

# BASIC FACTS ON THE MAINTENANCE ACT



# FACT SHEET

Gender Research & Advocacy Project  
LEGAL ASSISTANCE CENTRE  
Windhoek, Namibia

## What is maintenance?

- Maintenance is money or goods that a person has a legal duty to provide for the basic living expenses of his or her dependants.
- Maintenance is used for basic living expenses such as housing, water, electricity, food, clothes, transport, medical expenses and school fees. Maintenance may also be provided for pregnancy and birth-related expenses.
- All children have a right to maintenance.
- All children are treated equally before the law.
- Both parents are responsible for their children, even if a child is being cared for by someone else.
- The amount of money each parent must pay will depend on how much money they have and how much money they earn.
- The payment of maintenance must come before anything else except for payments parents make to support themselves.



## What to do if maintenance is not paid

If you do not receive a maintenance payment 10 days after it should have been paid, you should contact the Clerk of the Court. The court can take the money directly from the defendant's wages, or sell some of his or her property.

## Who can claim maintenance?

A parent, the person who looks after the child (such as the grandmother) or any other person who is worried about the child (such as a teacher) can apply for maintenance. A child can also claim maintenance from a parent without assistance from an adult.

## How long must a parent pay maintenance for a child?

A maintenance order generally ends when a child is able to look after him- or herself. This is usually when the child reaches 18. But if a child marries or starts work before the age of 18, a maintenance order will stop. If a child goes to university, maintenance may need to be paid for longer.

## How to claim maintenance

### Go to the Magistrate's Court

- The Clerk of the Court will help you to fill in the forms. The entire process should be private and you do not need a lawyer.

### Meeting with the Maintenance Officer

- Both parents will be asked to attend an informal meeting. Most cases are settled at this meeting. The maintenance officer will try to help the parents come to an agreement. If the parents cannot agree, a Magistrate will have to decide the case.

### Enquiry by the Magistrate

- If the Magistrate has to decide the case, both parents must come back on another day to explain their position to the Magistrate.

Let us sit together and discuss everyone's income and expenses. Maybe then you will be able to agree on how to share the costs of the things your children need.



- It is a crime to lie to the Magistrate or Maintenance Officer or to delay the process.
- It is a crime to threaten or intimidate the complainant.
- It is a crime to ignore a maintenance order or to misuse maintenance money.
- It is a crime for the Magistrate or Maintenance Officer to tell anyone about the details of the case.

See the Legal Assistance Centre's Guide to the Maintenance Act 9 of 2003 for more details.



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