession, destruction, confiscation, concealment of or tampering with documents as provided for in section 6 or any involvement in the offence as provided for in section 10 of the Prevention and Combating of Trafficking in Persons Act;</u></p> <p><u>(j) using the services of a victim of trafficking as provided for in section 7 or any involvement in the offence as provided for in section 10 of the Prevention and Combating of Trafficking in Persons Act;</u></p> <p><u>(k) conduct facilitating trafficking in persons as provided for in section 8 or any involvement in the offence as provided for in section 10 of the Prevention and Combating of Trafficking in Persons Act;</u></p> <p><u>(l) transporting a person within or across the borders of the Republic knowing that the person is a victim of trafficking as provided for in section 9(1) or any involvement in the offence as provided for in section 10 of the Prevention and Combating of Trafficking in Persons Act;</u></p> <p><u>(m) entering or remaining in, or departing from the Republic as provided for in section 49(1)(a) of the Immigration Act;</u></p> <p><u>(n) knowingly assisting a person to enter or remain in, or depart from the Republic as provided for in section 49(2) of the Immigration Act;</u></p> <p><u>(o) employing a child as provided for in section 43 of the Basic Conditions of Employment Act; or</u></p> <p><u>(p) forced labour as provided for in section 48 of the Basic Conditions of Employment Act,</u>  <u>the accused may be found guilty of the offence so proved.”.</u></p>

Inombolo kanye nemnyaka wemtsetfo	Sihlokwana lesifushane	Indlela locitfwa ngayo noma lochitjiyelwa ngayo
		<p>(h) <u>bophetela ngesikweletu njengoba kuniketiwe sigaba 5 noma kuphi kungenelela kulelicala njegoba kuniketiwe kusigaba 10 Semtsetfo Lovikela futsi uLwisane Nekushushunjiswa Kwebantfu;</u></p> <p>(i) <u>cekela phansi, kudla, kugcina, kufihla noma kulimata tincwadzi njengoba kuniketiwe kusigaba 6 noma kuphi kungenelela kulelicala njengoba kuniketiwe kusigaba 10 Semtsetfo Lovikela futsi uLwisane nekushushunjiswa Kwebantfu;</u></p> <p>(j) <u>sebentisa lohlukunyetwe kushushunjiswa njengoba kuniketiwe kusigaba 7 noma kuphi kungenelela kulelicala njegoba kuniketiwe kusigaba 10 Semtsetfo Lovikela futsi uLwisane nekushushunjiswa Kwebantfu;</u></p> <p>(k) <u>asebente ngekushushumbisa bantfu njengoba kuniketiwe kusigaba 8 noma kuphi kungenelela kulelicala njengoba kuniketiwe kusigaba 10;</u></p> <p>(l) <u>kuhambisa umuntu kuleki noma ngaphandle kwemingcele yakuleli laseRiphabhulikhi wati kahle kutsi lomuntu uyatsintseka ekushushunjisweni njengoba kuniketiwe kusigaba 9(1) noma kuphi kungenelela kulelicala njengoba kuniketiwe kusigaba 10;</u></p> <p>(m) <u>ngena noma kuhlala, noma kuphuma eriphabhulikhi njengoba kuniketiwe kusigaba 49(1)(a) se-Immigration Act;</u></p> <p>(n) <u>sita ube nelwati lekutsi kulicala kusita umuntu kutsi angene noma ahlale, noma aphume eriphabhulikhi njengoba kuniketiwe kusigaba 49(2) se-Immigration Act;</u></p> <p>(o) <u>cashu bantfwana njengoba kuniketiwe kusigaba 43 se-Conditions of Employment Act; noma</u></p> <p>(p) <u>phocelela umuntu kutsi asebente njengoba kuniketiwe kusigaba 48 se-Conditions of Employment Act, ummangalelwa angatfolakala anelicala uma kunebufakazi baloko.”.</u></p>

