



# JUSTICE TODAY

A MAGAZINE

of the Department of Justice & Constitutional Development

## LEGISLATION WATCH

### NEW TRAFFICKING IN PERSONS ACT

## CHERYL HORN

### DRIVEN BY A PASSION TO HELP OTHERS

## DONOR FUNDING SERVICE DELIVERY PROJECTS

### NEW SMALL CLAIMS COURTS

**FAQ's**  
ON THE  
BAIL PROCESS



**the doj & cd**

Department:  
Justice and Constitutional Development  
REPUBLIC OF SOUTH AFRICA

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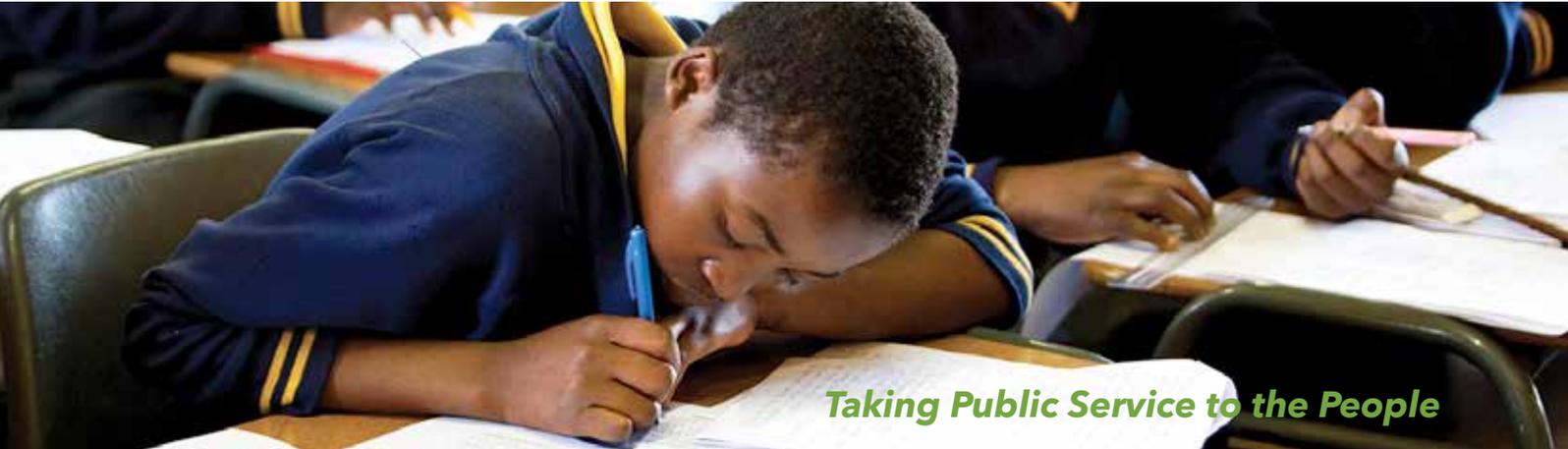
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# Note from the editor



## *Taking Public Service to the People*

**Service delivery continues to be at the core of government's business. In this edition, we, once again, share with you highlights on the work done by the Department of Justice and Constitutional Development, reaffirming its commitment to ensure that all people in South Africa receive access to justice through our various projects and programmes.**

With this year's Public Service Month, celebrated under the theme; "Moving South Africa forward, Taking Public Service to the People," this edition brings you various initiatives introduced by the department in brief, as far back as 2009, ranging from the re-designation of branch courts into full service courts, the alignment of magisterial districts to municipal boundaries, improved systems of paying maintenance and the services of the Office of the Family Advocate (OFA), just to mention a few.

Read more interesting developments on The Prevention and Combating of Trafficking in Persons Act, which came into effect in August 2015, and how this legislation will send those who traffic and benefit from trafficking in persons behind bars for the rest of their lives.

Maintenance is one area that the department prioritises as it impacts on the care and well-being of children. Find out more about the recent Maintenance Amendment Act, recently signed into law by the

President, which provides, among others, that parents who default on child maintenance should be blacklisted.

In each edition, we strive to give our readers stories of extraordinary employees who go the extra mile in ensuring that they deliver services of high quality to our citizens. This time, we feature one of the Western Cape maintenance officers who goes above and beyond the call of duty in keeping the best interest of children at heart through maintenance.

Lastly, Small Claims Courts continue to be at the core of the department's mandate in creating further access to justice services, especially to previously marginalised communities. Find out more about the recently launched Nsikazi Small Claims Court in Mpumalanga, as the department continues to fulfil its mandate.

We encourage you to read and understand the services offered by the department as it helps you to make informed decisions. We will continue to ensure that we keep you abreast of the new developments in the spirit of "We Care, We Serve, We Belong."

Until then, enjoy the read. ●

Till next time.

**Luyanda Makapela**



## In October, the department celebrated Service Delivery month.

The department is committed to ensuring that all South Africans receive access to justice through various projects and programmes.

In 2009, the department introduced the re-designation of branch courts into full service courts. This project aims at reversing the effects of the legacy of the past, which deprived majority of citizens equal access to justice.

With effect from 1 August 2014, **36 of the 177 magisterial districts** in Gauteng and the North West, which were not aligned to provincial and municipal boundaries, now function in accordance with the municipal and provincial dispensation of the Constitution.

By the end of the 2013/2014 financial year, **29 out of 90 branch courts** had been revamped and converted into full service detached courts.

**DID YOU KNOW?**

Through the capital works programme, **45 courts have been built since 1994** mainly in rural areas and historically black townships.

The Capital Works Programme is a departmental initiative aimed at improving access to justice through the creation of new courts, or changing the layout of existing courts through renovations.

