

which both parties have to be present to hear this matter.

- The Magistrate will only allow the other party to leave the country, if he/she has paid all maintenance due and/or arranged for a proper surety who will pay maintenance for them.

### Can I appeal the Order?

- If you are not satisfied with the Order made by the Magistrate, using *Notice of Appeal* (FORM 26) you may Appeal to the Family High Court, within 28 days from the date of the Order.
- You will have to pay filing fees to the Family Court Registry.
- If you cannot afford that filing fees, Legal Aid may be able to help you make other arrangements.
- If you need legal help, visit the Legal Aid office nearest you.

### (Footnotes)

<sup>1</sup> For more information on this see the pamphlet on *Maintenance for Child(ren) Outside of Marriage*

<sup>2</sup> To do this properly, see the pamphlet on *Service*

<sup>3</sup> See pamphlet on *Counseling*.

<sup>4</sup> For more information see pamphlet on *Paternity*.

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LEGAL AID  
COMMISSION

CHILD MAINTENANCE  
WITHIN MARRIAGE

(Money for a child or  
children paid by a parent)

## What is Child Maintenance?

Money that a parent should pay to support the child(ren)'s needs. This has to be paid by the parent whom the child(ren) does not live with. Maintenance can also be paid by buying food, paying school fees or giving fish and root crops if the parent is a farmer, lives in the village or is unemployed and cannot pay money.

## What types of child maintenance are there?

1. Child(ren) Born Outside of Marriage <sup>1</sup>
2. Child(ren) of the Marriage

## Who can apply for child maintenance?

If the parents of the child(ren) are married, and are now separated or divorced, either parent or anyone looking after the child(ren) can claim for maintenance.

## How do I apply for maintenance?

- Pick up an *Application for Maintenance or Contribution Form* (FORM 5) from a Family Court Registry nearest you.
- If married, separated or divorced get a copy of your marriage certificate. If your child(ren) are under 18 years, get a copy of their birth certificates.
- Make 4 photocopies of each form you have filled. Take your copies of the form back to the Family Court Registry nearest you.
- The Family Court Registry staff will write a date on your form, which is

- when your case will be called in Court.
- **Before** that Court date, you have to give a copy of the *Application for Maintenance or Contribution Form* (FORM 5) to the other party.<sup>2</sup>
- You **MUST** appear in Court on the date given by the Family Court Registry.
- Whether you have given a copy of the form to the other party or not, you **MUST** still go to Court.
- The Court may have you talk to the Counselor if you cannot reach an agreement.<sup>3</sup>

## What if I want to change the Maintenance Order?

You can always return to Court to change your maintenance if it is an interim order. But if it's a final order then you will have to wait for 12 MONTHS before any change can be done.

## What happens if the other party is not paying the maintenance ordered by the Court?

- You can complain to the Family Court Registry if the maintenance has not been paid for one month. The Court will then prepare a *Judgment Debtor Summons* (JDS) to make them pay.
- When the other party is brought to Court, they have to explain why they are not paying the maintenance and how they can continue paying. They will have to pay some of the amount due or the Magistrate can send them to prison, directly deduct the money from the pay clerk of their office (if employed) or ask them to pay more money to make up for the money owed.

## What happens if I am given a Maintenance Form to appear in Court?

- If you are happy to pay money to support the child(ren), then go to Court and tell the Magistrate how much money you are willing to pay.
- If you do not want to pay maintenance, you have to fill out a *Response to Maintenance Form* (FORM 6) and have to appear in Court on the date written on the Maintenance Form and explain why you do not want to pay maintenance for your child(ren).
- If you are married to the woman, and do not agree that the child(ren) are yours, you must fill out a *Response to Maintenance or Contribution Form* (FORM 6) and ask for a blood test.<sup>4</sup>

## What do I do if the person paying the maintenance is about to leave the country?

- Seek legal help from the Legal Aid Commission as soon as possible.
- You need to confirm when the other party is planning to leave the country, so that your lawyer can file the necessary papers in court to stop him/her from leaving the country.
- Once necessary papers are filed and orders are given, then the Family Court Registry will inform the Immigration Department. However you are to serve the court papers and the order to the other party.
- The Court will give another date in