Number and year of law	Short title	Extent of repeal or amendment
		<p>3. The amendment of section 299A by—</p> <p>(a) the substitution in subsection (1) for paragraphs (e) and (f) of the following paragraphs:</p> <p>(e) kidnapping; <b>[or]</b></p> <p>(f) any conspiracy, incitement or attempt to commit any offence contemplated in paragraphs (a) to (e)[,] ; <b>or</b>; and</p> <p>(b) the addition in subsection (1) of the following paragraph after paragraph (f):</p> <p>“(g) offences as provided for in section 4, 5 and 7 and involvement in these offences as provided for in section 10 of the <u>Prevention and Combating of Trafficking in Persons Act, 2013.</u>”.</p> <p>4. The amendment of Schedule 1 by the substitution for the item “[<b>Trafficking in persons for sexual purposes by a person contemplated in section 71(1) or (2) of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007</b>]” of the following item:</p> <p>“<u>Trafficking in persons as provided for in section 4 and involvement in the offence as provided for in section 10 of the Prevention and Combating of Trafficking in Persons Act, 2013.</u>”.</p> <p>5. The amendment of Part II of Schedule 2 by the substitution for the item “[<b>Trafficking in persons for sexual purposes by a person contemplated in section 71(1) or (2) of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007</b>]” of the following item:</p> <p>“<u>Offences provided for in section 4, 5 and 7 and involvement in these offences as provided for in section 10 of the Prevention and Combating of Trafficking in Persons Act, 2013.</u>”.</p> <p>6. The amendment of Part III of Schedule 2 by the insertion of the following item after the item of “Childstealing”:</p> <p>“<u>Offences as provided for in section 4, 5 and 7 and involvement in these offences as provided for in section 10 of the Prevention and Combating of Trafficking in Persons Act, 2013.</u>”.</p>

Inombolo kanye nemnyaka wemtsetfo	Sihlokwana lesifushane	Indlela locitfwa ngayo noma lochitjiyelwa ngayo
		<p>3. Kuchitjiyelwa kwesigaba 299A ngeku—</p> <p>(a) khipha kufakwe kusigatjana (1) kundzima (e) na (f) kuletindzima letilandzelako:</p> <p>(e) kutfumba; [noma]</p> <p>(f) noma liphi luzungu, kugcugcutela noma kutama kwenta noma liphi licala lelivetwe kutindzima (a) kuya ku (e)[,] ; noma; kanye</p> <p>(b) lokungetwa kusigatjana (1) kwalenzima lelandzelako ngemuva kwenzima (f):</p> <p>“(g) emacala njengoba aniketiwe kusigaba 4, 5, na 7 nekungenelela kulamacala njengoba kuniketiwe kusigaba 10 seMtsetfo Lovikela futsi uLwisane Nekushushunjiswa Kwebantfu, 2013.”.</p> <p>4. Kuchibiyela sigaba 299A ngalekufaka endzaweni yeku—“[kushushunjiswa kwebantfu kute basetjentiswe ngekowemacansi umuntfu lovetwe kusigaba 71(1) noma (2) se-Criminal Law (Sexual Offences and Related Matters) Amendment Act , 2007]” kwafakwa loku lokulandzelako:</p> <p>“Kushushunjiswa kwebantfu njengoba kuvetwe kusigaba 4 semtsetfo lovikela futsi uLwisane nekushushunjiswa Kwebantfu, wanga-2013.”.</p> <p>5. Kuchibiyela iNgcenye II yeSheduli 2 ngalekufaka [“Kushushunjiswa kwebantfu kuze basetjentiswe ngekwemacansi umuntfu lovetwe kusigaba 71(1) noma (2) se-Criminal Law (Sexual Offences and Related Matters) Amendment Act , 2007]” kwafakwa loku lokulandzelako:</p> <p>“Kushushunjiswa bantfu njengoba kuvetwe kusigaba 4 semtsetfo lovikela futsi uLwisane nekushushunjiswa Kwebantfu , wanga-2013.”.</p> <p>6. Kuchibiyela iNcenyane III yeShejuli 2 ngalokufaka loku lokulandzelako ngemuva kweligama lelitsi “Kuntjontjwa kwebantfwana”:</p> <p>“Kushushunjiswa Kwebantfu lokuvetwe kusigaba 4 semtsetfo lovikela futsi uLwisane nekushushunjiswa Kwebantfu, wanga-2013.”.</p>