To curb fraud and documents being lost, the department, through the Master's Office developed the Paperless Estate Administration System (PEAS). This system computerised the administration process and has been rolled out to all **15 Master's offices** nationwide.



In the 2013/2014 financial year **158 715 matters** were registered. **51 883 estates** were registered on the new PEAS while **106 832** were registered on the old Integrated Case Management System (ICM).

**98% of beneficiaries** are now receiving their maintenance payments on a monthly basis via the Electronic Funds Transfer (EFT) or bank system.



Every child has the right to a name and a nationality from birth

Mongwe le mongwe yo o tshwaretsweng bosenyi o na le tshwanelo ya go didimala

Wonkheuwonkhe unelungelo lekhutlwa  
Wonkheuwonkhe unelungelo lekhutlwa

Mongwe le mongwe o na le seriti sa botho ka tlhago le tshwanelo ya hlotlo ya seriti le tshireletso.

Muñwe na muñwe u na pfanelo ya u vhofoholowela u amba na u ita zwithu vhofoholowa, hu tshi katelwa

Elkeen is gelyk voor die reg en het reg op gelyke beskerming en voord van die reg.

Wonke umuntu unelungelo lokuthola indlu efanekile.

# The Constitution

of the Republic of South Africa, 1996



**You can now access the Constitution in any of the official languages of South Africa at your nearest public library.**

[www.justice.gov.za](http://www.justice.gov.za) DOJCD\_ZA DOJCD DOJCD



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Justice and Constitutional Development  
REPUBLIC OF SOUTH AFRICA



Andile Tshona

# SA introduces stringent human trafficking law

A new law which came into effect in August 2015 could send those who traffic and benefit from trafficking in persons behind bars for the rest of their lives.

**The Prevention and Combating of Trafficking in Persons Act, 2013 (Act 7 of 2013) aims to clamp down on human trafficking activities that lead to the exploitation of thousands of women and children worldwide. In addition to life imprisonment, the Act also enables the State to prosecute traffickers and confiscate their assets.**

This will deal comprehensively with human trafficking in all its various forms and provides for the protection of, and assistance to, victims of trafficking.

Extra-territorial jurisdiction is an important feature of the Act and South African courts will have jurisdiction in respect of acts committed outside South Africa if those acts would have been an offence under the Act had they been committed in South Africa.

Deputy Minister of Justice and Constitutional Development, Mr John Jeffery said the finalisation of this law would help government deal with traffickers decisively. "Government made the scourge of trafficking its priority in the National Development Plan and measures have been put in place to ensure that this Act is implemented effectively. We have





ensured that extensive training of personnel in the National Prosecuting Authority, The South African Police Service, social workers from the Department of Social Development, the Judiciary and officials from Immigration and Home Affairs has been undertaken," he said.

Deputy Minister Jeffery added that a multi-agency programme to coordinate strategic action against trafficking has been established. This includes the setting up of Provincial Task Teams which include all relevant stakeholders in the criminal justice system.

The Act further provides for social service professionals to play a role in the reporting, identification and assessment of a person who is a victim of trafficking. Such programmes will offer accommodation, counselling and rehabilitation services to victims.

"Government made the scourge of trafficking its priority in the National Development Plan and measures have been put in place to ensure that this Act is implemented effectively."

The Act is a significant milestone that will enable government to deal with human trafficking in a coordinated way. Previously, offences related to trafficking in persons were dealt with as part of broader pieces of legislation such as the Criminal Law Amendment Act (Sexual Offences) and the Children's Act while the new legislation addresses these crimes holistically.

The Act also gives effect to the country's international obligations in terms of United Nations Protocols. ●

The United Nations Office on Drugs and Crime *Global Report 2014* covered **128 countries** and provided an overview of patterns and flows of trafficking in persons at global, regional and national levels, based on trafficking cases detected between 2010 and 2012 (or more recent). The report found that victims from at least **153 countries** were detected in **124 countries** worldwide.

A great majority of the victims detected were females, although men and boys are also trafficked in significant numbers. Women and girls are not only trafficked for sexual exploitation, but also for forced labour and for other purposes.

The percentage of children among victims is increasing and children now comprise nearly one-third of all detected trafficking victims in the world.



Deputy Minister: John Jeffery

# New Act cracks down on maintenance defaulters



President Jacob Zuma recently signed the Maintenance Amendment Act (Act No.9 of 2015) into law. The amendment of the Maintenance Act, 1998 has been a major priority of the Department and aims at further improving the maintenance system. The new legislation also provides, amongst others, that parents who default on child maintenance will be blacklisted.

The Department of Justice and Constitutional Development has over the past two decades been committed to ensuring the protection of children in our society. One of the areas which has a profound impact on the lives of children is that of maintenance.

The Maintenance Amendment Act amends the Maintenance Act in order to improve the maintenance system, pending the finalisation of a review of the main Act by the South African Law Reform Commission. It regulates, amongst others, the securing of witnesses for purposes of a maintenance enquiry and maintenance enquiries in order to make provision for the granting of interim maintenance orders. It allows for the reporting of a maintenance defaulter to a credit granting or credit rating business as well as for the attachment of emoluments.

The new Act should not be viewed in isolation. It is part of a wider range of measures, introduced by the department, to bring about real change in service delivery to maintenance beneficiaries.

These measures have been put in place specifically to ensure that women indeed have better access to justice and access to our courts. Access to justice is a constitutional imperative. With regard to the placement of courts our Department has, over the past two decades, gone to great lengths to bring courts to traditionally black and rural areas.

Deputy Minister John Jeffery



The implementation of new magisterial districts marks the beginning of a new chapter in the administration of justice.

