

Republic of Namibia

Annotated Statutes

**REGULATIONS** 

### REGULATIONS MADE IN TERMS OF

# Combating of Trafficking in Persons Act 1 of 2018

section 27

## **Regulations under Combating of Trafficking in Persons Act**

Government Notice 336 of 2019

(GG 7047)

came into force on date of publication: 14 November 2019

The Government Notice which publishes these regulations notes that they were made after consultation with the Minister responsible for home affairs and immigration and the Minister responsible for international relations, where the regulations relate to powers exercised or duties performed by these Ministers under the Immigration Control Act 7 of 1993.

## ARRANGEMENT OF REGULATIONS

- 1. Definitions
- 2. Designation of state employed social workers to assess and determine persons as victims of trafficking
- 3. Reports of trafficking in person or suspected trafficking
- 4. Police assistance to victims of trafficking
- 5. Assessment and determination of persons as victims of trafficking
- 6. Revocation of determination as victim of trafficking
  [The word "victim" is plural in the heading of regulation 6 in the text of the regulations.]
- 7. Provision of services to victims of trafficking
- 8. Assistance to foreign victims in obtaining visitors entry permits or temporary residence permits
  - [The heading of regulation 8 in the text of the regulations is "Assistance to foreign victims of trafficking in obtaining visitors entry permits or temporary residence permits".]
- 9. Assistance to children who are victims of trafficking

Annexure: Forms

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## REGULATIONS Combating of Trafficking in Persons Act 1 of 2018

#### Regulations under Combating of Trafficking in Persons Act

### **Definitions**

1. In these regulations a word or an expression to which a meaning has been assigned in the Act has that meaning, and unless the context otherwise indicates -

"state employed designated social worker" means a state employed social worker designated in terms of section 12(6) of the Act; and

"the Act" means the Combating of Trafficking in Person Act, 2018 (Act No. 1 of 2018).

## Designation of state employed social workers to assess and determine persons as victims of trafficking

- 2. The Minister may designate a state employed social worker under section 12(6) of the Act for the purpose of assessing and determining the status of persons as victims of trafficking -
  - (a) if the social worker is registered as a social worker in terms of the Social Work and Psychology Act, 2004 (Act No. 6 of 2004); and

[The Social Work and Psychology Act 6 of 2004 has been replaced by the Health Professions Act 16 of 2024.]

(b) if the Minister is satisfied that the social worker has the capacity and skills to make the assessment and determination of persons as victims of trafficking.

## Reports of trafficking in person or suspected trafficking

[The phrase "trafficking in person" should be "trafficking in persons".]

- **3.** (1) A police officer who -
- (a) has information about trafficking of a person or who reasonably suspects that a person is being trafficked; or
- (b) receives a report under section 12(1) of the Act and reasonably suspects that a person concerned is being trafficked,

must make a report to a state employed social worker no later than 24 hours of having the information about the trafficking or becoming aware of the suspected trafficking or of receipt of the report.

- (2) A state employed social worker who receives a report -
- (a) under section 12(1) of the Act must immediately notify a police officer to investigate the matter, if the report came from a person other than a police officer; and
- (b) under section 12(1) or (2) of the Act, must not later than 24 hours of receipt of the report, notify a state employed designated social worker to assess and determine whether the person is a victim of trafficking as contemplated in section 12(4)(a) of the Act.

## Police assistance to victims of trafficking

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4. The police assistance contemplated in section 12(3)(a) of the Act includes providing a victim of trafficking with transport to a social worker, hospital, court or to any other place for purposes of protecting the victim or for an investigation for the purposes of the Act.

## Assessment and determination of persons as victims of trafficking

- 5. (1) A state employed designated social worker must make an assessment and determination of whether a person is a victim of trafficking as contemplated in section 12(4)(a) of the Act -
  - (a) within 48 hours of receipt a report in terms of section 12(1) or (2) of the Act; and
  - (b) on a form substantially corresponding to Form 1.
- (2) If the state employed designated social worker makes a determination that a person is a victim of trafficking as contemplated in section 12(4)(a) of the Act, the state employed designated social worker must issue the person with a document, set out in a form substantially corresponding to Form 2, indicating that the person is a victim of trafficking.
- (3) If the state employed designated social worker makes a determination that the child is a victim of trafficking, the state employed designated social worker must, within 48 hours of making the determination, refer the child to a designated social worker for an investigation in terms of section 139 of the Child Care and Protection Act to determine whether the child is in need of protective services.

