**NATIONAL ASSEMBLY**

**QUESTION FOR WRITTEN REPLY**

**PARLIAMNETARY QUESTION NO: 74**

**DATE OF QUESTION PAPER: 8 February 2018**

**DATE OF SUBMISSION: 22 February 2018**

**Ms T Stander (DA) to ask the Minister of Justice and Correctional Services:**

(a) What is the total number of persons who have been (i) charged, (ii) prosecuted and (iii) convicted in terms of the Prevention and Combating of Trafficking in Persons Act, Act 7 of 2013 in each province and (b) what are the details of the sentences handed down in each successful conviction?

**NW80E**

**REPLY:**

**(a)(i)(ii)(iii) and (b)**

To give effect to South Africa’s obligation to the UN Protocol on Trafficking in Persons, the Prevention and Combating of Trafficking Act 2013 (Act No. 7 of 2013) was passed in July 2013. The Act seeks to fulfil four main objectives, namely to:

1. Provide for an offence of Trafficking in Persons (TIP) and other offences associated with trafficking in persons;
2. Prevent and combat TIP within and across the borders of the Republic;
3. Provide for measures to protect and assist victims of TIP; and
4. Provide for the establishment of the Inter-sectoral Committee on Prevention and Combating of TIP.

The Prevention and Combatting of Trafficking in Persons Act came into operation in August 2015. Prior to the enactment of Act, trafficking in persons for sexual purposes was criminalised through other pieces of legislation such as the Sexual Offences Act and trafficking in children through the Children’s Act.

For ease of reference and in order to provide a more detailed response, below is a schedule with a summary of cases dealt with under section 4(1) of the Prevention and Combating of Trafficking in Persons Act, 2013 (Act No. 7 of 2013).

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  |  |  |  |  |

**Prevention and Combatting of Trafficking in Persons Act, 7 of 2013.**

Feedback from the National Prosecuting Authority regarding progress on the following cases in relation to the aforementioned Act and section 71 (or other charges) of Act 32/2007 (where indicated), as at 20 February 2018.

**EASTERN CAPE (3 cases)**

|  |  |  |  |
| --- | --- | --- | --- |
| **ACCUSED NAME** | **CHARGES** | **STATUS** | **OUTCOME** |
| S v Omotoso | Section 71 Act 32/2007 (Trafficking in persons for sexual purposes) Offence(s) committed before 09/08/2015 (commencement date of Act 7/2013).  | Remanded for 8/03/2018 for further investigations, including the finalization of representations made by the defence, also awaiting an application for centralisation and extra-territorial jurisdiction which application was forwarded to the to NDPP.  |  |
| S v Nxasana & Others | Section 4(2) Act 7/2013 | Matter is under investigation, and postponed to 15/03/2018 pending application for centralisation. |  |
| S v Jacobs & Others | Section 4(1) Act7/2013 | Remanded for 14/05/2018, final date for accused 1 to ensure financial instructions to the relevant legal representative. A trial date will be arranged for the Regional Court, PE. |  |

**FREE STATE (3 cases)**

| **ACCUSED NAME** | **CHARGES** | **STATUS** | **OUTCOME** |
| --- | --- | --- | --- |
| S v Lgedi & Another | Section 4(1) Act7/2013 Sexual exploitation | Postponed for further investigations and bail applications |  |
| S v Muller, Reyneke & Stuurman | Section 4(1) Act 7/2013 Forced labour exploitation | Postponed for further investigations and bail applications |  |
| S v Reyneke | Section 4(1) Act 7/2013 Sexual exploitation | Postponed for further investigations and bail applications |  |

