

South Africa

Maintenance Act, 1998

## Regulations relating to Maintenance, 1999

Government Notice R1361 of 1999

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Regulations relating to Maintenance, 1999  
 Contents

1. Definitions ..... 1

Chapter 1 – Complaints and investigations ..... 1

    2. Complaints ..... 1

    2A. Locating whereabouts of person who may be affected by order ..... 1

    3. Investigation by maintenance officer ..... 3

    4. Subpoena ..... 3

    5. Subsistence and travelling allowances ..... 4

    6. Statements by witnesses ..... 5

    7. Notification to admit statements by witnesses ..... 5

Chapter 2 – Maintenance and other orders ..... 5

    8. Maintenance and ancillary orders ..... 5

    9. Notices ..... 5

    10. Orders by consent ..... 6

    11. Orders by default ..... 6

    12. Variation or setting aside of orders ..... 6

    13. Substitution or discharge of maintenance orders ..... 7

    14. Transfer of maintenance orders ..... 7

    15. Appeals against orders ..... 7

Chapter 3 – Civil execution ..... 8

    16. Enforcement of maintenance or other orders ..... 8

    17. Warrant of execution ..... 9

    18. Particulars of persons authorised to execute warrant of execution ..... 9

    19. Application for the setting aside of a warrant of execution ..... 9

    20. Attachment of emoluments ..... 9

    21. Attachment of debts ..... 10

    21A. Furnishing of personal particulars of person convicted ..... 10

Chapter 4 – Offences and orders relating to prosecutions ..... 11

    22. Complaints of failure to comply with orders ..... 11

    23. Recovery of arrear maintenance ..... 11

Chapter 4A – Powers of maintenance investigators ..... 11

    23A. Powers, duties and functions of maintenance investigator ..... 11

Chapter 5 – General and supplementary provisions ..... 12

    24. Record of proceedings ..... 12

    25. Photographs of persons subject to maintenance orders ..... 12

26. Service of documents .....	13
27. Short title .....	13
Annexure .....	14



**South Africa**  
**Maintenance Act, 1998**  
**Regulations relating to Maintenance, 1999**  
**Government Notice R1361 of 1999**

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*[Amended by [Regulations relating to Maintenance: Amendment \(Government Notice R1099 of 2006\)](#) on 3 November 2006]*

*[Amended by [Regulations relating to Maintenance: Amendment \(Government Notice R966 of 2017\)](#) on 6 September 2017]*

*[Amended by [Regulations relating to Maintenance: Amendment \(Government Notice R1473 of 2017\)](#) on 5 January 2018]*

The Minister of Justice has, under section [44](#) of the Maintenance Act, 1998 ([Act No. 99 of 1998](#)), made the regulations in the Schedule.

## 1. Definitions

In these Regulations any word or expression to which a meaning has been assigned in the Act shall bear that meaning and, unless the context otherwise indicates—

"**sheriff**" means a person appointed under section [2\(1\)](#) of the Sheriffs Act, 1986 ([Act No. 90 of 1986](#)), and includes a person appointed under section 5 or 6 of that Act as an acting sheriff or deputy sheriff; and

"**the Act**" means the Maintenance Act, 1998 ([Act No. 99 of 1998](#)).

## Chapter 1 Complaints and investigations

### 2. Complaints

- (1) Any complaint that any person legally liable to maintain any other person fails to maintain the latter person, contemplated in section [6\(1\)\(a\)](#) of the Act, shall substantially correspond with Form A of the Annexure.
- (2) A complaint for the substitution or discharge of a maintenance order, contemplated in section [6\(1\)\(b\)](#) of the Act, shall substantially correspond with Form B of the Annexure.

### 2A. Locating whereabouts of person who may be affected by order

- (1)
  - (a) A maintenance officer who, in terms of section [7\(3\)\(a\)](#) of the Act, has failed to locate the whereabouts of a person who may be affected by an order, may apply in writing, on a form which corresponds substantially with Form R of the Annexure, to the maintenance court to issue a direction as contemplated in section [7\(3\)\(b\)](#) of the Act.
  - (b) An application for a direction as contemplated in subregulation [\(1\)\(a\)](#) shall be lodged with the clerk of the court who shall, within three working days, hand the application for a direction to the maintenance court.

