

Statutory Instrument 114 of 1988.

Maintenance (General) Regulations, 1988

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IT is hereby notified that the Minister of Justice, Legal and Parliamentary Affairs has in terms of section 32 of the Maintenance Act [Chapter 35] made the following regulations:—

1. Title

These regulations may be cited as the Maintenance (General) Regulations, 1988.

2. Interpretation and application

(1) In these regulations—

“complainant” means the person making a complaint in terms of subsection (1) of section 4 of the Act;

“form” means the appropriate form specified in the Schedule.

(2) Notwithstanding any provision of these regulations, where the circumstances of any particular case require it, or if it is convenient to do so, any form which is required to be used may be suitably modified or amended for the purpose.

3. Complaint on oath

(1) A complaint on oath made to a maintenance officer in terms of subsection (1) of section 4 of the Act shall be in form M. 1 and shall be completed in triplicate.

(2) The original complaint on oath shall be filed with the clerk of the maintenance court, one copy shall be handed to the complainant and the third copy shall be attached to the summons which shall be served on the responsible person in terms of section 4 of the Act.

4. Summons against responsible person

(1) A summons referred to in subsection (1) of section 4 of the Act shall be in form M. 2, and it shall call upon the responsible person to file with the clerk of the maintenance court, at least seven days before the date of the inquiry, two copies of the notice in form M. 3.

(2) The summons shall be accompanied by a copy of the complaint on oath, together with any annexure thereto.

(3) The clerk of the maintenance court shall cause a copy of the notice referred to in subsection (1) to be served on the complainant as soon as possible before the date of the inquiry.

5. Order of payment of maintenance

An order of the maintenance court referred to in subsection (1) of section 6 of the Act for the periodical payment of maintenance shall be in form M. 4 and a copy of the order shall be made available to the responsible person.

6. *Direction against employer*

A direction referred to in subsection (5) of section 6 and subsection (3) of section 9 of the Act against the employer of a responsible person shall be in Form M. 5.

7. *Variation or discharge of direction or order*

(1) An application in terms of subsection (1) of section 8 of the Act for the variation or discharge of a direction or an order shall be in form M. 6 and shall be completed in quadruplicate.

(2) The original copy of the application shall be filed with the clerk of the maintenance court, one copy shall be handed to the applicant and one copy shall be attached to the notice or notices to be served in terms of subsection (3) of section 8 of the Act.

8. *Notice to appear before maintenance court*

A notice in terms of subsection (3) of section 8 of the Act to appear before the maintenance court, and to be served on persons affected by the application re to in subsection (1) of section 7, shall be in form M. 7.

9. *Application for direction against employer of responsible person*

An application in terms of subsection (1) of section 9 of the Act for a direction to be made against the employer of a responsible person shall be in form M. 8.

10. *Notice to responsible person and employer*

A notice in terms of subsection (2) of section 9 of the Act to appear before the- maintenance court issued upon a responsible person and his employer shall be in form M. 9

11. *Variation or rescission of order*

(1) An application in terms of subsection (1) of section 12 of the Act for the variation or rescission of a direction, order, variation, extension or discharge or for the rehearing of an application shall be in form M. 10 and shall be completed in quadruplicate.

(2) The original copy of the application shall be filed with the clerk of the maintenance court, one copy shall be handed to the applicant and one copy shall be attached to the notice or notices to be served in terms of subsection (3) of section 12 of the Act.

(3) A notice in terms of subsection (3) of section 12 of the Act to persons affected by the application referred to in subsection (1) shall be in form M. 11.

12. *Payment of maintenance through clerk of maintenance court*

(1) An application in terms of subsection (1) of section 19 of the Act for an order for the payment of maintenance through the clerk of the maintenance court shall be in form M. 12 and shall be completed in triplicate.

(2) The original copy of the application shall be filed with (be clerk of the maintenance court one copy shall be handed to the applicant and one copy shall be attached to the notice to be served in terms of subsection (1) of section 19 of the Act.

