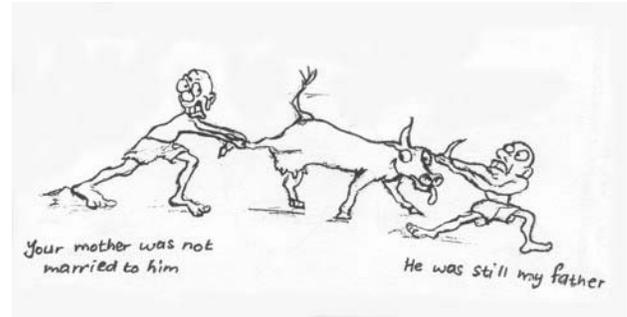


# EVERY DEPENDENT CHILD HAS A RIGHT TO MAINTENANCE

## Who is a dependent child?

Any child who cannot support himself/herself, even if the parents divorced or never married. Every child must, by law, be treated equally by his/her parents; a child of a first marriage cannot be given more than a child of a second marriage or a child born out of wedlock.



## What is maintenance?

This is what a child reasonably needs for proper living and upbringing food, clothing, a home, medical care and education.



## Who must pay maintenance for a dependent child?

Both parents have a legal duty to pay maintenance for a dependent child. The amount that each parent must pay is worked out according to each parent's means/income; if the mother earns less than the father, she will pay less maintenance; if the mother is unemployed and the father is employed/has an income, the father has to pay all the maintenance.

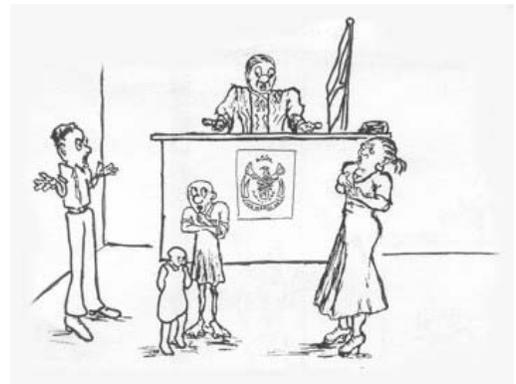
## Where do you go to apply for maintenance?

Every magistrate's court for your area, is also a maintenance court. It is a special court that deals with maintenance applications and public prosecutors are appointed as maintenance officers.

## Who must help you to apply for maintenance?

*The maintenance officer must, in law, help you to apply for maintenance. The maintenance officer will need all the information that you have about the person who, in law, has to pay the maintenance:*

- where the person works;
- name of the person's employer;
- the person's income/wages;
- where the person lives;
- full name and ID number of the person.



## What can be done if a man says that he will not pay maintenance because it is not his child?

If a man refuses to pay maintenance for a child because he says/believes that it is not his child, the court can order scientific paternity tests to prove if the child is or is not his child. If the court is satisfied that mother and the man cannot afford to pay for the cost of the tests, the State will pay for the paternity test.

## What can be done if the court ordered a person to pay maintenance and the person does not pay or stops paying?

- The maintenance officer must help you if the court has made a maintenance order but you are not getting the money. The maintenance officer must investigate the complaint and may hold an enquiry to find out why you are not getting the money and make sure that you do get it.
- You can also claim arrears i.e. money that should have been paid to you, but was not paid from the time that the court made the maintenance order this includes interest on the money that should have been paid to you.



## What happens to a person who is ordered to pay maintenance, but does not pay?

- If a person has been ordered by a maintenance court to pay maintenance, and that person does not pay the maintenance, or stops paying the maintenance, that person is guilty of an offence; the person is guilty of an offence if he/she misses even one maintenance payment.
- The person who is guilty of the offence can be fined or imprisoned for up to one year; and, that person can just be imprisoned for up to one year without the option/choice of paying a fine.

## What must you do if you go and live in another part of the country?

- If the court where you live has granted you a maintenance order and you are going to live in another part of the country, you must notify the maintenance officer of the court that made the order that you are moving, and you must give her/him information about your new address.
- The maintenance order and the prescribed records will be transferred and registered at the court in the area where you will be living. This is important because if the maintenance is not paid, you have to make your complaint at the maintenance court where you live.

## Do you want to know more about the powers of the court to grant and enforce maintenance orders?

*for example:*

- The maintenance court has the power to subpoena any person to appear at the maintenance enquiry and to bring any, book, document, statement (financial/earnings) to the enquiry;
- The maintenance court can make an order by default if the person who has to appear in court, fails to appear;
- The maintenance court can order some other person e.g. an employer, to pay the maintenance out of the earnings of, or money owed to, the person who has to pay maintenance;
- The maintenance court can change a maintenance order or make a new maintenance order in place of an existing one;
- The maintenance court can make an order for payment of all the mother's expenses in connection with the birth and care for the child, from the date that the child was born to the date of the maintenance enquiry;
- The maintenance court can make an order for a person to pay all medical expenses for the dependent child and order the person to register the child as a member of his/her medical aid; and
- The maintenance court has the power to enforce maintenance orders by attachment and sale property; attachment of earnings; attachment of debts owed to the person who has to pay maintenance.

- The Maintenance Act No 99 of 1998 has been rewritten in simple language so that you can understand and know your rights and obligations.