The new rationalised, integrated and inclusive magisterial districts will bring about benefits to affected communities. Every person or community will be able to access justice services provided by a Magistrates' Court within their own municipal area. In respect of metropolitan areas and large municipalities more than one magisterial district or sub-districts of a district will be established in order to alleviate congestion of cases at one court or justice service centre.

In respect of maintenance specifically, our Department's Maintenance Turnaround Strategy has introduced maintenance mediation services to speed up the finalisation of cases. Many applications for maintenance are now finalised through mediation services that often result in the granting of consent orders on the same day of application, if both parties are in court. It is faster, as it saves parties from going through the formal maintenance enquiry that often takes months to be finalised. Through this innovation, the department has significantly cut down the turnaround time in pre-order maintenance services.

A further improvement is the introduction of the Electronic Fund Transfer (EFT) system that allows beneficiaries to receive monies within four days after receipt of such payments by the department. Through the EFT system, the department now transfers monies directly into the beneficiaries' bank accounts. This saves beneficiaries time and money travelling to court to collect these monies. It is also safer.

At present, 98% of the beneficiaries are on the EFT system. Those who are not on EFT system yet are mostly non-nationals or persons who do not have ID documents required by banking institutions to open a bank account. The department is continually engaging with the department of Home Affairs and banking institutions to assist these clients.

With the direct payment system the court orders, upon consent of the beneficiary, the respondent to deposit maintenance monies directly into the bank account of the beneficiary. We have also introduced the Maintenance Integrated Case Management System which caters for the automation and tracking of cases, from the registration of the maintenance application

to the issuing of the maintenance order. This leads to faster delivery of maintenance services as most of the paper work that courts were doing manually is now done electronically.

Every financial year the department progressively appoints maintenance officers and maintenance investigators to improve service delivery. In the past 4 financial years, the department has increased the human capacity in maintenance services by employing 247 personnel. In 2015/2016, additional maintenance officers and investigators will be employed.

The aim is to ensure the provision of adequate human capacity at every service point so as to improve the maintenance system nationwide. A significant challenge we face is that many parents misrepresent their true financial position, thus impacting adversely on the fairness of maintenance awards and the ability of the system to recover arrears.

For this reason, when we talk about maintenance, we should not only focus on the provision of financial care, but also on parental involvement and responsible parenting.

Our regional offices therefore conduct various outreach events in partnership with civil society on responsible parenthood. The events promote responsible fathering among men to ensure that fathers understand and accept their responsibility to pay maintenance.

Other innovative steps include the use of digital cameras. This has been used successfully in maintenance courts in KwaZulu-Natal as part of the investigation process. It is especially difficult to prove employment within the informal sector of the economy and the cameras assist the investigators in obtaining photographic evidence that the respondent is indeed employed. In terms of the Maintenance Act and the Regulations, maintenance officers are empowered to take photographs of respondents appearing in the maintenance court. This will ensure that maintenance officers are able to enforce these provisions of the Act. These are but some of the measures we have put in place.

No single piece of legislation can, realistically, be expected to solve all problems overnight, but we must continuously implement measures that can make the system work better. The new Amendment Act is an important step in this regard. ●



Glory Msungwa

# Driven by a passion to help others

Growing up in a family of seven children raised by a single mother, Cheryl Horn developed a passion to assist vulnerable women and children from an early age. This desire continued to grow after she became a single mother with two children herself. Today, Horn is a maintenance officer in the Western Cape on a mission to better the lives of children in and around her community through her work.

**Raised in Mitchells Plain, Cape Town, where most families are headed by single parents, she knew that the law would assist her to help families like her own. As a result, Horn enrolled at the University of Western Cape and completed her LLB degree in 2004. She then served her articles with the Legal Aid Board Justice Centre, during which her passion for family law was reinforced. This led her to change the course of her work from criminal law to family law. "I realised that family law was where I needed to be, so I decided to give it a try. My love and passion for ensuring families receive maintenance encourages me to continue to change the lives of many families for the better," she says.**

Horn joined the Department of Justice and Constitutional Development in 2007 as a Maintenance Officer and since then has been responsible for many successful maintenance cases. During the past financial year alone, she managed to secure attachments of arrears and future maintenance to the value of R1.9 million.

Horn's role sees her investigating cases after maintenance complaints have been lodged, drawing up court orders and ensuring their implementation, and instituting civil proceedings in cases where a respondent fails to comply or has defaulted on payments.

As a single parent, she sometimes finds it difficult to distance herself emotionally from some of the cases. "I am a mother too, and often have to remind myself



*Maintenance Officer Cheryl Horn, has made it her life's mission to help families and children affected by maintenance issues.*



to think with my head and not my heart. However, I prefer to think with my heart whilst still keeping my head up," she adds.

It is this caring yet mindful approach that allows Horn to excel and make a difference to each case and family she encounters. "Each case is unique and different for me, and there is a lesson to be learnt in every outcome."

Being a Maintenance Officer, says Horn, is a calling, it is not just a job. "One needs to have a passion for children, for people and for justice, it takes a strong, law-abiding yet caring person to become a Maintenance Officer," she says.

**"It is always important to know the law and how to implement it accordingly, and to remember that as a public servant, you should give it your best shot and live the ethos of the Batho Pele principles."**

"It is in the nature of family law that clients are often emotional and angry. People do not always understand or accept the law or the limits of its implementation.

The best thing to do in an emotional situation is to stay in control and to remember that it is my job to explain the law and help families understand and implement it," she says.

Despite socio-economic issues such as the massive unemployment rate, drug abuse and unplanned

pregnancies in the communities she assists, Horn says bringing justice to families regardless of their situation is extremely rewarding.

"To restore peace between both parents, I try to treat both parties in a maintenance dispute with the utmost respect and give them both a fair hearing. This goes a long way in bringing calm to an otherwise very hostile and volatile situation," explains Horn.