- (2) After consideration of the application as contemplated in subregulation (1), the maintenance court may issue a direction in writing on a form which corresponds substantially with Form S of the Annexure, directing the electronic communications service providers to furnish the court in writing, with the contact information of the person on a form which corresponds substantially with Form T of the Annexure as contemplated in section 7(3)(b) of the Act on the date specified in the direction.
- (3) The direction as contemplated in subregulation (2) shall be submitted to the electronic communications service provider in the manner determined by the court which may include—
- (i) registered post;
  - (ii) facsimile; or
  - (iii) electronic mail:

Provided that proof of submission by registered post and facsimile shall be kept and proof of receipt by the electronic communications service provider can be given by the person who sent the electronic mail.

- (4) (a) An electronic communications service provider may lodge an application as contemplated in section 7(3)(e) of the Act on a form which corresponds substantially with Form U of the Annexure, before or on the date specified in the direction referred to in subregulation (2).
- (b) Upon receipt of an application as contemplated in paragraph (a), the maintenance court shall inform the electronic communications service provider, in writing of the outcome of the application on a form which corresponds substantially with Form V of the Annexure.
- (c) The outcome of the application as contemplated in paragraph (a) shall be submitted to the electronic communications service provider, in the manner directed by the maintenance court.
- (5) (a) Before a maintenance court directs the State to pay the costs as contemplated in section 7(3)(j) of the Act, the maintenance officer of such a maintenance court shall inform the maintenance court in writing whether there are available resources on the budget allocated to that court, upon which the maintenance court may direct the State to pay such costs in accordance with the financial prescripts applicable.
- (b) If a person is ordered in terms of section 7(3)(k) of the Act to refund the costs paid by the State, such payment must be made within 30 days after the court has made such an order.
- (c) The payment may be made—
- (i) in cash to the clerk of the court whereupon the clerk of the court shall immediately issue the person who makes the payment with a receipt; or
  - (ii) by direct deposit or electronic fund transfer into the following account of the Department of Justice and Constitutional Development:

Name of Account:	Department of Justice and Constitutional Development Vote Account
Account:	Deposits
Bank:	ABSA Corporate
Account number:	4053764491
Branch Code:	632005
Reference:	MC Case number Refund

Provided that if a direct deposit or electronic fund transfer is made that proof of payment of such deposit or transfer shall be submitted to the clerk of the court within seven days.

*[regulation 2A inserted by section 2 of [Government Notice R1473 of 2017](#)]*

### 3. Investigation by maintenance officer

- (1) A maintenance officer may, in investigating a complaint and with due consideration to expediting the investigation of that complaint, direct the complainant and the person against whom a maintenance order may be or was made to—
  - (a) appear on a specific time and date before him or her; and
  - (b) produce to him or her on the date of appearance information relating to the complaint and documentary proof of the information, if applicable.
- (2)
  - (a) A direction contemplated in subregulation (1) may be given in the manner the maintenance officer deems fit.
  - (b) The maintenance officer shall keep record of the manner in which the direction was given.
- (3) Any person who fails to comply with a direction contemplated in subregulation (1) shall be guilty of an offence and liable on conviction to imprisonment for a period not exceeding six months.

### 4. Subpoena

- (1) A subpoena, contemplated in section [9\(2\)\(b\)](#) of the Act—
  - (a) for the person in whose favour a maintenance order is to be or was made as well as the person against whom a maintenance order may be or was made, shall substantially correspond with Part A of Form CI of the Annexure; and
  - (b) for other witnesses, shall substantially correspond with Part A of Form CII of the Annexure.
- (2) Part B of Form CI of the Annexure shall be completed by the opposing party.
- (3) The service of a subpoena referred to in subregulation (1) shall be in accordance with the provisions of regulation [26\(1\)](#).

- (4) A return of service of a subpoena referred to in—
- (a) subregulation (1)(a) shall substantially correspond with Part C of Form CI of the Annexure; and
  - (b) subregulation 1(b) shall substantially correspond with Part B of Form CII of the Annexure.
- (5) A subpoena to the person against whom a maintenance order may be or was made must be accompanied by a document in the form set out in Form G of the Annexure.