(3) A notice in terms of subsection (1) of section 19 of the Act to the person against whom an application for an order referred to in subsection (1) has been made shall be in form M. 13.

SCHEDULE (Section 2)

FORM M. 1

Case No.

In the Maintenance Court,

For the Province of

Held at

In the matter between: Complainant

and

..... Respondent

COMPLAINT ON OATH IN TERMS OF SECTION 4 (1) OF THE MAINTENANCE ACT [CHAPTER 35] OF FAILURE OR NEGLECT TO PAY REASONABLE MAINTENANCE

(To be completed in triplicate)

I, hereby make oath and state that:

1. I am a married/unmarried woman, residing at

.....

AND EITHER:

2. On I married

(Christian names and surname)

at and there is/are

(Number)

legitimate minor child(ren), namely—

	Names	Date of birth
1.
2.
3.
4.
5.
6.

OR:

3. is the father of

(Christian names and surname)

..... minor child(ren) born to me, namely:

(Number)

	Names	Date of birth
1.
2.
3.
4.
5.
6.

3. Particulars of why respondent is said to be the father, [e.g. respondent is married to complainant or respondent had access during the relevant period].

.....
.....
.....
.....
.....

4. Particulars of failure or neglect to provide reasonable maintenance:
(in addition, please complete Annexure)

.....
.....

5. The said has, despite demand, failed
(Name of respondent)

or neglected to provide reasonable maintenance for me and his child(ren). I wish to claim maintenance for myself in the sum of per month and per month for each of
(Amount) (Amount)

the minor child(ren), making a total of \$
(Number)

per month. My income is \$ per week/month.

The respondent resides at
.....
.....

and is employed at

He is a and when employed
(Occupation)

earns approximately \$ per month/week and is able to pay per month for his child(ren) and myself.

Signature:

Address:

Telephone No.

Sworn at this day of 19.....

Before me,
(Signature)
Maintenance Officer/Commissioner of Oaths.

ANNEXURE
EXPENSES PER MONTH

	<i>Self and/or children</i>
Rent or bond
Rates
Lights and water
Telephone
Food and groceries
Worker
Insurance: (car, house, etc.)
H.P. instalments (car, furniture, etc.)
Loans
Car (licence, running and upkeep)
Fares (bus, taxis)
Medical and Dental Aid
Doctor
Dentist
School fees
Crèche fees
Day mother
Clothes (uniforms)
Clothes (casual wear)
Chemist
Provision for holidays
Incidentals
Total:
Salary
Less total expenses
	<hr style="border-top: 1px solid black;"/>
Outstanding	<hr style="border-top: 3px double black;"/>

Note: You are advised to produce at the hearing, if available, your current salary advice and receipted accounts for those expenses normally receipted. Failure to do so may prejudice your case.

FORM M. 2

Case No.

In the Maintenance Court,

For the Province of

Held at

In the matter between: Complainant

and

..... Respondent

SUMMONS

**IN TERMS OF SECTION 4 (1) OF THE MAINTENANCE ACT
[CHAPTER 35] TO SHOW CAUSE WHY MAINTENANCE
ORDER SHOULD NOT BE MADE**

TO EACH AND EVERY MEMBER OF THE POLICE FORCE

Whereas a complaint on oath has been made that:

Name:

Address: *(Residential)*

(Business)

is legally liable to maintain:

(Names of person/s in respect of whom maintenance is claimed)

for a total amount of \$..... and that it is alleged that

he has failed or neglected to provide reasonable maintenance for the afore-
said person(s);

THIS, THEREFORE, is to require you to summon the said

IN TERMS of the Maintenance Act [*Chapter 35*], that he appear before

the Maintenance Court of the Magistrate, at a.m./p.m.

in the fore/afternoon of the day of 19.....

with any witnesses and with documentary evidence, to show cause why he
should not be ordered to provide reasonable maintenance for the afore-
said persons.

AND SERVE ON the said a copy of this summons,
together with a copy of the complaint on oath made by

and return to this Court what you have done hereon.

TO THE SAID

TAKE note that, failure to appear on the above-mentioned date, after summons has been served, may result in default judgment being entered against you.