Having had to deal with over 1 000 cases per year which are often sensitive and difficult, she has always worked with compassion. "It is always important to know the law and how to implement it accordingly, and to remember that as a public servant, you should give it your best shot and live the ethos of the Batho Pele principles," she adds.

Horn adds that the Western Cape regional office of the Department has rolled out *Operation Isondlo*, an initiative which aims to, amongst others, make payment of unclaimed maintenance monies to beneficiaries and clamp down on maintenance defaulters. The initiative also promotes the use of civil attachments to address arrears and future maintenance payments with great success.

Horn believes that cooperation and focus amongst various role players in the maintenance system is vital. "Whether you are a clerk, maintenance officer, maintenance investigator, or magistrate, you need to have positive attitude. In spite of less than ideal resources, we can make a difference to the victims of non-payment in our communities who are often the most vulnerable and disempowered. We need to be sensitive and not re-victimise our clients when they eventually pluck up the courage to approach the court for help," she says. ●



Sinenhlanhla Mkhwanazi

# Improving service delivery through donor funding



The Donor Funds Unit, headed by Mr Cyril Mncwabe, was established in 2007 to secure funding from donors so that more efforts can be made to improve access to justice services and improve the quality of service delivery.

Under Mncwabe's leadership, the unit manages the overall coordination of all donor-funded projects for the unfunded priorities of the department, from both the international communities and domestic businesses and organizations. The unit also oversees the signing of funding agreements and contracts between donors and the department.

To date, the unit has coordinated and implemented various projects aimed at improving access to justice with the help of donor funders. Some of these include the re-engineering of Small Claims Courts in the country, the implementation of the Promotion of Administrative Justice Act (Act 3 of 2000) and the roll out of the E-Justice project.

Improving service delivery and promoting an accessible justice system continues to be a priority for the Department of Justice and Constitutional Development (DoJ&CD).

However, budget constraints and allocated funds can only go so far in the quest to provide justice for all. Donor funding has a big role to play in assisting the department to achieve its mandate.





Small Claims Courts allow an individual to institute minor civil claims in a speedy, affordable and simple manner, without using an attorney.

**Revitalisation of Small Claims Courts**

The Small Claims Court project is funded by the Swiss Confederation. Small claims courts allow an individual to institute minor civil claims in a speedy, affordable and simple manner, without using an attorney. "One of the ways we are trying to ensure that all people, even the poorest of the poor, are in a position access justice, is through the establishment of accessible courts in all corners of our country.

"This includes, in particular, Small Claims Courts," said Deputy Minister John Jeffery, during his Budget Vote address earlier this year.

Through the support of the Swiss Confederation, the department has successfully established 365 small claims courts across the country and enabled thousands of ordinary South Africans a free and less complicated form of justice.

**Implementation of the Promotion of Administrative Justice Act (PAJA)**

This project, funded by the Government of Germany, has ensured the roll-out of the Promotion of Administrative Justice Act which makes it possible for citizens to enjoy fair and just administrative actions. PAJA is the law passed to give effect to the right to just administrative action in the Bill of Rights of our Constitution which stipulates that everyone has the right to fair, lawful and reasonable administrative action; and to reasons for administrative action that affects them negatively.

**The E-Justice project**

The E-Justice project is funded by the European Union (EU) and aims to ensure that justice services are delivered in an efficient way by providing information technology (IT) infrastructure and systems to all South African courts. The programme includes an improved ICT infrastructure throughout the department, financial administration, case records management systems. ●





Susan Mphuthi

# Putting people first in justice services

While broadening the access of justice services is a priority for the department improving the quality and speed of service remains equally important. This is why the department has established and rolled out a set of service standards.

In service areas such as maintenance and the Master's Office, there have been great improvements.

**Service delivery standards are a set of clear indicators that measure and monitor the service and quality of service of a department. The department has established a thorough monitoring mechanism to ensure that these service standards are met.**

Since 2012, the department has been able to measure achievements since the rollout of the service standards. In areas such as maintenance and the Master's Office, there have been great improvements. The department set a target that all maintenance orders should be finalised within 90 days. During the 2014/15 financial year, of the 10 687 cases that were registered, 8602 were finalised within the set target. This means that 77 per cent of cases were finalised

within the set 90 day period, reducing the waiting time for applicants and ensuring that the rights of children are protected.

Similar improvements were made in the Master's Office in which the department set higher standards and almost nearly matched them in the first few months of implementation. The department committed to issue 91 per cent of letters of appointment for executors within 15 days and achieved a commendable 88.76 per cent.

Despite challenges in some areas, more service points are showing signs of improvement. To sustain this improvement, several training and capacitation programmes have been rolled out to ensure that by 2018, all service points are able to operate within the set service standards.





The following are some of the indicators for specific service areas which the department is striving to achieve:

<b>Domestic Violence Services</b>	<ul style="list-style-type: none"> <li>• A customer will not spend more than two (2) hours in the queue before being attended to.</li> <li>• Interim orders will be issued within a day.</li> <li>• Final Protection Order will be granted within sixty (60) working days, after the date of the issuing of the Interim Protection Order.</li> </ul>
<b>Maintenance Services</b>	<ul style="list-style-type: none"> <li>• A customer will not spend more than two (2) hours in the queue before being attended to.</li> <li>• Where there is proper service of process, the maintenance order will be finalized within ninety (90) days.</li> <li>• Return of non-service of process will be communicated to the customer within seven (7) working days of receipt.</li> </ul>
<b>Children's Court</b>	<ul style="list-style-type: none"> <li>• All new alternative care applications received will be processed and, where applicable, be referred for investigation by a designated social worker within seven (7) working days of receipt.</li> <li>• Upon receipt of an application for a foster care extension order, the court shall take all reasonable steps to ensure that the valid order does not expire whilst the extension is pending at court.</li> </ul>
<b>Divorce Services (Family Advocate)</b>	<ul style="list-style-type: none"> <li>• All divorce application processes will be dealt with within twenty (20) minutes.</li> <li>• All divorce processes will be sent to the Registrar within forty eight (48) hours of receipt.</li> <li>• Summons will be handed over to the sheriff within seven (7) working days.</li> <li>• Divorce court clerks will assist litigants with completion of a notice of set down.</li> </ul>
<b>Estate Services</b>	<ul style="list-style-type: none"> <li>• Consultation and processing of new applications will be done within forty five (45) minutes.</li> <li>• Letters of authority for all cases will be issued within twenty four (24) hours.</li> <li>• All estates under R50 000.00 will be finalized at the court within three (3) months.</li> <li>• All estates above R50 000.00 will be referred to the Master of High Court within twenty four (24) hours.</li> </ul>
<b>Small Claims Court Services</b>	<ul style="list-style-type: none"> <li>• Clerks of the Small Claims Court will consult with members of the public wishing to institute a claim in the Small Claims Court and will process such claims as speedily as possible, on the same day as the consultation.</li> <li>• Consultation, processing and allocation of the file/case number to be done on the same day as the consultation.</li> <li>• Judgements /orders will be granted by Commissioners on the day of the hearing unless there are valid reasons for not doing so.</li> <li>• Every Small Claims Courts matter to be finalised within three (3) months.</li> <li>• Trained Small Claims Courts Clerk to remain in the post for at least six (6) months (can be rotated thereafter).</li> <li>• All provinces to have Small Claims Court in all its main court centres in line with the targets and timeframes in the MTSF of the DoJ&amp;CD.</li> </ul>
<b>Equality Court Services</b>	<ul style="list-style-type: none"> <li>• There will be an Equality Court Clerk at all Courts to assist with Equality Court Matters</li> <li>• Consultation and application to be finalised within thirty (30) minutes.</li> </ul>
<b>Child Justice Court Services</b>	<ul style="list-style-type: none"> <li>• The Child Justice Court Clerk will provide administrative support to the preliminary inquiries immediately.</li> </ul>
<b>Sexual Offences Court Services</b>	<ul style="list-style-type: none"> <li>• All courts dealing with sexual offences' matters, will be provided with child friendly facilities and equipment.</li> <li>• Intermediaries will be provided to all child witnesses and mentally disabled witnesses in courts dealing with sexual offence matters.</li> </ul>
<b>Victim Support Services</b>	<ul style="list-style-type: none"> <li>• All services and processes as stipulated by the Service Charter for Victims of Crime, will be adhered to.</li> </ul>

If you would like to raise any complaints or concerns regarding your case you can contact the department as follows:

For court services you can email: [servicedelivery@justice.gov.za](mailto:servicedelivery@justice.gov.za), fax 086 641 4487 or leave a complaint in the suggestion box found at all services points throughout the country.

For Master's Office services you can email: [chiefmaster@justice.gov.za](mailto:chiefmaster@justice.gov.za), fax 086 544 4893 or leave a complaint in the suggestion box found at all services points throughout the country. ●

# MATTERS THAT CAN BE TAKEN TO THE SMALL CLAIMS COURTS

- Small claims courts offer a quicker and easier way of resolving disputes that involve amounts limited to R15 000.
- You do not need a lawyer to represent you at a small claims court.
- All official languages may be used in a small claims court.



## REPAYMENT OF MONIES LENT

If someone owes you money and they refuse to pay you at the agreed time, you may take the matter to the small claims court.



## CLAIMING GOODS THAT ARE DUE TO YOU

If someone has bought goods such as furniture from you and they have failed to pay for it, you can take the matter to the small claims court, provided that the value of the goods does not exceed R15 000.



## CLAIMING MONIES OWED

If you have rented out a house or any other property to a person (tenant) and the tenant does not pay the agreed rental at the right time, you may take the matter to the small claims court.



## ENFORCING A CLAIM BASED ON A LEGAL DOCUMENT

If you have a document that proves that you should receive money from someone, such as a cheque, an acknowledgement of debt or promissory note, you can approach a small claims court to enforce this agreement.



## CLAIMING DAMAGES

If you are involved in an accident and you can produce proof that the other driver was at fault, you can take the matter to a small claims court. Note, however, the value of the claim must be within the R15 000 limit.



## CLAIMS BASED ON CREDIT AGREEMENTS

If you have a business that lends people money on credit and your creditor/s are not paying the agreed instalments, you can take the matter to a small claims court.



## CLAIMS THAT ARE EXCLUDED FROM SMALL CLAIMS COURTS

You cannot bring forward claims that:

- go against a judgement or order of a court.
- are more than R15 000.
- are against the State, local municipality or local government.
- are for the official cancellation of marriage.
- concerns the validity of a Will.



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Department:  
Justice and Constitutional Development  
REPUBLIC OF SOUTH AFRICA

# SMALL CLAIMS COURT STEP-BY-STEP GUIDE

1



## CONTACT THE PERSON WHOM YOU HAVE A DISPUTE WITH

Contact the person with whom you have a dispute in person, in writing or telephonically and ask them to settle your claim.

2



## WRITE A LETTER TO THE PERSON WHO OWES YOU

If the person who, for example; owes you money refuses to pay, they should then be sent a letter of demand which indicates all the facts and the specific amount you are claiming. The letter must be delivered in person or by registered mail (the Post Office can assist). Once the person receives the letter, they are given 14 days within which to settle your claim.

