

THE DEPARTMENT OF JUSTICE AND

WHAT IS MAINTENANCE?

Maintenance is the obligation to provide another person, whether it be a minor; a former spouse or a family member with the means essential for everyday life.

The types of maintenance:

- Child maintenance
- Spousal maintenance
- Cross border maintenance

WHO MUST APPLY FOR MAINTENANCE?

- The parent/person who is in custody of the child/ren may claim maintenance from the other parent/ who is responsible or liable to pay maintenance.
- Or in an instance where one spouse would like to apply for support from the other, where applicable.

WHO MUST PROVIDE MAINTENANCE?

The duty to maintain or pay maintenance is based on blood relations, adoption or the fact that the parties are married to each other.

WHERE TO GO FOR COMPLAINTS REGARDING THE MANAGEMENT OF YOUR MAINTENANCE

- If you have a complaint regarding the management of your maintenance case contact the Local Court Manager.
- If you are not satisfied with his/her response, you can contact the area court manager.
- If you are not satisfied with the response from the, contact the Regional Maintenance Complaints Manager at the Regional Office of the Department of Justice in your Province.
- If you are still not satisfied with the response contact the National Complaints Manager. Contact details are available at every Magistrate's Court or on the website:

www.justice.gov.za



1 Application

Go to your nearest Magistrate Court with the following documents:

1. Proof of birth certificate for the child(ren)
2. Your identity document
3. Divorce order and/or settlement if any
4. Proof of applicant's income and expenditure
5. Name and surname of parent/person responsible for the payment of maintenance money
6. Physical/work address of the parent/person responsible for the payment of maintenance money if available
7. Copy of bank statement
8. Proof of residence/affidavit.

The maintenance clerk will then assist you in completing the forms.

The Maintenance Clerk will refer your application to the Maintenance Officer for final assessment of your documents.

After assessment the registration of application and reference number will be issued.

2 Issuing a directive

The **Maintenance Officer** will issue a directive calling upon the parties to meet, for the purposes of conducting an investigation into the alleged complaint.

The Maintenance Officer will then conduct an investigation into the alleged complaint, or conduct mediation with both parties present.

3 Mediation and granting of an order by consent

The **Maintenance Officer** will conduct mediation with both parties to reach an agreement/settlement.



the doj & cd

Department:
Justice and Constitutional Development
REPUBLIC OF SOUTH AFRICA

LODGING A MAINTENANCE CLAIM



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Where the parties reach an agreement/settlement, the agreement will be made an order of the court. The Maintenance Officer may request both parties to sign a written consent and have that made an order of the court.

The court then makes an order for payment of maintenance in accordance with the agreement between the two parties.

Where parties do not reach an agreement, the matter is then referred to court for formal enquiry.

4 Court date

On the day of the court appearance, an **enquiry** will be held to determine the needs of the applicant and the means available to provide maintenance from both parties.

After consideration, the **Magistrate** will make a maintenance order indicating the amount to be paid.

5 Payment method

The court may order the respondent to make payments by means of:

- An electronic funds transfer (EFT) to the beneficiaries bank account

- A deduction of the maintenance money from the respondent's salary (Garnishee order)
As part of Project Kha Ri Unde, the department aims to prevent: travelling to the court; transport costs and waiting in queues. This will ensure that beneficiaries will receive their monies on time and far more efficiently.
- Direct deposit to the beneficiaries bank account.

6 Procedure (in cases where a respondent does not pay)

If the respondent **fails to pay** within the specified times, you should report the matter to the Maintenance Offices.

The court will follow one of the following two options:

1. Civil Enforcement of Maintenance, through the Magistrate may order one of the following:
 - emolument attachment
 - attachment of debt and/or
 - execution of movable/immovable property
2. Criminal Prosecution. A warrant of arrest can be issued as the respondent failed to comply with an order of court.