

## **Instruction for Maintenance Claim:**

Welcome,

Going through the process of claiming child maintenance can be challenging - it's neither quick nor easy! This is true whether you're starting for the first time, reopening a previous case, or claiming outstanding maintenance. However, it's a very important process nonetheless, ensuring the shared responsibility of both parents in contributing to the child's upbringing.

### **Starting the maintenance process**

If you're starting for the first time, you'll need to open a maintenance file. This includes filling out an application form for maintenance, providing three months' worth of bank statements, copies of your ID, and your child's birth certificate. Depending on your local court, you may fill out the application at home and submit it later or complete it in person with the court clerk. We recommend preparing all the required documents beforehand for a smoother process. Spend some time detailing your expenses accurately on the expense sheet section before going to court.

Next, visit the Maintenance Court. Each Magistrate's Court has one, so locate your local court and ask the front guard for the maintenance clerk. Wait your turn in line and maintain a friendly demeanour with the clerk.

Once it's your turn, they will either accept your forms or help you complete them. Then, you'll get a date to provide proof of your expenses. Therefore, start keeping a record of your expense receipts! This date will be in front of the maintenance clerk and they will try to mediate an agreement between you and the other party.

You might be thinking: "Well, this isn't going to work." But you'd be surprised how often it does. While it can be stressful (don't be unprepared!), the other party may realise the administrative load and agree to the terms.

If an agreement isn't reached, a financial enquiry date will be scheduled before a Magistrate. Though it might seem intimidating, it's the same process, but in an open court setting, where the maintenance clerk will review your expenses.

In deciding maintenance, the court considers two things: the parents' means (earnings, luxuries, and potential cutbacks) and the child's reasonable needs. The court weighs these two to decide an amount that is fair to both the parents and the child.

For the court date, remember to:

- Take a day off work
- Dress neatly
- Bring up-to-date bank statements
- Present expenses and proof of expenses, even if paid by someone else

### **Reopening a case or claiming outstanding maintenance**

If you need to add a child or increase maintenance, a substitution application is needed, requiring the same documents as the original application. If you already have a maintenance order that's not being paid, return to the maintenance court clerk to enforce the order.

#### *Depending on the other parent's situation*

- If they're employed, request a garnishee order to receive monthly payments from their employer.
- If they're unemployed or self-employed, consider attaching assets or legal action.

We hope this guide assists you in your journey towards claiming maintenance. You're not alone in this. As a qualified attorney, I provide maintenance coaching to clients daily. Should you require additional advice or have questions, consultations can be booked at a cost of R600. Just email me to schedule one.

Kind regards,

Amy