## 5. Subsistence and travelling allowances

Any person against whom a maintenance order may be made shall on direction of the maintenance court be entitled to the following allowances:

- (a) (i) the allowances as prescribed from time to time for the Public Service if he or she is obliged to be absent for longer than 24 hours from his or her residence or place of sojourn; or
- (ii) the reasonable actual expenses incurred if he or she is obliged to be absent from his or her residence or place of sojourn for less than 24 hours, if the necessary corroborative documents accompany the claim to the satisfaction of the maintenance officer, or to the expenses as prescribed from time to time for the Public Service:

Provided that the allowances provided for in subparagraphs (i) and (ii) are payable for the full period for which he or she is absent from his or her residence or place of sojourn for purposes of attending the enquiry.

*[paragraph (a) substituted by section 2(a) of [Government Notice R966 of 2017](#)]*

- (b) Whenever the person—
  - (i) has to make use of railway transport to attend the enquiry, he or she shall be issued with a rail warrant for a return ticket for the class in which presumably he or she would ordinarily travel or such other class as a maintenance officer may deem appropriate, and the decision of the maintenance officer in this respect shall be final; or
  - (ii) makes use of railway transport without a rail warrant having been issued to him or her, an amount equal to the fare at government rate shall be paid to him or her: Provided that if a maintenance officer is satisfied that the payment of such amount would in any particular instance be unreasonable, he or she may order that an amount equal to the actual fair be paid to the person.
- (c) Whenever suitable railway transport is not available and a person against whom a maintenance order may be made makes use of any other means of public transport to attend the enquiry, an amount equal to the fare for the forward and return journey along the shortest convenient route shall be paid to him or her: Provided that if more than one such other means of public transport is available, the fair for the least expensive thereof shall be paid.
- (d) Whenever suitable public transport is not available and a person against whom a maintenance order may be made makes use of his or her own or hired transport to attend the enquiry, he or she is entitled to a transport allowance as prescribed from time to time for the Public Service.

*[paragraph (d) substituted by section 2(b) of [Government Notice R966 of 2017](#)]*

- (e) Whenever suitable public transport is available and a person against whom a maintenance order may be made makes use of his or her own or hired transport to attend the enquiry, the amount referred to in subparagraph (d) may be paid for a forward and return journey not exceeding 300 kilometres: Provided that if a maintenance officer is satisfied that the circumstances in a particular instance justify the use of transport other than public transport for a distance in excess of 300 kilometres, he or she may order that the amount referred to in subparagraph (d) or such lesser amount as may be deemed equitable in the circumstances be paid for such longer distance, and the decision of a maintenance officer in this respect shall be final.



- (f) If a maintenance officer is satisfied that the use of such transport is warranted, he or she may grant approval for a person against whom a maintenance order may be made to make use of air transport at government expense to attend the enquiry.

## 6. Statements by witnesses

- (1) A statement in writing by a person, other than a person against whom a maintenance order may be made, contemplated in section [12\(1\)](#) of the Act, shall—
- (a) be signed by the person who made it; and
  - (b) contain a declaration by such person to the effect that it is true to the best of his or her knowledge and belief and that he or she made the statement knowing that he or she may be guilty of an offence if he or she wilfully stated anything therein which he or she knew to be false.
- (2) If the person who makes a statement in terms of subregulation [\(1\)](#) cannot read such statement, the statement shall—
- (a) be read to him or her by the person taking down the statement before the statement is signed by the person making the statement; and
  - (b) be endorsed by the person who so read the statement to the effect that it was read.

## 7. Notification to admit statements by witnesses

A notification, contemplated in section [12\(2\)\(c\)](#) of the Act, to the person against whom a maintenance order may be or was made requiring his or her consent for the admission of a statement as evidence, shall substantially correspond with Form D of the Annexure.

## Chapter 2 Maintenance and other orders

## 8. Maintenance and ancillary orders

Any order of a court made under Chapter [4](#) of the Act, excluding an order contemplated in section [17](#) or [18](#) of the Act, shall substantially correspond with Form E of the Annexure.

