



Foreign Maintenance

South Africans can claim foreign maintenance from parents living in foreign countries

South African law allows its citizens to claim maintenance from a parent living in a foreign country. The Reciprocal Enforcement of Maintenance Orders Act 80 of 1963 is a piece of legislation which regulates foreign maintenance processes.

However it is important to note that not all foreign countries are recognised under the Reciprocal Enforcement of Orders Act. Chief Directorate: International Legal Relations in the Department of Justice and Constitutional Development (DoJ&CD) has a list of proclaimed countries. This means such countries have a special arrangement with South Africa whereby maintenance orders granted in one country can be enforced in another.

The following documents where applicable must be transmitted to Head Office from our courts:

1. four certified copies of the provisional court order.
2. an affidavit by the complainant or an officer of the court as to the amount of arrears due under the order.
3. the deposition or evidence of the complainant.
4. physical, and or working address of the defendant.
5. a photograph and description of the defendant.
6. the original exhibits (marriage certificate, birth certificate, photographs etc) referred to in the complaint's deposition or evidence duly endorsed as prescribed / affidavit.
7. three certified copies of the documents referred to in (b) and (c) above and in the event of the High Court, four copies as well as an additional copy of the court are required.

The above mentioned documents must also be submitted to the DoJ&CD. All submitted copies of documents and the record must be certified in English. The certificate to the effect that the document is a true copy of original should appear on the document itself and not by annexure or attachment.

The maintenance officer will then enquire in the maintenance court to confirm the respondent's citizenship. The officer may cause any person, including a person who is legally liable for maintenance to be summoned to appear before the maintenance court. Such person will give evidence or produce a book or statement, including a statement by his employer setting out his

full earnings.

If the defendant is a South African, documents relating to a final order are forwarded by DoJ&CD head office to the magistrate of the district where he (defendant) resides. The final order must be registered in terms of section 3 of the Act by entering the particulars of the orders in a register kept for maintenance orders registration. In the register, the date, place, and proclaimed country in which the order was made must be noted. The order must be registered with immediate effect and on no account be kept in abeyance.

The notice will be forwarded by registered post to the defendant calling upon him to effect payment in terms of the order to the clerk of the maintenance court. The head office must be notified of the date of registration of the order.

Protocol from South Africa to foreign country

- Registration of the above-mentioned order (documentation)
- South African Court (documentation through PROTOCOL)
- Department of Justice and Constitutional Development
- Department of International Relations and Cooperation
- The South African High Commission (London, USA, Canada, Namibia etc)
- The Court in Foreign Country (Registration and Enforcement of the Order)

Protocol from foreign country to South Africa

- South African High Commission in London, USA, Canada, Namibia etc)
- Court in Foreign Country
- Department of Foreign Affairs (SA)
- Department of Justice and Constitutional Development
- South African Courts, Cape Town, Upington etc, (Confirmation and Registration of the Order)

Countries recognised under the Reciprocal Enforcement of Orders Act

Australia, Canada, Cocoa (Keeling) Islands, Cyprus, Fiji, Germany, Guernsey (Bailiwick of Hong Kong), Isle of Jersey, Isle of Man, Kenya, Lesotho, Malawi, Mauritius, Namibia, New Zealand, Nigeria, Norfolk Island, Sarawak, Singapore, St Helena, Swaziland, United Kingdom, United States of America, Zambia and Zimbabwe.

By Justice Ditshego

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