3



## GO TO THE CLERK OF THE COURT

If the person owing your money has not paid the claim in 14 days, go to the small claims court with:

- a copy of the letter of demand.
- any contract or agreement between you and the person which proves the claim.
- a post slip or any other document that proves that the letter of demand was handed to the person.
- The person's personal and contact details.

The clerk of the court will prepare a summons which will force the person to come to court at the set date. The summons will be delivered by you or the sheriff of the court. Please always remember the date and time during which your case will be heard.

4



## COURT DATE

On the day of the court hearing, you must bring proof that the summons was delivered to the person you are claiming from. The court procedure is informal and not complicated. You will be expected to tell your story and answer questions from the commissioner of the small claims court.

5



## PAYMENT

If judgment is given in your favour, the person must pay the money immediately and will be issued a receipt. If they are not able to pay, the court will investigate their financial position and determine a payment plan.

6



## FAILURE TO COMPLY

If the person does not settle the dispute as agreed, the matter will be referred to the magistrate's court.



Solomon Mahlangu

# Small Claims Court for Nsikazi

The community of Nsikazi village in Mpumalanga will no longer have to travel the long distance to Nelspruit to access the services of a small claims court.



**The launch of the Nsikazi Small Claims Court by Deputy Minister John Jeffery celebrated a huge milestone, not only for the village but for the province as well.**

According to Deputy Minister Jeffery, the department's strategy is to establish a small claims court in all magisterial districts across the country.

The opening of the Nsikazi Small Claims Court, says the Deputy Minister, demonstrates the department's commitment to better the lives of all people in South Africa by bringing justice closer to the people. "This small claims court will continue to assist to address a great need of the community of Nsikazi as members of the community do not have time, nor sometimes the money for transport, to travel all the way to Nelspruit," he added.

According to Advocate Pieter Du Rand, Court statistics show that the community is making use of this small claims court, with cases relating to monies owed, the return of goods and for services rendered. From April to August 2015, 144 registered cases were registered. The total value of all registered cases, during this five month period, was R560 000, meaning that members of the community were able



to institute civil claims worth more than half a million rand which they would otherwise not have been able to claim or recover.

Scelo Mnisi, a resident of the Matsulu neighbouring village was overjoyed that he was able to seek justice so close to home. "I am so happy that I don't have to travel all the way to Nelspruit to have a cases heard. This will save us so much of time and money," he added.

"This small claims court will continue to assist to address a great need of the community of Nsikazi as members of the community do not have time, nor sometimes the money for transport, to travel all the way to Nelspruit,"

The department has set a target of establishing 385 Small Clams Courts across the country, of which 365 have been launched nationally.

This means that the department has achieved 95% coverage countrywide in terms of formally established small claims courts.

The department has set a target of establishing 385 Small Claims Courts across the country, of which 365 have been launched nationally.



Deputy Minister Jeffery, extended the department's gratitude to the Swiss Agency for Development and Corporation for their continued support of the Small Claims Court Project and urged community members to make use of the court.

See page 17 for information on the matters that can be heard at a small claims court. ●



the **doj & cd**

Department:  
Justice and Constitutional Development  
REPUBLIC OF SOUTH AFRICA

# LET'S TALK JUSTICE

*Live your Rights*

**THE DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT  
IS BRINGING JUSTICE TO YOU!**

**Starting July 2015, we bring you the  
*Let's Talk Justice: Live Your Rights* radio programme.**

It's your chance to call in, talk to us and learn more about Maintenance, Careers in Justice, Ukuthwala, Domestic Violence, Child Justice and loads more. Each week we tackle a new topic, so stay tuned and learn with us.

For a full list of community radio stations that broadcast the show and the broadcast times, go to: [www.justice.gov.za](http://www.justice.gov.za) or listen out for more information on your community radio stations.

Remember, you can call in or send your comment/question via Facebook or Twitter live during the show.



Follow us on @DoJCD\_ZA and on at DOJCD

## WESTERN CAPE

No	Name of Station	Languages
1	786	English / Afrikaans
2	Atlantis	English
3	VOC	English
4	Namakwaland	English/Afrikaans
5	Gamkaland	English / Afrikaans
6	Eden	English / Afrikaans
7	Zibonele	IsiXhosa / English
8	Valley	English
9	Whalecoast	English

## NORTHERN CAPE

No	Name of Station	Languages
10	Riverside	Setswana / English/ Afrikaans
11	NFM	Setswana / English/ Afrikaans
12	Kurara	Setswana / English/ Afrikaans

## EASTERN CAPE

No	Name of Station	Languages
13	Kouga	IsiXhosa / English
14	Inkonjane	IsiXhosa / English
15	UNITRA	IsiXhosa / English
16	Vukani	IsiXhosa / English
17	Bay	IsiXhosa / English
18	Forte	IsiXhosa / English

## FREE STATE

No	Name of Station	Languages
19	Naledi	English / Sesotho
20	Motheo	English / Sesotho
21	Setsoto	English / Sesotho

## KWAZULU-NATAL

No	Name of Station	Languages
22	Goodnews	English / IsiZulu
23	Maputaland	English / IsiZulu
24	Izwilomzantsi	English / IsiZulu
25	Zululand	English / IsiZulu
26	Inanda	English / IsiZulu
27	Khwezi	English / IsiZulu
28	Mgungundlovu	English / IsiZulu
29	Siyathuthuka	English / IsiZulu

## MPUMALANGA

No	Name of Station	Languages
30	Mash	English/Siswati/Sindebele
31	Bushbuckridge:	English/Siswati/Sindebele
32	Barbeton	English/Siswati/Sindebele
33	Kanyamazana	English/Siswati/Sindebele
34	Moutse	English/Siswati/Sindebele
35	Alpha	English/Siswati/Sindebele