## 9. Notices

- (1) (a) A notice, contemplated in section [16\(3\)\(a\)](#) of the Act, to any person who is obliged by any contract to pay money on a periodical basis to a person against whom a maintenance order has been made, shall substantially correspond with Part A of Form F of the Annexure.
- (b) The service of a notice referred to in paragraph [\(a\)](#) shall be in accordance with the provisions of regulation [26\(1\)](#) or [\(2\)](#), as the case may be.
- (c) The return of service of a notice referred to in paragraph [\(a\)](#), if such notice is served in accordance with the provisions of regulation [26\(1\)](#), shall substantially correspond with Part B of Form F of the Annexure.
- (2) (a) A notice, contemplated in section [16\(3\)\(b\)](#) of the Act, by a person referred to in subregulation [\(1\)](#) and who has been discharged from his or her contractual obligation, shall substantially correspond with Part C of Form F of the Annexure.
- (b) A notice referred to in paragraph [\(a\)](#) shall be submitted to the maintenance officer of the court where the maintenance order was made in any manner convenient to the relevant person, subject thereto that the person who submits the notice shall keep record of the manner in which the notice was submitted.

## 10. Orders by consent

- (1) The consent of a person against whom a maintenance order may be made, contemplated in section [17](#) of the Act, shall substantially correspond with Part A of Form G of the Annexure.
- (2) Any order made in accordance with the consent referred to in subregulation [\(1\)](#) shall substantially correspond with Part B of Form G of the Annexure.
- (3) The return of a maintenance officer, police officer, sheriff or maintenance investigator showing that a copy of an order by consent referred to in subregulation [\(2\)](#) was delivered or tendered to the person who consents to the maintenance order, shall substantially correspond with Part C of Form G of the Annexure.

## 11. Orders by default

- (1) An order by default, contemplated in section [18\(1\)](#) of the Act, shall substantially correspond with Part A of Form H of the Annexure.
- (2) A notice to the person against whom an order by default, referred to in subregulation [\(1\)](#), was made shall substantially correspond with Part B of Form H of the Annexure.
- (3) The return of a maintenance officer, police officer, sheriff or maintenance investigator showing that a copy of an order by default referred to in subregulation [\(1\)](#) was delivered or tendered to the person against whom the order was made, shall substantially correspond with Part C of Form H of the Annexure.
- (4)
  - (a) An application for the variation or setting aside of an order by default, contemplated in section [18\(4\)\(b\)](#) of the Act, shall substantially correspond with Part A of Form I of the Annexure.
  - (b) A notice of an application for the variation or setting aside of an order by default, contemplated in section [18\(4\)\(c\)](#) of the Act, to the person in whose favour such order was made, shall substantially correspond with Part B of Form I of the Annexure.
  - (c) A person who applied for the variation or setting aside of an order by default shall submit a notice referred to in paragraph [\(b\)](#) to the person in whose favour the order was made in any manner convenient to him or her, subject thereto that the person who submits the notice shall keep record of the manner in which the notice was submitted.

## 12. Variation or setting aside of orders

- (1) Upon the variation or the setting aside of an order contemplated in section [19](#) of the Act, the maintenance officer shall, in the manner he or she deems fit, inform—
  - (a) the person required to make a payment in terms of the maintenance order;
  - (b) the person in whose favour the maintenance order has been made; and
  - (c) the person on whom a notice referred to in section [16\(3\)\(a\)](#) of the Act has been served,of the variation or the setting aside of the order by a notice which shall substantially correspond with Form J of the Annexure.
- (2) The maintenance officer shall keep record of the manner in which the notice referred to in subregulation [\(1\)](#) was submitted.

### 13. Substitution or discharge of maintenance orders

On receipt of a notice of the substitution or discharge of a maintenance order, contemplated in section [22](#) of the Act, the registrar or the clerk of the court where the maintenance order concerned was issued, or where the sentence concerned was imposed, as the case may be, shall—

- (a) file the order with the original documents applicable to the case;
- (b) in the case of an order substituting a maintenance order, record the particulars of the new order on the order which is being substituted; and
- (c) in the case of an order discharging a maintenance order, record on the order which is being discharged that the order has been discharged.

### 14. Transfer of maintenance orders

- (1) The clerk of the court where a maintenance order was issued shall, when the maintenance order is to be transferred in terms of section [23\(1\)](#) of the Act—
  - (a) retain certified copies of all orders or judgements, including previous amended orders, and documents with regard to the record of payment which are applicable to the particular case; and
  - (b) send by registered post all the original documents referred to in paragraph (a) to the clerk of the maintenance court where the person in whose favour the maintenance order was made resides.
- (2) On receipt of the maintenance order referred to in subregulation (1), the clerk of the maintenance court shall register the order by numbering it with the following consecutive number for maintenance cases for the year during which it was received.