## Revocation of determination as victims of trafficking

- **6.** (1) Subject to subregulation (4), a state employed designated social worker may revoke a determination that a person is a victim of trafficking if -
  - (a) the determination was made on the basis of misleading, false or incorrect information; or
  - (b) there are reasons to believe that the determination was made incorrectly because of -
    - (i) any substantial fraud by a person in respect of a matter relating to the determination; or
    - (ii) an error of law or fact by the state employed designated social worker who made the determination.
- (2) For purposes of revoking a determination that the person is a victim of trafficking, the state employed social worker must carry out a re-assessment of the determination and determine whether there are grounds for revoking the determination.
- (3) Before a state employed social worker revoke the determination that the person is a victim of trafficking, the state employed social worker must give the person -

## [The verb "revoke" should be "revokes" to be grammatically correct.]

(a) notice of the social worker's intention to revoke the determination; and

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- (b) an opportunity to make any representation on the intended revocation of the determination within the period specified in the notice.
- (4) A state employed designated social worker who made the determination under section 12(4)(a) of the Act may not be the same state employed designated social worker, under subregulation (2) to -
  - (a) carry out the re-assessment of the determination; and
  - (b) determine whether there are grounds for revoking the determination.
  - (5) If the state employed designated social worker -
  - (a) after the re-assessment of a determination in terms of subregulation (2) finds that there is a ground for the revocation of the determination; and
  - (b) revokes the determination,

the person to whom a document, set out on Form 2, indicating that the person is a victim of trafficking was issued must surrender the document to the state employed designated social worker.

- (6) If the determination of a person as a victim of trafficking is revoked, the person may not make use of the document, set out on Form 2, issued to that person to acquire any assistance offered to victims of trafficking in terms of the Act or for any other reason.
- (7) A person who contravenes subregulation (6) commits an offence and on conviction is liable to a fine not exceeding  $N$20\ 000$  or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

### Provision of services to victims of trafficking

- 7. (1) A person may be designated under section 13(1) of the Act to provide services to victims of trafficking if that person -
  - (a) is a legal practitioner as defined in section 1 of the Legal Practitioners Act, 1995 (Act No. 15 of 1995) or a legal aid counsel referred to in section 3 of the Legal Aid Act, 1990 (Act No. 29 of 1990);
  - (b) is a medical practitioner as defined in section 1 of the Medical and Dental Act, 2004 (Act No. 10 of 2004) or a registered nurse as defined in section 1 of the Nursing Act, 2004 (Act No. 8 of 2004);
  - (c) is a social worker as defined in section 1 of the Social Work and Psychology Act, 2004 (Act No. 6 of 2004); or
  - (d) is a police officer.

[The Social Work and Psychology Act 6 of 2004, the Nursing Act 8 of 2004, and the Medical and Dental Act 10 of 2004 have all been replaced by the Health Professions Act 16 of 2024.]

(2) An organisation may be designated under section 13(1) of the Act to provide services to victims of trafficking if that organisation -

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- (a) is registered with the appropriate authority, in cases where registration is required;
- (b) is a non-profit organisation in the form of a trust registered under the law relating to the registration of trusts or is a legal person; and
- (c) in the opinion of the Minister, has the necessary staff capacity and expertise to provide the relevant services to victims of trafficking in terms of the Act.
- (3) The referral of a victim of trafficking in person to a person or an organisation designated in terms of section 13 of the Act must be made on a form substantially corresponding to Form 3.

## [The phrase "trafficking in person" should be "trafficking in persons".]

## Assistance to foreign victims of trafficking in obtaining visitors entry permits and temporary residence permits

- **8.** (1) A police officer or a social worker contemplated in section 12 of the Act must assist a foreign victim of trafficking in obtaining a visitors entry permit in terms of section 14 of the Act.
- (2) The Minister must assign a state employed social worker to assist the foreign victim in obtaining the temporary residence permit in terms of section 15(1) of the Act.