Number and year of law	Short title	Extent of repeal or amendment
		<p>7. The amendment of Schedule 5 by the substitution for the item “[<b>Any trafficking related offence by a commercial carrier as contemplated in section 71 (6) of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007</b>]” of the following item:  <u>“Offences as provided for in section 4, 5, 7 and 9(1) and involvement in these offences as provided for in section 10 of the Prevention and Combating of Trafficking in Persons Act, 2013.”</u></p> <p>8. The amendment of Schedule 6 by the substitution for the item “[<b>Trafficking in persons for sexual purposes by a person as contemplated in section 71(1) or (2) of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007</b>]” of the following item:  <u>“Offences as provided for in section 4, 5 and 7 and involvement in these offences as provided for in section 10 of the Prevention and Combating of Trafficking in Persons Act, 2013.”</u></p>
Act No. 105 of 1997	Criminal Law Amendment Act, 1997	<p>1. The amendment of Part I of Schedule 2 by the substitution for the item “[<b>Trafficking in persons for sexual purposes by a person as contemplated in section 71(1) or (2) of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007</b>]” of the following item:  <u>“Trafficking in persons as provided for in section 4(1) and involvement in the offence as provided for in section 10 of the Prevention and Combating of Trafficking in Persons Act, 2013.”</u></p>

Inombolo kanye nemnyaka wentsetfo	Sihlokwana lesifushane	Indlela locitfwa ngayo noma lochitjiyelwa ngayo
		<p>7. Kuchibiyela ishejuli 5 ngekufaka “[Noma liphi licala lelihlobene nekushushumbisa leleniwa umtfutsi ngenhloso yekushushunjiswa njengoba kuvetwe kusigaba 71(6) se-Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007]” kwafakwa loku lokulandzelako: “Noma liphi licala lelihlobene nekushushunjiswa leleniwa umtfutsi njengoba kuniketiwe kusigaba 9 semtsetfo lovikela futsi uLwisane nekushushunjiswa Kwebantfu, wanga-2013.”.</p> <p>8. Kuchitjiyelwa kweShejuli 6 ngekukhipha lomucu lolandzelako “[Kushushunjiswa kwebantfu kwentwela tizatfu temuntfu njengoba kuvetwe kusigaba 71(1) noma (2) se-Criminal Law) Sexual Offences and Related Matters) Amendment Act, 2007]” kufakwe lomucu lolandzelako: Emacala njengoba abekiwe kutigaba 4, 5 na 7 kanye nekungenelela kulamacala njengoba kubekiwe kusigaba 10 SeMtsetfo Wekuvikela Nekulawula Kushushunjiswa Kwebantfu, 2013”.</p>
Act No.105 of 1997	Criminal Law Amendment Act, 1997	<p>1. Kuchibiyela iNcenyane I yeShejuli 2 ngalokususa “[Kushushunjiswa kwebantfu kuze basetjentiswe ngekwemacansi umuntfu lovetwe kusigaba 71(1) noma (2) se-Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007]” kwafakwa lokhu lokulandzelako: “Kushushunjiswa kwebantfu njengoba kuniketiwe kusigaba 4 semtsetfo lovikela futsi uLwisane nekushushunjiswa Kwebantfu , wanga-2013.”.</p>