TAKE notice too, that, you are required, at least seven days before the date of the inquiry, to file with the Clerk of the Maintenance Court, two copies of the notice in form M. 3, three copies of which are attached to this summons.

GIVEN under my hand at this day of 19.....

Maintenance Court, Magistrates' Court,

Maintenance Officer

NOTE:

- 1. You should produce at the inquiry, if available, your current salary advice and receipted accounts for those expenses normally received. Failure to do so may prejudice your case.
2. Attached to this summons is a copy of the complaint on oath made by the complainant. You are advised to study it.

(Endorsement on back of summons)

CERTIFICATE OF SERVICE

I hereby certify that I have this day of 19..... served a true copy of the within-mentioned process on the within-mentioned

- 1. by handing it to him personally; or
2. by handing it to (Employer, relative, etc.)

at in the province of and have fully explained

- 1. to him; or
2. to the said

the exigencies thereof.

Signature: Rank No.:

FORM M. 3

Case No.

In the Maintenance Court,

For the Province of

Held at

In the matter between: Complainant

and

..... Respondent

**NOTICE BY RESPONDENT IN TERMS OF SECTION 4 (1) OF THE
MAINTENANCE (GENERAL) REGULATIONS, 1988, SETTING
OUT INCOME AND EXPENDITURE**

(To be completed in duplicate)

To the Clerk of the Maintenance Court.

I,, of

the above respondent, hereby notify that—

(1) my monthly earnings amount to \$.....;

(2) my dependants and their particulars of birth are as follows—

	<i>Names</i>	<i>Date of birth</i>
1.
2.
3.
4.

(3) My monthly expenses are as follows—

Rent or bond

Rates

Lights and water

Telephone

Food and groceries

Worker(s)

Insurance: (car, house, etc.)

H.P. Instalments (car, furniture, etc.)

Loans

Car (licence, running and upkeep)

Fares (bus, taxis)	.....
Medical and Dental Aid	.....
Doctor	.....
Dentist	.....
School fees	.....
Crèche fees	.....
Day mother	.....
Clothing (uniforms)	.....
Clothes (casual wear)	.....
Provision for holidays	.....
Incidentals	.....
	Total:
Salary	.....
Less total expenses	.....
	<u>.....</u>
Outstanding	<u>.....</u>

Dated at this day of 19.....

.....
Respondent

FORM M. 4

Case No.

COPY HANDED TO RESPONDENT THIS DAY:

In the Maintenance Court,

For the Province of

Held at

In the matter between: Complainant

and

..... Respondent

**ORDER MADE IN TERMS OF SECTION 6 (1) OF THE
MAINTENANCE ACT [CHAPTER 35]**

**It is ordered that the respondent pay the sum of \$
per week/month, as and for maintenance in respect of the under-mentioned
dependants.**

That is:

<i>Names</i>	<i>Date of birth</i>
.....
.....
.....

**THAT FIRST PAYMENT under this order shall be made on or before
the for the month of and each
successive payment shall be made on or before the
day of each and every successive month. PAYMENTS SHALL BE MADE
TO THE CLERK OF THE MAINTENANCE COURT,
FOR transmission to the complainant.**

**Given under my hand at this day
of 19.....**

Signed:

Magistrate

**CHEQUES MUST BE MADE PAYABLE TO THE CLERK OF THE
MAINTENANCE COURT**

Address:

.....

NOTE: PLEASE SEE THE REVERSE WHICH SETS OUT—

- 1. PENALTIES FOR FAILING TO COMPLY WITH THE ORDER OR TO NOTIFY CHANGE OF ADDRESS OR EMPLOYMENT;**
- 2. INFORMATION ON HOW TO NOTE AN APPEAL AND THE TIME LIMITS APPLICABLE.**

(Endorsement on back of order)

FAILURE TO COMPLY WITH ORDER (Section 23 (1) of Act)

Subject to the provisions of section 4, any person against whom an order to which this section applies has been made and who fails to make any particular payment in terms of the order shall be guilty of an offence and liable to imprisonment for a period not exceeding one year.