## Assistance to children who are victims of trafficking

- 9. (1) Before a child who is a victim of trafficking is returned to the place from where the child is suspected to have been trafficked or to any other suitable place, including a place where the child's parent or care-giver resides as contemplated in section 19(1) of the Act, the Minister must -
  - (a) ensure that the state employed social worker dealing with the matter of trafficking in person has requested the police officer investigating the matter to conduct an investigation into the question of whether the child will be safe at the place in question and the police officer must compile a report on the investigation and submit it to the Minister;

## [The phrase "trafficking in person" should be "trafficking in persons".]

- (b) ensure that the police officer investigating the matter has carried out the investigation, with the co-operation of appropriate authorities, if the place in question is in another country;
- (c) consider the report referred to in paragraph (a); and
- (d) in the best interests of the child, determine whether an adult is required to escort the child and decide who should escort the child to the place.
- (2) The Minister must, based on the report referred to in subregulation (1)(a), determine whether the child's parent, guardian, care-giver or other person with parental responsibilities and rights in respect of the child has the financial means to pay for the travel of the child and the child's escort.

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[It appears that the reference to "the report referred to in subregulation (1)(a)" should have referred to "the report referred to in subregulation (3)".]

(3) A state employed social worker dealing with the matter of trafficking in person must compile a report on whether the child's parent, guardian, care-giver or other person with parental responsibilities and rights in respect of the child has the financial means to pay for the travel of the child and the child's escort.

[The phrase "trafficking in person" should be "trafficking in persons".]

- (4) If the Minister -
- (a) authorises under section 19(1) of the Act that an adult must escort a child at State expense; or
- (b) determines under subregulation (2) that the child's parent, guardian, care-giver or other person with parental responsibilities and rights in respect of the child does not have the financial means to pay for the travel of the child,

the travel expenses of the child and the adult escorting the child must be paid out of the budget of the Ministry responsible for gender equality and child welfare.

(5) If the child who is the victim of trafficking is returned to Namibia in terms of section 18 of the Act, the state employed social worker dealing with the matter of trafficking in person must provide the appropriate on-going monitoring and services to the child and the family of the child in order to safeguard the well-being and safety of the child.

[The phrase "trafficking in person" should be "trafficking in persons".]

### **ANNEXURE**

To view content without printing, scroll down.

To print at full scale (A4), double-click the icon below.



[Note that Form 2 erroneously makes reference to the "Prevention and Combating of Trafficking in Persons Act, 2013 (Act No. 7 of 2013)" rather than the Combating of Trafficking in Persons Act 1 of 2018.]

## Regulations under Combating of Trafficking in Persons Act

ANNEXURE



FORM 1

## REPUBLIC OF NAMIBIA

(Section 12(4)) (Regulation 5(1))

## ASSESSMENT AND DETERMINATION FORM FOR VICTIMS OF TRAFFICKING

#### Instruction:

This form is to be used by a state employed social worker during the assessment and determination of a person as victim of trafficking.

1.	Family Name(s):
2.	First Name(s):
3.	Gender: (M/F):
4.	Date of birth:
5.	Is the date of birth an estimate? [Yes/No]?
6.	Age estimate (medical doctor):
7.	Last place of residence in country of origin:
8.	Citizenship:
9.	Country of birth:
10.	Place of birth:
11.	Current legal status:

## Additional Data - if the person is an unaccompanied child/ren (UMC)

1.	Contact details of legally appointed guardian:
2.	Contact details of the center hosting the UMC:
3.	Contact details of the parents/family in the country:
4.	Are the parents/family aware of the minor's current situation? [Yes/No-please explain]

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5.	Circumstances of arrival in the location/town/country (when, how, why, with whom the UMC arrived):
Case	and Interview Data
1.	Type of referring organisation/individual: (NGO/ International organisation/ Law enforcement/ Immigration/ Government/ Embassy/ Helpline/ Self-referral-walk-in/ Family/ Friend/ Client/ Other):
2.	Specify (Name/location of organisation):
3.	Screening date: (dd-mm-yyyy):
4.	Screening location:
5.	Name of interviewer:
6.	Position of interviewer:
7.	Contact details of interviewer and organisation:
	0.0000000000000000000000000000000000000
	Sampaina lauranaga
8.	Screening language:
9.	With interpreter? (Yes/No):
10	Name of interpreter

11. Signature of interviewer: ...... Signature of interpreter: ......

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## Entry into trafficking-process

3.