**“LET’S TALK JUSTICE”**  
will be aired in all nine provinces on  
the community radio stations  
listed below.

Episodes will air every Thursday  
from 18.05 to 19:05

## LIMPOPO

No	Name of Station	Languages
36	Mohodi	English / Sepedi / TshiVenda
37	Mala	English / Sepedi / TshiVenda
38	Zebediele	English / Sepedi / TshiVenda
39	Phalaborwa	English / Sepedi / TshiVenda
40	G Tzaneen	English / Sepedi / TshiVenda
41	Tubatse	English / Sepedi / TshiVenda
42	Botlokwa	English / Sepedi / TshiVenda
43	Sekhukhune: North Sotho	English / Sepedi / TshiVenda
44	Segkosese	English / Sepedi / TshiVenda
45	Giyane	English / Sepedi / TshiVenda
46	Makhado	English / Sepedi / TshiVenda
47	univen	English / Sepedi / TshiVenda

## GAUTENG

No	Name of Station	Languages
48	Soshanguve	English/Setswana
49	Impact	English
50	Eldos	English / Afrikaans
51	Rainbow	English / Afrikaans
52	VUT	English
53	VOT	English / Sesotho
54	Kofifi	English / Afrikaans
55	Westside	
56	Mams	English / Sesotho

## NORTH WEST

No	Name of Station	Languages
57	Aganang FM: Setswana	English/Setswana
58	NWU	English/Setswana
59	Mahikeng: Setswana	English/Setswana
60	Moretele	English/Setswana
61	Radio Mafisa 93.4 FM: Setswana	English/Setswana
62	Star FM 102.9 Mhz: Setswana	English/Setswana
63	Life	English/Setswana
64	Lithlabile	English/Setswana
65	Village	English/Setswana
66	Vaalart FM (Vtr FM): Setswana	English/Setswana



Emmah Maluleke

# Unpacking the bail process

The Constitution provides that everyone who is arrested for allegedly committing an offence has the right to be released, within reason, on bail. To help you understand further, we unpack the process of bail.

## WHAT IS BAIL?

Bail is money paid to the court or to the police. By paying bail an accused can go home until the date of his/her court case. Once the case has been heard, bail money is paid back to the accused, even if he/she is found guilty. Bail money will not be paid back if the accused fails to appear in court, if there is witness interference, or if bail conditions are broken.

## WHAT IS THE PURPOSE OF BAIL?

The purpose of bail is to afford those who qualify the chance to be freed from jail until their trial. Bail also ensures that a person comes back to court for trial.

## WHEN CAN THE ACCUSED PERSON APPLY FOR BAIL?

The accused person can apply at any stage of the court proceedings for bail when he/she is before the court. Normally after arrest the accused is brought before a court within 48 hours of arrest and he/she may then apply to be released on warning or bail if the case is not finalised on that day.

## WHAT IS THE EFFECT OF BAIL GRANTED?

By paying bail the accused promises to come to court for future hearings of his/her case and agrees that if he/she does not return, the money paid as bail may be forfeited to the State. In turn, the accused is then released until the next date that the case is again heard before court, until the case is finalised.





**WHEN APPLYING FOR BAIL, WHAT MUST THE ACCUSED COMPLY WITH?**

When applying for bail, the accused must convince the judge or magistrate that he/she: will not run away; is not a danger to others; will not any commit further crime; and will not intimidate any witness in the case.

If an accused is released on bail, he/she will receive a written notice. This notice will inform him/her of the pending court appearance and indicate the day and the time that he/she is required to appear in court. It will also outline any conditions, where applicable, such as if he/she must report to the police station every week.

**WHAT IS REQUIRED DURING A BAIL HEARING?**

The prosecution will prove that the accused is linked to the offence that he/she is charged with. The defence will present factors which will assist the accused to get bail.

**HOW LONG WILL A BAIL HEARING TAKE?**

It depends on whether the parties wish to call witnesses and the number of witnesses they intend calling. This usually increases the time spent during a bail hearing.

**IS THE GRANTING OF BAIL A REFLECTION OF THE CASE?**

No. Granting of bail must not be seen to be a reflection of the State's case against the accused. Neither does bail granted imply acquittal or withdrawal of the case. Even when bail is granted, the accused will still face the charges in a court of law when a trial date is set.

**DO YOU GET A RECEIPT WHEN PAYING BAIL?**

On paying bail, one must be issued with a receipt. Only a person with a receipt for the bail will be reimbursed once the trial is complete.

**IS THE BAIL MONEY REFUNDABLE?**

When the court case is over, the bail money is paid

back even if the accused is found guilty. Bail money will however not be paid back, if the accused does not come to court on the day of their court case, or if they break any of their bail conditions such as if they interfere with any witnesses. If an accused does not appear at court the bail will be forfeited to the State unless convincing reasons can be provided as to why the person could not be at the court when he/she was supposed to.

**CAN COMMUNITIES TAKE LEGAL ACTION AGAINST AN ACCUSED?**

In cases, where applicable, members of the community can bring information to the attention of the investigating officer that would assist the prosecution in opposing any bail application by an accused person. Where bail has been granted with conditions, community members can bring to the attention of the investigating officer any breach of such conditions in order for the prosecutor to apply for the revocation of bail. ●



*For more information on the bail process you can contact the National Prosecuting Authority of South Africa on 012 845 6000 or visit [www.npa.gov.za](http://www.npa.gov.za)*



# Celebrating 25 years of protecting the best interests of the child

## What is the Family Advocate?

The Family Advocate is an unbiased family law specialist who assists parents in dispute (for example, those going through a divorce) to reach an agreement regarding the care and contact of their children.

The Family Advocate deals with disputes between parents or parties over access to, and care of, their child/children.