Number and year of law	Short title	Extent of repeal or amendment
		2. The amendment of Part III of Schedule 2 by the deletion of the item “[ <b>Any trafficking related offence by a commercial carrier as contemplated in section 71 (6) of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007</b> ]”.
Act No. 112 of 1998	Witness Protection Act, 1998	The amendment of the Schedule by the substitution for item 10A of the following item:  “ <b>10A. [Trafficking in persons for sexual purposes by a person or commercial carrier as contemplated in section 71 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007] Any offence under Chapter 2 of the Prevention and Combating of Trafficking in Persons Act, 2013.</b> ”.
Act No. 121 of 1998	Prevention of Organised Crime Act, 1998	The amendment of Schedule 1 by the insertion after item 33 of the following item:  “ <b>33A. Any offence under Chapter 2 of the Prevention and Combating of Trafficking in Persons Act, 2013;</b> ”.
Act No. 56 of 2001	Private Security Industry Regulation Act, 2001	The amendment of the Schedule by the substitution for the item “[ <b>Trafficking in persons for sexual purposes by a person contemplated in section 71 (1) or (2) of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007</b> ]” of the following item: “ <u>Any offence under Chapter 2, except section 9(3), of the Prevention and Combating of Trafficking in Persons Act, 2013.</u> ”.



Inombolo kanye nemnyaka wemtsetfo	Sihlokwana lesifushane	Indlela locitfwa ngayo noma lochitjiyelwa ngayo
		2. Kuchibiyela iNgcenywe III yeSheduli 2 ngalokususa “[Noma liphi licala lelihlobene nekushushunjiswa lelentiwe ngumuntfu ngenhloso yekushushunjiswa njengoba kuvetwe kusigaba 71(6) se-Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007]”.
Act No.112 of 1998	Witness Protection Act, 1998	Kuchibiyela ishejuli ngalokususa lencenye lelandzelako yeluhlamvu 10A:  “10A. Kushushunjiswa kwebantfu [kuze basetjentiswe ngekwemacansi umuntfu noma umtsetfo ngenhloso yekushushunjiswa njengoba kuvetwe kusigaba 71 se-Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007]” noma liphi licala lelingaphasi kweSahluko 2 Semtsetfo Lovikela futsi uLwisane Nekushushunjiswa Kwebantfu , wanga-2013.”.
Act No. 121 of 1998	Prevention of Organised Crime Act, 1998	1. Kuchibiyela ishejuli 1 ngalokufaka loku lokulandzelako ngemuva keluhlamvu 33:  “33A. Noma liphi licala lelingaphasi kweSahluko 2 Semtsetfo Lovikela futsi uLwisane Nekushushunjiswa Kwebantfu , wanga-2013.”.
Act No. 56 of 2001	Private Security Industry Regulation Act, 2001	Kuchibiyela ishejuli ngalokususa “[Kushushunjiswa bantfu kuze basetjentiswe ngekwemacansi umuntfu lovetwe kusigaba 71(1) noma (2) se-Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007]” kwafakwa loku lokulandzelako: “Noma liphi licala lelingaphasi kweSahluko 2 Semtsetfo Lovikela futsi uLwisane Nekushushunjiswa Kwebantfu, wanga-2013.”.

Number and year of law	Short title	Extent of repeal or amendment
Act No. 13 of 2002	Immigration Act, 2002	<p>1. The amendment of section 29 by—</p> <p>(a) the insertion of the following subsections after subsection (1):</p> <p style="padding-left: 40px;"><u>“(1A) A port of entry visa issued to a foreigner before he or she became a prohibited person in terms of subsection (1)(b) must be withdrawn.</u></p> <p style="padding-left: 40px;"><u>(1B) Subsection (1)(b) does not prohibit the relevant authorities from bringing a person to the Republic for prosecution if a warrant for his or her arrest is outstanding in the Republic.”.</u></p> <p>2. The amendment of section 35 by—</p> <p>(a) the addition of the following paragraph in subsection (5):</p> <p style="padding-left: 40px;"><u>“(e) a list of all the children on board of the conveyance indicating which children are unaccompanied.”; and</u></p> <p>(b) the insertion after subsection (5) of the following subsection:</p> <p style="padding-left: 40px;"><u>“(5A) If an immigration officer has reason to believe that any passenger on board the conveyance is a victim of trafficking, he or she must immediately report the matter, in terms of section 18(1) or 19(1) of the Prevention and Combating of Trafficking in Persons Act, 2013, to a police official.”.</u></p>