**SOUTH GAUTENG (10 cases)**

|  |  |  |  |
| --- | --- | --- | --- |
| **ACCUSED NAME** | **CHARGES** | **STATUS** | **OUTCOME** |
| S v Phumzile Sithole*Kempton Park RC* | Section 4(1) Act 7/2013 (x 2 charges) | Struck of roll – July 2016. | J175 issued for re-appearance on 10/10/16.  |
| S v Amako Frank & Another*JHB HC* | Section 4(1) Act 7/2013, Rape (section 3 of Act 32/2007) and Sexual Assault (2 charges). | Part –heard Trial  |  |
| S v Bodia Madeka*Kempton Park RC* | Section 4(1) Act 7/2013 ( 4 charges), fraud and contravention of the Immigration Act. | Further investigations |  |
| S v Madika Kadongolo | Section 4(1) Act 7/2013 ( 4 charges), theft and fraud | Further investigations  |  |
| S v Uche Nwasu & 2 Others | Section 4(1) Act 7/2013 (4 charges) and assault.  |  | Withdrawn 20/7/2016Complainant untraceable.  |
| S v Kechurwu Odachi & 2 Others  | Section 4(1) Act 7/2013 | Further investigations  |  |
| S v Ezinwa Nnamdi Nelson | Section 4(1) Act 7/2013 |  | *Nolle prosequi* |
| S v Nyaradzo Munetsi | Section 4(1) Act 7/2013, fraud and contravention of the Immigration Act.  | Further Investigation |  |
| S v SibandaThomas Fabiao | Section 4(1) Act 7/2013  | Convicted as charged, postponed for sentence, 14/12/17  |  |
| S v Fatima Onorio | Section 4(1) Act 7/2013  | Further investigation |  |

**NORTH GAUTENG (6 cases)**

|  |  |  |  |
| --- | --- | --- | --- |
| **ACCUSED NAME** | **CHARGES** | **STATUS** | **OUTCOME** |
| S v Americo ChaoqueBrits RC | Section 4(1) Act 7/2013 (Forced labour x 6 charges - children from Mozambique) | Postponed for 18/4/2018, Part-heard (the December 2017 judgment was in relation to a trial within a trail) |  |
| S v R T BaleleBrits RC | Section 4(1) Act 7/2013 (x 2 charges) | Postponed for trial 19 - 30/3/2018Pretoria HC |  |
| S v Anderson Ngwasu | Section 4(1) Act 7/2013 |  | Acquitted (Complainant absconded during trial) |
| S v Abba & Others   | Section 4(1) Act 7/2013 | 11/12/2017 Judgment | CONVICTED 2 X counts of Section 4(1) - Sexual ExploitationPostponed for 26/6/20 18 for Sentence |
| S v Obi & Others  | Drugs & Extortion  | Postponed for 26/2/2018 re Indictment & HC trial date  |  |
| S v Emecka | Section 4(1) Act7/2013 | Postponed for 26/2/2018 for RC trial date |  |

**KWAZULU NATAL (4 cases)**

|  |  |  |  |
| --- | --- | --- | --- |
| **ACCUSED NAME** | **CHARGES** | **STATUS** | **OUTCOME** |
| S v Madlala (*Gumtree case*) | Section 4(1) Act 7/2013 | Convicted as charged - 2016 | Sentence of 5 years suspended for 5 years |
| S v Makhosini FakudzeDurban RC  | Section 4(1) Act 7/2013 | Convicted as charged.  | Sentenced to 2 life term imprisonment sentences & inclusion of particulars in NRSO, NCPR and also declared to be unfit to possess a firearm.  |
| S v Tazley Msweli & 1 otherPinetown RC  | Section 4(1) Act 7/2013 | Convicted as charged  | Sentenced to 25 years imprisonment |
| S v Qinglin Ye & Others | Section 4(1) Act 7/2013- 40 counts for labour exploitation. ,  | Postponed for 27/02/2018 till 31 May 2018 RC Durban. RC date sooner available than that of the HC.  |  |

**LIMPOPO (1 case)**

|  |  |  |  |
| --- | --- | --- | --- |
| **ACCUSED NAME** | **CHARGES** | **STATUS** | **OUTCOME** |
| Accused details not available. Groblersdal CAS 79/5/17  | Section 4(1) Act 7/2013, Rape (section 3 of Act 32/2007), Sexual Assault (section 5 of Act 32/2007) | Postponed for further investigation.  |  |