### Did you know?

- The Family Advocate mediates during a divorce to protect the rights of children whose custody is in dispute.
- You can also approach the Family Advocate if you have a child/children out of wedlock and you want to make a legal arrangement to access the child/children.
- The Family Advocate can intervene in a case where a child/children is removed from the country by one parent without the permission of the other.

The service of the Family Advocate is available to the public free of charge.

Tel: 012 315 1111 Private Bag X81, Pretoria, 0001 Momentum Centre, 329 Pretorius Street, Pretoria



**the doj & cd**

Department:  
Justice and Constitutional Development  
**REPUBLIC OF SOUTH AFRICA**

## You may consult The Family Advocate when:

- You are in a **dispute regarding contact or care of a child.**
- You want to **draft and/or register a parental rights and responsibilities agreement.** This is a legal agreement made by both parents/parties regarding the care of their child which can be registered with the Family Advocate.
- You want to **amend or terminate a parental rights** and responsibility agreement registered with the Family Advocate.
- There is a **dispute on whether a father of a child born out of wedlock satisfies the requirements to acquire full parental rights and responsibilities** in terms of the law.
- A court has made an order that the **Family Advocate has to conduct an inquiry** on the best interests of the child.

## Benefits of consulting with the Family Advocate:

- If the parents/parties reach agreement on the care and contact of their children, the matter does not proceed to court, thereby **saving legal costs and time.**
- **Courts will not readily issue a decree of divorce** where there is a dispute regarding minor children without the report or recommendations of the Family Advocate.
- The Family Advocate can **amend or terminate parental rights and responsibilities agreements** registered by the Family Advocate's office. This means that the parents/parties do not have to go to court if they want to amend the agreement when the need arises.
- Parental rights and responsibilities agreements or parenting plans registered with the Family Advocate have the **same legal effect as a court order.**
- Courts or Judicial officers are required by law to consider the report and/or recommendations of the Family Advocate when making a decision in the best interests of a minor child.

## The rights of parents

Parents are expected to:



**Take care** of their child/children.



**Maintain contact** with their child/children.



**Act as a guardian** to their child/children.



**Provide financial support** to their child/children.



**Provide for the needs** of their child/children.



Solomon Mahlangu

# Championing and nurturing women in law

There are few people who dedicate their lives to fighting for the rights of others, especially for women in the workplace, and Noxolo Maduba is one of them. As a lawyer herself and President of the South African Women Law Association (SAWLA), Maduba has made it her life's mission to drive the empowerment of women within the legal fraternity.

Her journey began at the then University of Transkei in 1998, now called the Walter Sisulu University, where she studied towards a B.Proc Degree. She completed her articles at a private law firm in Durban and was admitted as an attorney in May 2000. Maduba worked as an attorney for five years until she joined the Legal Aid Board in 2005 as a Justice Centre Executive of the Colesberg, Kimberly and Bloemfontein Justice Centres.

"I wanted to closely work with an organisation that provided a platform to empower women within the legal system to take part in national policy dialogues on issues of transformation."

In 2006, SAWLA was established and she became a member. Maduba attributes her decision to join SAWLA to her passion for the upliftment of women.

*SAWLA President Noxolo Maduba nurtures women in law*





“Our members are always involved in offering free legal advice to communities and women in particular.”

“I wanted to closely work with an organisation that provided a platform to empower women within the legal system to take part in national policy dialogues on issues of transformation” she says. According to Maduba, the association’s main aim is to empower and create opportunities for women in the legal sector. This includes women as judges, magistrates, attorneys, candidate attorneys, advocates, state law advisors, corporate lawyers, prosecutors, law lecturers, law students and paralegals. Through commitment and dedication to the empowerment of women within the legal fraternity, Maduba was elected as the Deputy Secretary during the first National Executive committee in May 2007. Today she is not only the association’s President, but also established her own legal practice, Maduba Attorneys.

Maduba’s passion for uplifting women, especially legal minds, is the main reason for the decision to join SAWLA. As President today, her role is to oversee operations of the association and safeguard its members interests and welfare. “I perform all duties related to the office of President and see to it that all orders and resolutions of the Executive Committee are implemented,” she said.

To date the association has made great progress to reach greater heights and works closely with the Department of Justice and Constitutional Development (DoJ&CD). SAWLA currently has branches in all nine provinces and has Provincial Executive Committees (PECs) around the country. The association which started with only 20 members, has grown to more than 900 members. As part of its programme the association introduced an Attorney Internship project in the Eastern Cape and Western Cape provinces in 2011. The initiative, funded by the DoJ&CD, saw young attorneys placed and mentored at law firms for training through articles of clerkship.

“This project helped aspiring lawyers be equipped with the necessary skills required in the law sector. Many of the candidates eventually started their own law firms and I am proud to say that all the 30 candidate attorneys who were in this pilot project are now fully fledged attorneys,” boasts Maduba.

To continue the great work, each year SAWLA partners with the Department to host the national Access to Justice Week across the country. This is a community service initiative held to provide free legal advice and assistance to the public.

“Our members are always involved in offering free legal advice to communities and women in particular.” Last year SAWLA participated in unearthing stories of the Ukuthwala custom which ravaged Eastern Cape and some parts of KwaZulu-Natal, where under-aged girls were forced into customary marriages. Young girls were taught about their rights and where to seek advice should they become victimized by this custom.

This year, the Access to Justice Week, which was rolled out last month, expanded its services to rural communities, and to courts across the country. This community service initiative, says Maduba, is an excellent opportunity for SAWLA and the Department to promote access to justice, particularly to women and the poor. During Access to Justice Week, communities across the country were able to receive free legal assistance and advice. ●

# JUSTICE MAGAZINE of the Department of Justice & Constitutional Development TODAY

The Minister of Justice and Correctional Services  
Michael Masutha (Adv), MP

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