Inombolo kanye nemnyaka wentsetfo	Sihlokwana lesifushane	Indlela locitfwa ngayo noma lochitjiyelwa ngayo
Act No. 13 of 2002	Immigration Act, 2002	<p>1. Kuchibiyela kusigaba 29 ngaloku—</p> <p>(a) nangalokufakwa kwaletigatjana letilandzelako ngemuva kwesigatjana (1):</p> <p>“(1A) Ivisa noma incwadzi <u>legunyata kutsi umhlali wesikhashana aniketwe umuntfu umchamuki ngaphambi kwekutsi abe ngumhlali longavumelekile kuhlala kuleli ngekwemigomo yesigatjana (1)(b) kumele ihociswe.</u></p> <p>(1B) Sigatjana (1)(b) asaleli <u>umkhandlu locondzene kutsi ubuyise umuntfu eriphabhulikhi kutsi atoshushiswa uma seyikhishiwe incwadzi yakhe legunyata kutsi aboshwe eriphabhulikhi.</u>”.</p> <p>2. Kuchibiyela sigaba 35 ngaloku—</p> <p>(a) nangalokungeta lenzima lelandzelako esigatjeni (5):</p> <p>“(e) <u>luhla lwabo bonkhe bantfwana labagibele sitfutsi loluveta labo bantfwana labangakakhishwa.</u>”; kanye</p> <p>(b) nangalokufaka lesigatjana lesilandzelako ngemuva kwesigatjana (5):</p> <p>“(5A) <u>Uma losebentela luphiko lolulawula kufuduka anesizatfu lesenta akholwe kutsi kukhona umgibeli lokusitfutsi loshushunjiswako, kumele ngalokushesha abike loludzaba, ngekwemigomo yesigaba 18(1) noma 19(1) semtsetfo lovikela futsi uLwisane nekushushunjiswa Kwebantfu, wanga-2013, abikele losebentela ligatja letemisebenti yemaphoyisa.</u>”.</p>

Number and year of law	Short title	Extent of repeal or amendment
		<p>3. The amendment of section 49 by the addition in subsection (15) of the following paragraph:  <u>“(c) has in his or her or its possession or intentionally destroys, confiscates, conceals or tampers with any actual or purported passport, travel document or identity document of another person in furtherance of a crime, shall be guilty of an offence and liable on conviction to imprisonment for a period not exceeding 15 years without the option of a fine.”.</u></p> <p>4. The amendment of Schedule 1 by the substitution for the item “[<b>Trafficking in persons for sexual purposes by a person as contemplated in sections 71 (1), (2) or (6) of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007</b>]” of the following item: <u>“Any offence under Chapter 2 except section 9(3) of the Prevention and Combating of Trafficking in Persons Act, 2013”.</u></p>

Inombolo kanye nemnyaka wemtsetfo	Sihlokwana lesifushane	Indlela locitfwa ngayo noma lochitjiyelwa ngayo
		<p>3. Kuchibiyela sigaba 49 ngalokususa sigatjana (15) kulenzima lelandzelako: <u>(c) letfolakala kumuntfu noma lecekelwe phansi ngamabomu futsi, yadliwa, yaphatfwa, yafihlwa noma yaphambaniseka nephasiphothi mbamba noma lebekumele kube iphasiphothi, incwadzi leligunyata kuvakashela lamanye emave, noma namatise walomunye umuntfu kuchuba bulelesi, kumele atfolakale anelicala, futsi atfweswe sigwebo avalelwe ejele sikhatsi lesingadluli eminyakeni leli-15 ngaphandle kwekutsi akhokhe inhlawulo.</u>”.</p> <p>4. Kuchibiyela ishejuli 1 ngalokususa “[<b>Kushushunjiswa kwebantfu kuze basetjentiswe ngekwemacansi umuntfu njengoba kuvetiwe tigaba 71(1), (2) noma (6) se-Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007</b>]” kwafakwa loku lokulandzelako: <u>“Noma liphi licala ngaphansi kweSahluko 2 ngaphandle kwesigaba 9(3) Semtsetfo Lovikela futsi uLwisane Nekushushunjiswa Kwebantfu, wanga-2013.</u>”.</p>