4.

5. 6. 7. 8. 9.

1	How	did the	nercon	enters	the	process'	)
	now	ara inc	e berson	enters	ıne	process.	1

Friend visit  Marriage  Professional opportunity
Professional opportunity
Other/ NA/ NK
recruitment? Yes $\square$ No $\square$ between the individual and her/his recruite
Radio advertisement
Television advertisement
Newspaper advertisement
Magazine advertisement
Other/ NA/ NK
<u> </u>
Prostitution
Study
Fishing
Low-level criminal activities
Child care
Small street commerce
Mining
Other/ NA/ NK
er benefits following arrival at final destin  Der month):
er into the process? (DD/MM/YY)
ntry into the process? Yes □ or No
ntry into the process? Yes □ or Nonters into the process?

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Husband	/ Wife		Recruiter		
Partner	77.22		Transporter		
Relative	Relative			ersons	
Parents			Guardian		
Friend			Other/ NA/	NK	
•		•	•	(ies)? Yes □ or No □	
10.1 I	f YES, please specify ir	i chronologic	al order:		
10.2 D	Did s/he engage in any a	activity in thi	s places/cour	ntry (ies)? Yes □ or No □	
10.3 I	f YES, which activity?				
Agricultu	ıral work		Prostitution		
Construc	tion		Study		
Domestic	work		Fishing		
Factory v	vork		Low-level criminal activities		
Restaura	nts and hotel work		Child care		
Trade			Small street commerce		
Begging			Mining		
Transpor	t sector				
xploitation	phase		Other/ NA/		
wploitation What acti	phase	dertaken sinc		val in the last destination?	
wploitation What acti	phase ivity has the person unc	dertaken sinc	e her/his arriv	val in the last destination?	
wploitation What acti	phase ivity has the person und ural work ction	dertaken sinc	e her/his arriv	val in the last destination?	
What action  Agricult  Construct	phase ivity has the person und tural work ction ic work	dertaken sine	Prostitution Study Fishing	val in the last destination?	
What action  Agricult  Construct  Domesti  Factory	phase ivity has the person und tural work ction ic work	dertaken sinc	Prostitution Study Fishing	val in the last destination?	
What action  Agricult  Construct  Domesti  Factory	phase ivity has the person uncural work ction ic work work	dertaken sinc	Prostitution Study Fishing Low-level Child care	val in the last destination?	
Agricult Construct Domesti Factory Restaura Trade	phase ivity has the person uncural work ction ic work work ants and hotel work	dertaken sinc	Prostitution Study Fishing Low-level Child care Small stree	val in the last destination?	
Agricult Construct Domesti Factory Restaura	phase ivity has the person uncural work etion ic work work ants and hotel work	dertaken sinc	Prostitution Study Fishing Low-level Child care	val in the last destination?	
Agricult Construct Domesti Factory Restaura Trade Begging Transpo:	phase ivity has the person uncural work ection ic work work ants and hotel work rt sector  How old was the person	when the act	Prostitution Study Fishing Low-level Child care Small stree Mining Other/ NA/	val in the last destination?	
Agricult Construct Domesti Factory Restaura Trade Begging Transpor	phase ivity has the person und tural work etion ic work work ants and hotel work  rt sector  How old was the person How long did the most server of the following mean	when the act	Prostitution Study Fishing Low-level Child care Small stree Mining Other/ NA/ tivity began? trol the indiv	val in the last destination?  criminal activities  t commerce  (NK  (Age):	 ring
Agricult Construct Domesti Factory Restaura Trade Begging Transpor	phase ivity has the person und tural work etion ic work work ants and hotel work  rt sector  How old was the person How long did the most server of the following mean	when the act	Prostitution Study Fishing Low-level Child care Small stree Mining Other/ NA/ tivity began? trol the indiv	val in the last destination?  criminal activities  t commerce  / NK  (Age):	ring
Agricult Construct Domesti Factory Restaura Trade Begging Transpo  (a) H  Were any the entry	phase ivity has the person uncural work etion ic work work ants and hotel work  rt sector  How old was the person How long did the most server of the following mean into the process? NK (	when the act	Prostitution Study Fishing Low-level Child care Small stree Mining Other/ NA/ tivity began? trol the indiv	val in the last destination?  criminal activities  t commerce  / NK  (Age):	ring
Agricult Construct Domesti Factory Restaura Trade Begging Transpo:  (a) H  (b) H  Were any the entry  What? Physical	phase ivity has the person uncural work etion ic work work ants and hotel work  rt sector  How old was the person How long did the most server of the following mean into the process? NK (	when the act significant act s used to con Not known)	Prostitution Study Fishing Low-level Child care Small stree Mining Other/ NA/ tivity began? tivity occur?	val in the last destination?  criminal activities  t commerce  / NK  (Age):  idual during the activity or du  By whom? (circle the relevant Receiver/ Exploiter/ Clients/ Ot	ring