### 15. Appeals against orders

- (1) An appeal in terms of section [25](#) of the Act shall be noted within 20 days of the date of the order appealed against and a cross-appeal shall be noted within seven days of the noting of the first-mentioned appeal.
- (2) An appeal or cross-appeal shall be noted by delivery, within the period prescribed in subregulation (1) to the clerk of the maintenance court concerned and to the other party, of a notice stating—
  - (a) whether the whole or part only of the order is appealed against and, if a part only, then what part; and
  - (b) the grounds of appeal, specifying the findings of facts or rulings of law appealed against.
- (3) The officer who presided at an enquiry shall—
  - (a) within 14 days of the noting of an appeal; or
  - (b) if the proceedings at the enquiry were taken down or recorded in shorthand or by mechanical means, within 14 days after a transcription of the shorthand notes or mechanical record of the proceedings has been placed before such officer by the clerk of the maintenance court concerned,transmit to the clerk of the maintenance court a statement in writing setting out—
  - (i) the facts he or she found to be proved;
  - (ii) his or her reasons for any finding of fact specified in the notice of appeal as appealed against; and

- (iii) his or her reasons for any ruling on any question of law or for the admission or rejection of any evidence so specified as appealed against.
- (4) (a) The clerk of the maintenance court concerned shall, notwithstanding the provisions of regulation [24\(3\)\(b\)](#), if the proceedings at an enquiry were taken down or recorded in shorthand or by mechanical means and an appeal has been noted, forthwith cause the shorthand notes or the mechanical record of the proceedings to be transcribed.  
(b) The person who noted an appeal shall bear the costs of the transcription contemplated in paragraph (a): Provided that if the maintenance officer is satisfied that such person is unable to pay the costs, the costs or part of it shall be paid by the State.
- (5) After an appeal has been noted in terms of subregulation [\(1\)](#) the appeal shall be prosecuted as if it were an appeal against the decision of a magistrate in a civil matter and the rules regulating the conduct of the proceedings of the several provincial and local divisions of the High Court in so far as they relate to civil appeals from the magistrates' courts shall, with the necessary changes, apply to any such appeal.
- (6) The clerk of the maintenance court shall transmit the record of the proceedings at the enquiry, certified by the presiding officer as a true record of proceedings, or a transcription of any shorthand notes or mechanical record of such proceedings, certified as prescribed by regulation [24\(3\)\(c\)](#), to the registrar of the division of the High Court concerned within seven days of the receipt by him or her of a notice that the appeal has been set down for hearing.
- (7) (a) If the person in whose favour a maintenance order may be or was made notes an appeal or cross-appeal, as the case may be, and he or she cannot afford legal representation he or she shall inform the clerk of the maintenance court accordingly.  
(b) The clerk of the maintenance court shall—
  - (i) inform the Director of Public Prosecutions concerned immediately of the appeal or cross-appeal and that the person in whose favour the maintenance order was made cannot afford legal representation;
  - (ii) on receipt of the statement of the presiding officer referred to in subregulation [\(3\)](#) furnish the Director of Public Prosecutions concerned with a copy of all relevant documentation; and
  - (iii) within seven days of the receipt by him or her of a notice that the appeal has been set down for hearing notify the Director of Public Prosecutions concerned accordingly.

### Chapter 3 Civil execution

#### 16. Enforcement of maintenance or other orders

- (1) An application for—
  - (a) the authorisation of the issue of a warrant of execution;
  - (b) an order for the attachment of emoluments; or
  - (c) an order for the attachment of any debt,as contemplated in section [26\(2\)\(a\)](#) of the Act, shall substantially correspond with Form K of the Annexure.
- (2) Pursuant to section [26\(2A\)](#) of the Act, the maintenance officer or clerk of the court at the request of the maintenance officer, shall furnish the particulars of a person against whom an order has been made in terms of section [26\(2\)](#) of the Act, to any business identified by the maintenance officer,

which has as its object the granting of credit or is involved in the credit rating of persons, on a form which corresponds substantially with form W of the Annexure.