CHANGE OF ADDRESS OR EMPLOYMENT (Section 21 (2) of Act)

A responsible person against whom an order which has been registered in terms of section 18 has been made shall notify, in writing, the Clerk of the Maintenance Court where the order is registered of the particulars of any change of address or employment, within seven days of any such change. ANY PERSON WHO CONTRAVENES THE PROVISIONS OF

SUBSECTION (2) SHALL BE GUILTY OF AN OFFENCE AND LIABLE TO A FINE NOT EXCEEDING ONE HUNDRED DOLLARS OR TO IMPRISONMENT FOR A PERIOD NOT EXCEEDING SIX MONTHS OR TO BOTH SUCH FINE AND SUCH IMPRISONMENT.

APPEALS (Section 27 of Act)

If you wish to appeal against this order, you may do so by noting an appeal within the prescribed time limits set out in the Magistrates' Court (Civil) Rules, 1980 (published in Statutory Instrument 290 of 1980).

Failure to comply with these time limits may preclude the hearing of your appeal.

FORM M. 5

Case No.

REGISTERED POST:

Provincial Magistrates Office,

Address

.....

.....

Date:

.....

.....

.....

.....

In the matter between: Complainant

and

..... Respondent

Dear Sir,

NOTICE having been duly served upon you at the enquiry on the at which you appeared/were in default, the following Direction was made—

“In terms of section 6 (5)/9(3) of the Maintenance Act [Chapter 35], the maintenance payable under the order registered in this court in favour of the complaint is to be paid by you

(Name of employer).

..... in the sum of \$ per month/week, from the salary, wages, remuneration or allowances due by you to

(Name of employee)

Arrears in the sum of \$ are to be liquidated at the rate of \$ per month/week.

First payment is due on the and thereafter on the when the payment will be \$ per month/week.”

NOTE:

In terms of section 7 of the Maintenance Act [Chapter 35]—

- (a) this Direction has precedence over any order of Court requiring payments to be made from the salary of the Respondent;
- (b) this Direction takes precedence over any agreement by the respondent to settle any other debt from his wages;
- (c) this Direction ceases to have effect on the termination of employment of the respondent, but you are required to make all payments due before termination of employment;
- (d) you are required to advise this office of the termination of respondent's employment.

Yours faithfully,

.....

Clerk of the Maintenance Court

FORM M. 6

Case No.

In the Maintenance Court,

For the Province of

Held at

In the matter between: Complainant

and

..... Respondent

**APPLICATION IN TERMS OF SECTION 8 (1) OF THE
MAINTENANCE ACT [CHAPTER 35] FOR VARIATION/
DISCHARGE OF MAINTENANCE ORDER OR DIRECTION**

(To be completed in quadruplicate)

I, do hereby make oath and state that I
hereby apply for the variation/discharge of the Maintenance Order/Direc-
tion registered in this court on on the following grounds:

.....
.....
.....
.....

I hereby acknowledge that I have read this affidavit/have had this
affidavit read to me and that I adhere to the contents thereof and declare
them to be true and correct.

Signed

Sworn at this day of

..... 19..... before me

Maintenance Officer/Commissioner of Oaths

Note: You will be required to produce proof of your allegations contained
in this affidavit, i.e. proof of the changed circumstances, and you
are advised to bring documentary evidence, if available, to the
court hearing.

FORM M. 7

Case No.

In the Maintenance Court,

For the Province of

Held at

In the matter between: Complainant

and

..... Respondent

**NOTICE IN TERMS OF SECTION 8 (3) OF THE MAINTENANCE ACT
[CHAPTER 35] TO APPEAR AND SHOW CAUSE WHY
MAINTENANCE ORDER OR DIRECTION SHOULD
NOT BE VARIED OR DISCHARGED**

TAKE notice that an application in respect of the above matter will be made to the above honourable court at on the day of 19..... at

in the noon for the variation/discharge of the Direction/Order registered in this Court on the day of 19..... on the grounds set out in the annexed affidavit.