Yes No NK Receiver/ Exploiter/ Clients/ Other

Threats to individual

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	Threat of action by law enforcement			Yes 🗆	No 🗆	NK □	Receive	er/ Exploi	ter/ Clien	ts/ Other
	Threats to			Yes 🗆	No □	NK □	Receive	er/ Exploi	ter/ Clien	ts/ Other
	False pro	nises/de	eception	Yes 🗆	No □	NK □	Receive	er/ Exploi	ter/ Clien	ts/ Other
	Restricted movemen		I freedom of	Yes 🗆	No □	NK □	Receive	er/ Exploi	ter/ Clien	ts/ Other
	Giving of		Yes 🗆	No □	NK □	Receive	er/ Exploi	ter/ Clien	ts/ Other	
	Giving of	alcohol		Yes □	No □	NK □	Receive	er/ Exploi	ter/ Clien	ts/ Other
	Denied m	reatment	Yes 🗆	No $\square$	NK □	Receive	er/ Exploi	ter/ Clien	ts/ Other	
	Denied fo	k	Yes 🗆	No □	NK □	Receive	er/ Exploi	ter/ Clien	ts/ Other	
	Withholdi	ages	Yes 🗆	No □	NK □	Receive	er/ Exploi	ter/ Clien	ts/ Other	
	Withholding of identity documents			Yes 🗆	No 🗆	NK □	Receive	er/ Exploi	ter/ Clien	ts/ Other
	Withholding of travel documents			Yes 🗆	No □	NK □	Receive	er/ Exploi	ter/ Clien	ts/ Other
	Debt bondage			Yes 🗆	No □	NK □	Receive	er/ Exploi	ter/ Clien	ts/ Other
	Excessive	workir	g hours	Yes 🗆	No $\square$	NK $\square$	Receive	er/ Exploi	ter/ Clien	ts/ Other
	Others			Yes 🗆	No $\square$	NK □	Receive	er/ Exploi	ter/ Clien	ts/ Other
			rostitution (sexu		tation):					
			to refuse client	Yes 🗆	No 🗆	NK 🗆		er/ Exploi		
	Denial of certain ac		n to refuse	Yes 🗆	No 🗆	NK □	Receive	er/ Exploi	ter/ Clien	ts/ Other
	Denial of condom			Yes 🗆	No 🗆	NK □	Receive	er/ Exploi	ter/ Clien	ts/ Other
	If OTHER	R means	, please specify:	Yes 🗆	No □	NK □	Receive	er/ Exploi	ter/ Clien	ts/ Other
14.	Yes □  14.1 If	No □	interviewer) D  NK    xploitation took exploitation? Y	place, v	vas there	e any inc			ıl and su	bstantial
		YES, ght opt	what were the re	easons th	at exploi	tation ne	ver tool	place?	Please ch	noose the
	Rescue		NK							
	Escape		Other (specify) .							
Suppor	Supporting documents									
Additio	nal suppo	rting do	ocuments							
Police or other official report							Yes 🗆	No 🗆	NK □	
Identity documents								Yes 🗆	No 🗆	NK □
Travel o	documents							Yes 🗆	No 🗆	NK □
	l reports							Yes 🗆	No 🗆	NK □
			ntract or recruitme	ent offer				Yes 🗆	No 🗆	NK □
	ıl writings b	y the ir	dividual					Yes $\square$	No □	NK □
	e reports							Yes 🗆	No 🗆	NK □
Other								Yes 🗆	No 🗆	NK □