**MPUMALANGA (9 cases)**

|  |  |  |  |
| --- | --- | --- | --- |
| **ACCUSED NAME** | **CHARGES** | **STATUS** | **OUTCOME** |
| S v E. Khoza & Another*Kabokweni RC* | Section 4(1)(a) Act 7/2013  | Convicted as charged  | R5000 or 3 years’ imprisonment &4 years imprisonment suspended for 5 years |

|  |  |  |  |
| --- | --- | --- | --- |
| S v N. Khoza & 2 Others*Nelspruit RC2* | Section 4(2) of Act 7/2013 | Accused 3 Convicted as charged.  | 5 years suspended for 5 years.  |

|  |  |  |  |
| --- | --- | --- | --- |
| S v N. Khoza & 1 Other*Nelspruit RC2* | Section 4(2) Act 7/2013 |  | Victim disappeared and case was withdrawn. |

|  |  |  |  |
| --- | --- | --- | --- |
| S v Maphosa & Another*Kanyamazane RC* | Section 4(1)(a) Act 7/2013 & Statutory Rape (section 15 of Act 32/2007)  | Convicted 20/9/ 2016 on section 15 of act 32/2007.  | Sentenced to 4 years imprisonment suspended for 5 yrs. |
| S v Luxiano Paulo Hansassela*Tonga RC* | Section 4 (1) Act 7/2013 &Rape (section 3 of Act 32/2007)  | Matter withdrawn pending finalization of investigation. A statement from the mother in Mozambique is needed to prove trafficking  |  |
| S v Mathebula & Another*Kabokweni RC* | Section 4 (1) Act 7/2013 |  | Finalised – Case withdrawn on 6/10/2015 (Child complainants absconded from Place of Safety) |
| S v Raymond K Dumati & Another | Abduction / Section 4 (1) Act 7/2013  | Case transferred to Springs RC |  |
| S v L. Makhubela & Another  | Section 4(1) Act 7/2013 – sexual exploitation | Postponed for 25/05/2018 partly heard.  |  |
| S v J. C. Thikizi | Section 4(1) Act 7/2013 – sexual exploitation | Accused convicted on charge of section 18 of Act 32/2007 - 07/03/2017 | Sentence postponed until June 2017 (updated info outstanding).  |

**NORTHERN CAPE (1 case)**

|  |  |  |  |
| --- | --- | --- | --- |
| **ACCUSED NAME** | **CHARGES** | **STATUS** | **OUTCOME** |
| S v Andy Amzuilo Chikunyie Postmasburg, RC  | Section 4(1) of Act 7/ 2013 (1 charge).  | These 2 cases were joined with 3 counts of c/o S.4(1) against al 3 accused.Postponed for 23 & 24/5/2018 for trial, Kuruman RC.  |  |
| S v Austine Okoye & Another Postmasburg, RC  | (x2 counts of Trafficking in contravention of section 4(1) of Act 7 of 2013, | Joined with the case above |  |

**NORTH WEST (4 cases)**

|  |  |  |  |
| --- | --- | --- | --- |
| **ACCUSED NAME** | **CHARGES** | **STATUS** | **OUTCOME** |
| S v Geoffrey Bishop Mwake | Section 4 (1) Act 7/2013  |  | Withdrawn to trace witnesses |
| S v Hani Abugu | Section 4(1) & Section 5 Act 7/2013 |  | Withdrawn to trace witnesses |
| S v Harrison Odo & 2 Others | Section 4(1) Act 7/2013 | Postponed for 8/05/2018, part heard.  |  |
| S v Jabu Sailesi & 2 Others | Section 4(1) Act 7/2013 |  | Withdrawn  |

**WESTERN CAPE (5 cases)**

|  |  |  |  |
| --- | --- | --- | --- |
| **ACCUSED NAME** | **CHARGES** | **STATUS** | **OUTCOME** |
| S v Simon Eze Light & Nancy Eze Light | Section 4(1) of Act 7/2013 - labour exploitation | Postponed for trial to 12/04/2018  |  |
| S v Portia SibandaKwanonkuthula  | Section 4(1) of Act 7/2013 - labour exploitation |  | Case withdrawn when the accused passed away |
| S v Naidoo &Others  | Section 4(1) of Act 7/2013 - Sexual Exploitation & Rape (section 3 of Act 32/2007)  | Postponed for trial – 25/05/2018  |  |
| S v Ayok &Another  | Section 4(1) of Act 7/2013 - Sexual Exploitation & Rape (section 3 of Act 32/20007)  | Postponed to 27/02/2018 for Bail Application |  |
| S v Reynecke &Others  | Section 4(1) of Act 7/2013 and Racketeering (POCA) | Postponed to 27/02/2018 for Charge Sheet |  |