Should you wish to oppose the application, you are advised to be present at the time and date stated, or to instruct a legal practitioner to act on your behalf, failing which the application may be granted in your absence.

Dated at this day of 19.....

.....
Maintenance Officer

TO: 1.

Address

2.

Address

(Endorsement on the back of the notice)

I hereby certify that I have this day of 19..... served a true copy of the within-mentioned process on the within-mentioned

(1) by handing it to him personally; or

(2) by handing it to

(Employer, relative, etc.)

..... in the province of and have fully explained.

(1) to him; or

(2) to the said

the exigencies thereof.

Signature: Rank No.

FORM M. 8

Case No.

In the Maintenance Court,

For the Province of

Held at

In the matter between: Complainant

and

..... Respondent

**APPLICATION IN TERMS OF SECTION 9 (1) OF THE
MAINTENANCE ACT [CHAPTER 35] FOR DIRECTION
AGAINST EMPLOYER TO PAY MAINTENANCE**

I,
of
am a person in whose favour Maintenance Order was
registered in terms of section 17 of the Maintenance Act [Chapter 35], at this
Maintenance Court on the against
hereinafter referred to as the "responsible person".

I wish to make application to the above-mentioned honourable court
for a direction to be made against
(Employer)
of
(Business address)

.....
who is the employer of the responsible person.
The registered order is for the payment of maintenance for myself and/or
for my child(ren) in the sum of \$

.....
Applicant

.....
Date

FORM M. 9

Case No.

In the Maintenance Court,
For the Province of

Held at
In the matter between: Complainant
and
..... Respondent

**NOTICE IN TERMS OF SECTION 9 (2) OF THE MAINTENANCE ACT
[CHAPTER 35] TO EMPLOYER TO SHOW CAUSE WHY
HE SHOULD NOT BE DIRECTED TO PAY MAINTENANCE**

To:
1. (Employer) 2. (Employee)
Address: Address:

WHEREAS a Maintenance Order made against
hereinafter referred to as the "responsible person".
person"), has been registered in this Court in terms of section 18 of the
Maintenance Act [Chapter 35] for the payment of maintenance in the
sum of \$, and whereas this Court has received an
application for a direction to be made against
(Employer)

to make maintenance payments, including arrears amounting to
\$ from salary, wages, remuneration or allowances due
to the responsible person by the employer; You are hereby notified
that this matter will be heard in this Court and should you wish to
oppose any such direction you should appear to show cause at this
Court at on the
day of 19....., failing which, the
direction may be made in your absence.

Dated at this day of 19.....
Maintenance Officer

MAINTENANCE COURT
Address:

(Endorsement on the back of the notice)

I hereby certify that I have this day of
..... 19..... served a true copy of the within-
mentioned process on the within-mentioned

- (1) by handing it to him personally; or
- (2) by handing it to
(Employer, relative, etc.)
..... in the province of and have
fully explained
- (1) to him;
- (2) to the said
the exigencies thereof.

Signature: Rank No.

FORM M. 10

Case No.

In the Maintenance Court,

For the Province of

Held at

In the matter between: Complainant

and

..... Respondent

**APPLICATION FOR VARIATION OR RESCISSION IN TERMS OF
SECTION 12 (1) OF THE MAINTENANCE ACT [CHAPTER 35]
OF MAINTENANCE ORDER OR DIRECTION MADE IN
ABSENCE OF PERSON**

(To be completed in quadruplicate)

I, do, hereby make oath and state that I
hereby apply for—

either (a) the variation/rescission of the direction/order/variation/
extension/discharge;

or (b) the rehearing of the application;

in respect of the maintenance order, Case No. M..... registered in this
court on on the following grounds:

.....
.....
.....
.....
.....
.....
.....
.....
.....

State the reasons why you did not appear at the inquiry

.....
.....
.....

I adhere to the contents of this affidavit and declare them to be true and
correct.

Signed

Sworn at this day of 19.....

Before me,
(Signature)

Commissioner of Oaths

FORM M. 11

Case No.