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(a) Is the person a VICTIM of TRAFFICKING? Yes \( \sum \) No \( \sum \)  Please explain:	(a) Is the perso			
Please explain:	(u) is the perse	on a VICTIM of TRAFFICKING?	Yes □	No □
	Please expl	ain:		
(b) If YES, decision made by whom?				
(b) If 120, decision made by month.	(b) If YES dec	vision made by whom?		
Office, Ministry or Agency of the Service Provider. Please specify:	(b) If YES, dec	cision made by whom?		

## Regulations under Combating of Trafficking in Persons Act

FORM 2



## REPUBLIC OF NAMIBIA

(Section 12(4)(b)) (Regulation 5(2)

## LETTER OF RECOGNITION AS A VICTIM OF TRAFFICKING

Letter No.					
Issued to:					
(Full names of victim of trafficking)					
It is hereby certified that the above-mentioned person has been assessed in terms of section 12(4) of the Prevention and Combating of Trafficking in Persons Act, 2013 (Act No. 7 of 2013) and it has been determined that the person is a victim of trafficking.					
This letter of recognition as a victim of trafficking is with effect from					
OFFICIAL STAMP					
Name of state employed social worker making the determination					
Date:					

## Regulations under Combating of Trafficking in Persons Act

FORM 3



### REPUBLIC OF NAMIBIA

(Section 13 of Act) (Regulation 7(3))

## REFERRAL FORM FOR VICTIM OF TRAFFICKING IN PERSON TO PERSON OR ORGANISATION DESIGNATED IN TERMS OF SECTION 13 OF ACT

(Name of person or organisation designated in terms of section 13 of Act)

Kindly attend to this matt on the background inform	*		necessary services or assistance based
on the background infom	nation provided bein	JW.	
Date of Referral:		Case/Ref	. Number:
Name of referring organi	isation:	Caserre	. Number.
Person making referral:			
Name:	Title:		Contact details (Tel, fax & email address):
This client has been refer	red to:		

## **Details of the Client**

Full name	Date of birth	Minor (Yes/No)	Sex (M/F)	Physical address/ Contact details	Next of kin & their contact details	Highest educa- tional level	Work experi- ence (if appli- cable)	Legal status in Namibia (if appli- cable)

The following needs have been identified and	d discussed with the client:
Social protection support:   Safe accommodation   Transportation Assistance   Food Assistance   Grant Preparation	Health support:  HIV-related care and support  Mental health services  Reproductive health / sexual health services  Support related to primary care  Other health support
Education/Mental Health:  Counselling/Therapy Educational support Support Group Psychiatric Services Substance abuse services	Others:  Legal advice Economic empowerment Access to documentation Disability support Birth registration / civil registration support Safe return to Country/Region of Origin
<b>Reason for referral:</b> (cite date of referral receifor referral):	ved, initial cause of referral, brief summary of reason
Other information that may be helpful to this re	eferral:
List supports or services being provided to the	client:
List any documents accompanying this referral	form:
Recommendations or expected results:	
Name of person referring the client	Signature
	Official Date stamp
Please complete and return the acknowledge cooperation.	ement of receipt form below. Thank you for your

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Kindly acknowledge receipt of this document/refeoffice.	erral lette	er. Re	eturn it to the above-mentioned
Iacknowledge receipt of the above referral/document attend to the problems/needs/complaints of the clien	on		Surname of official) hereby (Date) and undertake to
Referral institution's Ref. No:			
Our Ref. No:			
Tel. No:			
Official Date stamp			
Signature of official	•		
(On behalf of the institution/organisation providing assistance and protection in line with the needs identified in this referral form) $ \frac{1}{2} \int_{-\infty}^{\infty} \frac{1}{2} \left( \frac{1}{2} \int_{-\infty}^{\infty} \frac{1}{2} \int_{-\infty}^{\infty} \frac{1}{2} \left( \frac{1}{2} \int_{-\infty}^{\infty} 1$			