*[regulation 16 substituted by section 3 of [Government Notice R1473 of 2017](#)]*

## 17. Warrant of execution

- (1) A warrant of execution, contemplated in section [27](#) of the Act, shall—
  - (a) substantially correspond with Form L of the Annexure; and
  - (b) be prepared in triplicate.
- (2) The person in whose favour the order was made shall prepare Part A of Form L of the Annexure and thereafter lodge the said form with the clerk of the maintenance court concerned.
- (3) On receipt of the warrant of execution referred to in subregulation [\(2\)](#) the clerk of the maintenance court shall issue the warrant of execution if he or she is satisfied that—
  - (a) authorisation for the issuing of a warrant of execution was granted; and
  - (b) the warrant of execution has been properly prepared, by preparing Part B of Form L of the Annexure.
- (4) The clerk of the maintenance court shall after the warrant of execution has been issued—
  - (a) return the original warrant of execution and one copy thereof to the person in whose favour the order was made; and
  - (b) file the second copy of the warrant of execution in the relevant file.
- (5) Any change on the warrant of execution shall be initialled by the clerk of the maintenance court.
- (6) The person authorised to execute a warrant of execution shall complete Part C and, if applicable, Part D of Form L of the Annexure and return the form to the clerk of the maintenance court.

## 18. Particulars of persons authorised to execute warrant of execution

A maintenance investigator or maintenance officer shall submit to the person in whose favour the order was made particulars of the person authorised to execute the warrant of execution.

## 19. Application for the setting aside of a warrant of execution

- (1) An application for the setting aside of a warrant of execution by a person against whom such warrant has been issued, contemplated in section [27\(3\)](#) of the Act, shall substantially correspond with Part A of Form M of the Annexure.
- (2)
  - (a) A notice of an application for the setting aside of a warrant of execution, contemplated in section [27\(6\)\(a\)](#) of the Act, shall substantially correspond with Part B of Form M of the Annexure.
  - (b) A person who applied for the setting aside of a warrant of execution shall submit the notice referred to in paragraph [\(a\)](#) to the person in whose favour the warrant of execution was issued in any manner convenient to him or her, subject thereto that the person who submits the notice shall keep record of the manner in which the notice was submitted.

## 20. Attachment of emoluments

- (1) An application for the suspension, amendment or rescission of an order for the attachment of emoluments, contemplated in section [28\(2\)\(a\)](#) of the Act, shall substantially correspond with Part A of Form N of the Annexure.

- (2) (a) A notice of an application for the suspension, amendment or rescission of an order for the attachment of emoluments, contemplated in section [28\(2\)\(b\)](#) of the Act, shall substantially correspond with Part B of Form N of the Annexure.
- (b) A person who applied for the suspension, amendment or rescission of an order for the attachment of emoluments shall submit the notice referred to in paragraph (a) to the person in whose favour the order for the attachment of emoluments was made in any manner convenient to him or her, subject thereto that the person who submits the notice shall keep record of the manner in which the notice was submitted.
- (3) (a) A notice, contemplated in section [29\(1\)](#) of the Act, to an employer shall substantially correspond with Part A of Form O of the Annexure.
- (b) The service of a notice referred to in paragraph (a) shall be in accordance with the provisions of regulation [26\(1\)](#) or [\(2\)](#), as the case may be.
- (c) The return of service of a notice referred to in paragraph (a), if the notice is served in accordance with the provisions of regulation [26\(1\)](#), shall substantially correspond with Part B of Form O of the Annexure.
- (4) (a) A notice, contemplated in section [29\(2\)](#) of the Act, by the employer that the person against whom the order for the attachment of emoluments was made has left his or her service, shall substantially correspond with Part C of Form O of the Annexure.
- (b) The notice referred to in paragraph (a) shall be submitted to the maintenance officer of the court where the order was made in any manner convenient to him or her, subject thereto that the person who submits the notice shall keep record of the manner in which the notice was submitted.