Number and year of law	Short title	Extent of repeal or amendment
Act No. 38 of 2005	Children's Act, 2005	<p>1. The amendment of the Table of Contents by the deletion of the following:</p> <p>(a) <b>“CHAPTER 18 TRAFFICKING IN CHILDREN 281. Purposes of Chapter 282. UN Protocol to Prevent Trafficking in Persons to have force of law 283. International co-operation 284. Trafficking in children prohibited 285. Behaviour facilitating trafficking in children prohibited 286. Assistance to child who is victim of trafficking 287. Trafficking of child by parent, guardian or other person who has parental responsibilities and rights in respect of child 288. Reporting of child who is victim of trafficking 289. Child who is victim of trafficking found in Republic 290. Repatriation of child who is victim of trafficking 291. Extra-territorial jurisdiction”</b> and</p> <p>(b) <b>“Schedule 3”</b>.</p>

Inombolo kanye nemnyaka wentsetfo	Sihlokwana lesifushane	Indlela locitfwa ngayo noma lochitjiyelwa ngayo
<i>Act No. 38 of 2005</i>	<i>Children's Act, 2005</i>	<p>1. Kuchibiyela Lokucuketfwe kwasuswa loku lokulandzelako:</p> <p>(a) <b>“SAHLUKO 18</b>  <b>KUSHUSHUNJISWA</b>  <b>KWEBANTFWANA</b>  <b>281. Injongo yaleSahluko</b>  <b>282. Inchubo ye-UN yemtsetfo leVikela kushushunjiswa Kwebantfu</b>  <b>283. Kusebentisana kwemave eMhlaba</b>  <b>284. Akuvumelekanga kushushunjiswa kwebantfwana</b>  <b>285. Tendo tekusita kushushunjiswa kwebantfu</b>  <b>286. Kusita bantfwana labahlukumetwe kushushunjiswa</b>  <b>287. Kushushunjiswa bantfwana bashushunjiswa umtali, loyigadile noma lomunye umuntfu loyigade njengemtali lonetibopho kanye namalungelo ngalowo mntfwana</b>  <b>288. Kubika bantfwana labahlukumetwe kushushunjiswa</b>  <b>289. Bantfwana labahlukumetwe kushushunjiswa atfolakale eriphabhulikhi</b>  <b>290. Kubuyisela bantfwana labahlukumetwe kushushunjiswa eveni labo</b>  <b>291. Ligunya lemave angaphandle”</b> kanye</p> <p>(b) <b>“Ishejuli 3”.</b></p>

Number and year of law	Short title	Extent of repeal or amendment
		<p>2. The amendment of section 1 by—</p> <p>(a) the substitution for the definition of <b>“commercial sexual exploitation”</b> of the following definition:</p> <p style="padding-left: 40px;"><b>“commercial sexual exploitation”</b>, in relation to a child means [—</p> <p style="padding-left: 80px;">(a)] the procurement of a child to perform sexual activities for financial or other reward, including acts of prostitution or pornography, irrespective of whether that reward is claimed by, payable to or shared with the procurer, the child, the parent or care-giver of the child, or any other person [;</p> <p style="padding-left: 80px;"><b>or</b></p> <p style="padding-left: 80px;">(b) <b>trafficking in a child for use in sexual activities, including prostitution or pornography”</b>; and</p> <p>(b) the repeal of the definitions of <b>“trafficking”</b> and <b>“UN Protocol to Prevent Trafficking in Persons”</b>.</p>