In the Maintenance Court,

For the Province of

Held at

In the matter between: Complainant

and

..... Respondent

NOTICE IN TERMS OF SECTION 12(3) OF THE MAINTENANCE ACT [CHAPTER 35] TO SHOW CAUSE WHY MAINTENANCE ORDER OR DIRECTION MADE IN ABSENCE OF PERSON SHOULD NOT BE VARIED OR RESCINDED

TAKE notice that the applicant in the above matter will apply to the above honourable court at the Magistrate's Court

..... on the day of 19.....

at in the noon for the variation/rescission of the direction/order/variation/extension/discharge or the rehearing of the application in Case No. M on the grounds set out in the annexed affidavit.

Should you wish to oppose the application, you are advised to be present at the time and date stated, or to instruct a legal practitioner to act on your behalf, failing which, the application may be granted in your absence.

Dated at this day of 19.....

.....
Maintenance Officer

TO:

Address

(Endorsement on back of the notice)

I hereby certify that I have this day of 19....., served a true copy of the within-mentioned process on the within-mentioned

(1) by handing it to him personally; or

(2) by handing it to in the
(Employer, relative, etc.)

province of and have fully explained

(1) to him; or

(2) to the said
the exigencies thereof.

Signature Rank No.

FORM M. 12

Case No.

In the Maintenance Court,

For the Province of

Held at

In the matter between: Complainant

and

..... Respondent

**APPLICATION IN TERMS OF SECTION 19 (1) OF THE
MAINTENANCE ACT [CHAPTER 35] FOR AN ORDER TO MAKE
FUTURE MAINTENANCE PAYMENTS THROUGH
CLERK OF COURT**

(To be completed in triplicate)

AFFIDAVIT

I, the undersigned
presently of

do hereby make oath and state—

1. that in terms of an order registered in this Court on
..... the respondent
was ordered to pay me the sum of \$..... per
month/week as and for maintenance in respect of
2. that the said
is in arrears in the sum of \$..... made up as
follows:
3. that the said
resides at
or is employed at
4. that I hereby apply to this honourable court for an order to be made
to compel the said
to have all future payments made to the Clerk of the Maintenance
Court,
5. that the minor child(ren) are still in my custody and that I have
never waived my right to maintenance under the order, and that
maintenance is still payable in terms of section 11 (1) of the Main-
tenance Act [Chapter 35].

Signed.....

SWORN at this day
of 19.....

Before me,
Commissioner of Oaths

FORM M. 13

Case No.

In the Maintenance Court,

For the Province of

Held at

In the matter between: Complainant

and

..... Respondent

NOTICE IN TERMS OF SECTION 19 (1) OF THE MAINTENANCE ACT [CHAPTER 35] TO SHOW CAUSE WHY FUTURE PAYMENTS SHOULD NOT BE MADE THROUGH CLERK OF COURT

TO:

OF: Res:

Bus:

WHEREAS YOU

were ordered by the

to pay maintenance to

in the sum of \$..... and the said order having been

registered by the Clerk of this Maintenance Court at

on the day of 19.....;

AND WHEREAS a complaint has been made on oath to the Maintenance Officer of this Court, a copy of which is attached, that you have failed to comply with the said order of this Court;

YOU are required to appear before this Court at

on the day of 19.....,

to show cause why you should not be ordered to make all payments and/or arrears of \$..... together with any arrears which may accrue from the date of this notice to the date of hearing, in terms of the order through the Clerk of this Court, or to consent to an order being made against you.

TAKE notice that in default of your appearance at the time and place appointed, this order may be made in your absence.

Dated at this day of

..... 19.....

.....
Clerk of Maintenance Court

Magistrate's Court

Address:

.....

.....

(Endorsement on back of the notice)

I hereby certify that I have this day of
..... 19....., served a true copy of the within-mentioned
process on the within-mentioned

.....

(1) by handing it to him personally; or

(2) by handing it to
(Employer, relative, etc.)

in the province of and have
fully explained

(1) to him; or

(2) to the said

the exigencies thereof.

Signature Rank No.