## 21. Attachment of debts

- (1) An application for the suspension, amendment or rescission of an order for the attachment of debts, contemplated in section [30\(2\)](#) of the Act, shall substantially correspond with Part A of Form P of the Annexure.
- (2) (a) A notice of an application for the suspension, amendment or rescission of an order for the attachment of debts, contemplated in section [30\(2\)](#) of the Act, shall substantially correspond with Part B of Form P of the Annexure.
- (b) A person who applied for the suspension, amendment or rescission of an order for the attachment of debts shall submit a notice referred to in paragraph (a) to the person in whose favour the order for the attachment of debts was made in any manner convenient to him or her, subject thereto that the person who submits the notice shall keep record of the manner in which the notice was submitted.

### 21A. Furnishing of personal particulars of person convicted

Pursuant to section [31\(4\)](#) of the Act, the maintenance officer shall furnish the personal particulars of a person who has been convicted of an offence in terms of section [31\(1\)](#) of the Act to any business identified by the maintenance officer, which has as its object the granting of credit or is involved in the credit rating of persons, on a form which corresponds substantially with form W of the Annexure.

*[regulation [21A](#) inserted by section 4 of [Government Notice R1473 of 2017](#)]*

## Chapter 4 Offences and orders relating to prosecutions

### 22. Complaints of failure to comply with orders

A complaint regarding a failure to make a payment in accordance with a maintenance order shall substantially correspond with Form Q of the Annexure.

### 23. Recovery of arrear maintenance

- (1) The clerk of the court shall submit a certified copy of an order made by the court in terms of section [40](#) of the Act to the clerk of the civil court for registration of such order.
- (2) The clerk of the civil court shall—
  - (a) register the order referred to in subregulation (1) by numbering it with the following consecutive case number for the year during which it is registered; and
  - (b) inform the maintenance officer of the maintenance court where the maintenance order was made and the person in whose favour the order was made of the registration and the number of the case.
- (3) The provisions of the Act relating to civil execution shall, with the necessary changes, apply in respect of the execution of an order referred to in subregulation (1).

## Chapter 4A Powers of maintenance investigators

*[Chapter 4A inserted by section 2 of [Government Notice R1099 of 2006](#)]*

### 23A. Powers, duties and functions of maintenance investigator

- (1) A maintenance investigator must have his or her letter of appointment in his or her possession when exercising any power or performing any duty in terms of the Act or these regulations.
- (2) A maintenance investigator may, for the purpose of performing his or her functions in terms of the Act—
  - (a) examine a person who is likely to give material or relevant information about any complaint relating to maintenance;
  - (b) direct a person to identify himself or herself to the satisfaction of the maintenance investigator; and
  - (c) request a person to sign for a document, relevant to a complaint relating to maintenance, received from the maintenance investigator.
- (3) A maintenance investigator may, for the purpose of service of process of any maintenance court, or service of subpoenas or summonses in respect of criminal proceedings instituted for failure to comply with a maintenance order—
  - (a) call upon a member of the South African Police Service as defined in section 1 of the South African Police Act, 1995 ([Act No. 68 of 1995](#)), to render assistance to him or her where resistance to the service of the process of the maintenance order or the service of subpoenas and summonses have been met or reasonably anticipated;
  - (b) if a maintenance investigator encounters or reasonably anticipates resistance as described in sub paragraph (a), request assistance from the Station Commissioner of the nearest

police station and must, upon making such request for assistance, furnish particulars of the complaint in which he or she met resistance or the reason why he or she anticipates resistance.

[regulation 23A inserted by section 2 of [Government Notice R1099 of 2006](#)]