Inombolo kanye nemnyaka wentsetfo	Sihlokwana lesifushane	Indlela locitfwa ngayo noma lochitjiyelwa ngayo
		<p>2. Kuchibiyela sigaba 1 ngaloku—</p> <p>(a) susa inchazelo “<b>kucaphata ngalokusetjentiswa ngekwemacansi ngenhloso yekushushunjiswa</b>” yalokhu lokulandzelako:</p> <p>“<b>kucaphata ngalokusetjentiswa ngekwemacansi ngenhloso yekushushunjiswa</b>” emntfwaneni kuchaza[—</p> <p>(a)] kutfola bantfwana latawusetjentiswa ngekwemacansi kute kuzuzwe imali noma kutfolwe lenye inzuzo, loku kubandzakanya tento tebuyengandvodza noma tekwenta imifanekiso yebantfu labangenalutfo, noma ngabe leyo nzuzo itfolwa, ikhokhelwa noma yabelwa lowo lowenta loko, bantfwana, umtali noma lonakekela bantfwana, noma lomunye umuntfu [; <b>noma</b></p> <p>(b) <b>kushushunjiswa bantfwana kuze isetjentiswe ngekwemacansi, kubandzakanya buyengandvodza noma imifanekiso yetemacansi</b>”]; kanye</p> <p>(b) kucitfwa kwenchazelo “<b>kushushunjiswa</b>” kanye “<b>Inchubo ye-UN yekuVikela kushushunjiswa Kwebantfu</b>”.</p>

Number and year of law	Short title	Extent of repeal or amendment
		<p>3. The repeal of Chapter 18.</p> <p>4. The amendment of section 305 by—</p> <p>(a) the repeal of subsection (1)(r) and (s);</p> <p>(b) the substitution for subsection (6) of the following subsection:</p> <p style="padding-left: 40px;">“(6) [<b>Subject to subsection (8), a</b>] <u>A</u> person convicted of an offence in terms of subsection (1), (2), (3), (4) or (5) is liable to a fine or to imprisonment for a period not exceeding ten years, or to both a fine and such imprisonment.” ; and</p> <p>(c) the repeal of subsection (8).</p> <p>5. The repeal of Schedule 3.</p>

Inombolo kanye nemnyaka wentsetfo	Sihlokwana lesifushane	Indlela locitfwa ngayo noma lochitjiyelwa ngayo
		<p>3. Kucitfwa kweSahluko 18.</p> <p>4. Kuchitfwa kwesigaba 305 ngeku—  <i>(a)</i> citsa sigatjana (1)(<i>r</i>) na (<i>s</i>);  <i>(b)</i> Kukhishwa kufakwe kusigatjana (6) lesigatjana lesilandzelako:  “<i>(6)</i> [<b>ngekuya ngesigatjana (8), a</b>] <i>umuntu lotfolwe anelicala ngekwesigatjana (1), (2), (3), (4) noma (5) utawuhlawuliswa noma avalelwe ejele sikhatsi lesingadluli iminyaka lelishumi, noma kokubili inhlawulo nekuvalelwa ejele.</i>”; kanye  <i>(c)</i> kuctfwa kwesigatjana (8).  ne-(<i>s</i>) kanye nesigatjana (8).</p> <p>5. Kucitfwa kweShejuli 3.</p>

Number and year of law	Short title	Extent of repeal or amendment
Act No. 32 of 2007	Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007	<p>1. The amendment of the long title by the deletion of the following “* <b>making interim provision relating to the trafficking in persons for sexual purposes;</b>”.</p> <p>2. The amendment of the Index by the deletion in Chapter 7 Part 6 of the following:  <b>“Transitional provisions relating to trafficking in persons for sexual purposes</b>  <b>70. Application and interpretation</b>  <b>71. Trafficking in persons for sexual purposes”</b>.</p> <p>3. The amendment of section 1 by the substitution for the definition of “sexual offence” of the following definition: ”  <b>‘sexual offence’</b> means any offence in terms of Chapters 2, 3 and 4 and section[s] 55 [<b>and 71(1), (2) and (6)</b>] of this Act and any offence referred to in <u>Chapter 2 of the Prevention and Combating of Trafficking in Persons Act, 2013, which was committed for sexual purposes;</u>”.</p> <p>4. The amendment of Chapter 7 by the deletion of the heading of Part 6.</p> <p>5. The repeal of sections 70 and 71.</p>

Inombolo kanye nemnyaka wentsetfo	Sihlokwana lesifushane	Indlela locitfwa ngayo noma lochitjiyelwa ngayo
Act No. 32 of 2007	<i>Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007</i>	<p>1. Kuchibiyela sihloko lesicacisako ngalokusa lokhu lokulandzelako “*<b>kwenta umbandzela wesikhashana lohambisana nekushushunjiswa kwebantfu kuze basetjentiswe ngekwemacansi;</b>”.</p> <p>2. Kuchibiyela luhlu lwenhloko ngalokususa iNcenywe 6 yeSahluko 7 saloku lokulandzelako:  <b>“Imibandzela yesikhatsi samanje lehambisana nekushushunjiswa kwebantfu kuze basetjentiswe ngekwemacansi</b>  <b>70. Kusebenta kanye nekuchaza kwawo</b>  <b>71. Kushushunjiswa kwebantfu kuze basetjentiswe ngekwemacansi”</b>.</p> <p>3. Kuchibiyela sigaba 1 ngalokususa inchazelo “licala lekuhlukumeta ngekwemacansi” yalenchazelo lelandzelako:  <b>“ ‘licala lekuhlukumeta ngekwemacansi’ lichaza noma liphi licala ngekwemigomo yeSahluko 2,3 kanye na 4 kanye nesigaba[s] 55 [kanye 71(1), (2) kanye ne (6)] taloMtsetfo kanye nanoma nguliphi licala lelishiwo sahluko 3 semtsetfo lovikela futsi uLwisane nekushushunjiswa Kwebantfu, wanga- 2013, lelentiwa ngaletinjongo tekuhlukumeta ngekwemacansi;”</b>.</p> <p>4. Kuchibiyela sahluko 7 ngalokususa sihloko seNcenywe 6.</p> <p>5. Kucitsa sahluko 70 kanye nama-71.</p>

Number and year of law	Short title	Extent of repeal or amendment
Act No. 75 of 2008	Child Justice Act, 2008	<p>The amendment of Schedule 3 by the substitution for item 13 of the following item:</p> <p><b>“[Trafficking in persons for sexual purposes referred to in section 71(1) and involvement in trafficking in persons for sexual purposes referred to in section 71(2) of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007] <u>Any offence provided for in sections 4, 5, 6, or 7 or involvement in these offences as provided for in section 10 of the Prevention and Combating of Trafficking in Persons Act, 2013.</u>”</b></p>

Inombolo kanye nemnyaka wentsetfo	Sihlokwana lesifushane	Indlela locitfwa ngayo noma lochitjiyelwa ngayo
<i>Act No. 75 of 2008</i>	<i>Child Justice Act, 2008</i>	<p>Kuchibiyela ishejuli 3 ngalokususa umbhalo lobhalwe kuli-13 waloku lokulandzelako:</p> <p><b>“[Kushushunjiswa bantfu kuze basetjentiswe ngekwemacansi lokushiwo sigaba 71(1) kanye nekubandzakanyeka ekushushunjisweni kwebantfu kuze basetjentiswe ngekwemacansi lokushiwo kusigaba 71(2) se-<i>Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007</i>] Noma liphi licala leliniketwe <u>tigaba 4, 5, 6, 7 noma 8 temtsetfo lovikela futsi uLwisane nekushushunjiswa Kwebantfu, wanga-2013.</u>”.</b></p>