## Chapter 5 General and supplementary provisions

### 24. Record of proceedings

- (1) (a) The proceedings at an enquiry shall be recorded by keeping minutes of—
  - (i) any maintenance order, including any provisional maintenance order as defined in the Reciprocal Enforcement of Maintenance Orders Act, 1963 ([Act No. 80 of 1963](#)) and the Reciprocal Enforcement of Maintenance Order (Countries in Africa) Act, 1989 ([Act No. 6 of 1989](#)), made at any enquiry, and of any refusal to make any such maintenance order;
  - (ii) any variation of a maintenance order;
  - (iii) any evidence given at the enquiry and of any objection to any evidence given or tendered at the enquiry and of any ruling by the court; and
  - (iv) the proceedings generally.
- (b) The maintenance court shall mark each document put in evidence and note such mark on the record.
- (2) The statement by an officer presiding at an enquiry referred to in regulation 15(3) shall become part of the record.
- (3) (a) The proceedings at an enquiry shall be recorded by the officer presiding at the enquiry or by any person appointed or designated thereto by the court, either generally or specially for the purpose of a particular enquiry, to take down or record the proceedings in shorthand or by mechanical means.
- (b) No shorthand notes or mechanical record of the proceedings shall be transcribed unless an officer designated to preside in the court concerned otherwise directs.
- (c) Any shorthand notes or any transcription thereof or any mechanical record of the proceedings shall be certified as true notes of such proceedings or as a true transcription of such notes or record by the person taking down such notes or making such record or transcription, as the case may be, and any such transcription shall thereupon become part of the record of the proceedings.
- (4) No person other than an officer in the Public Service, a person against whom a maintenance order has been or is to be made, a person in whose favour a maintenance order has been or is to be made, or the legal representative of any such person shall have access to any record referred to in this regulation, except with the leave of the presiding officer then holding office in the court in which the enquiry is to be or was held.
- (5) The record of the proceedings at a maintenance enquiry shall be accessible on payment of the fees prescribed in Table E of Annexure 2 to the Magistrates' Courts Rules.

### 25. Photographs of persons subject to maintenance orders

- (1) The maintenance officer shall, on receipt of photographs of a person against whom the maintenance court has made a maintenance order—
  - (a) endorse on the back of each photograph the personal particulars of the person;



- (b) file one photograph in the relevant maintenance file; and
  - (c) attach the other photograph to the relevant maintenance cards, if such a system is in use or appropriately deal with such other photograph in the manner he or she deems fit.
- (2) The maintenance officer may make a photograph of a person against whom the maintenance court has made a maintenance order available to any person exercising or performing any power, duty or function in terms of the Act.
- (3) The photographs of a person against whom the maintenance court has made a maintenance order shall become part of the maintenance record.

## 26. Service of documents

- (1) (a) A document referred to in regulation 4(1), 9(1)(b) or 20(3)(b), together with a copy thereof, shall be delivered to a police officer, sheriff or maintenance investigator who shall, subject to the provisions of this regulation, forthwith serve it upon the person referred to in the said document by delivering a copy of the document in one of the following manners:
- (i) To the said person personally;
  - (ii) at the said person's residence or place of business to a person apparently not less than 16 years of age and apparently residing or employed there: Provided that for the purpose of this paragraph, "residence" means, when a building is occupied by more than one person or family, that portion of the building occupied by the person upon whom service is to be effected;
  - (iii) at the said person's place of employment to a person apparently not less than 16 years of age and apparently in authority over the said person or, in the absence of such a person in authority, to a person apparently not less than 16 years of age and apparently in charge at the said person's place of employment; and
  - (iv) in the case of a juristic person, at its registered office or main place of business within the area of jurisdiction of the court concerned, to a director or a responsible employee thereof.
- (b) A police officer, sheriff or maintenance investigator shall, on request by the person on whom a document is served, exhibit to him or her the original of the document.
- (c) Where the person upon whom a document is to be or may be served keeps his or her residence or place of business closed and thereby prevents the police officer, sheriff or maintenance investigator from serving the document, it shall be sufficient to affix a copy thereof to the outer or principal door or security gate of such residence or place of business, or to place such copy in the postbox at such residence or place of business.
- (2) A notice referred to in regulation 9(1)(b) or 20(3)(b) shall be served by the maintenance officer or maintenance investigator upon the person referred to in the said notice by—
- (a) handing a copy of the notice to the said person personally and endorsing the original notice to this effect; or
  - (b) sending the notice by facsimile to the said person, in which case proof thereof must be kept, and by sending a copy of the notice by registered post to the said person.

## 27. Short title

These regulations shall be called the Regulations relating to Maintenance, and shall come into operation on 26 November 1999.

## Annexure

### Forms A - W

*[Editorial note: The forms have not been reproduced.]*

*[form R added by section 5 of [Government Notice R1473 of 2017](#)]*

*[form S added section 5 of [Government Notice R1473 of 2017](#)]*

*[form T added by section 5 of [Government Notice R1473 of 2017](#)]*

*[form U added by section 5 of [Government Notice R1473 of 2017](#)]*

*[form V added by section 5 of [Government Notice R1473 of 2017](#)]*

*[form W added by section 5 of [Government Notice R1473 of 2017](#)]*