

REPUBLIC OF SOUTH AFRICA

**PORTFOLIO COMMITTEE AMENDMENTS
TO
MAINTENANCE AMENDMENT
BILL**

[B 16—2014]

*(As agreed to by the Portfolio Committee on Justice and Correctional Service
(National Assembly))*

[B 16A—2014]

ISBN 978-1-4850-0227-7

No. of copies printed 800

AMENDMENTS AGREED TO

MAINTENANCE AMENDMENT BILL
[B 16—2014]

CLAUSE 1

1. On page 2, from line 13, after “obligations”, to omit “which has not been made an order of court in terms of this Act, or any other law” and to substitute “in which respect there is no existing maintenance order”.

CLAUSE 2

1. On page 3, in line 16, after “have” to omit “not borne fruit” and to substitute “failed”.
2. On page 3, in line 18, to omit “and using the prescribed form”.
3. On page 3, in line 21, after “have”, to omit “not borne fruit” and to substitute “failed”.
4. On page 3, from line 23, after “manner” to omit “by means of an affidavit in the prescribed form,”.
5. On page 3, in line 24, to omit “prescribed”.
6. On page 3, from line 33, after “manner” to omit “by means of an affidavit in the prescribed form”.
7. On page 3, in line 35, to omit “for a further period”.
8. On page 3, in line 44, to omit “in the prescribed form and”.
9. On page 3, from line 52, to omit “and are, subject to section 20, payable by the person lodging the complaint referred to in paragraph (a)”.
10. On page 3, after line 53, to insert the following new paragraphs:

“(i) If the maintenance officer is of the opinion that the person lodging the complaint referred to in paragraph (a) is unable to pay the costs involved in the furnishing of information referred to in paragraph (b), the maintenance officer may at any time after the maintenance court issues a direction under the said paragraph (b), request the maintenance court to hold an enquiry into—

- (i) the means of the complainant; and
- (ii) any other circumstances which, in the opinion of the maintenance court, should be taken into consideration.

(j) At the conclusion of the enquiry referred to in paragraph (i) the maintenance court may make such order as the court may deem fit relating to the payment of the costs involved in the furnishing of information referred to in paragraph (b), including an order directing the State, subject to section 20, to pay such costs within available resources, in the prescribed manner.

(k) The maintenance court may, if it has ordered the State to pay the costs referred to in paragraph (j), upon the application of the maintenance officer, order the person affected by the order to refund the costs so paid by the State in terms of paragraph (j), in the prescribed manner.”.

11. On page 3, in line 54, to omit (i) and to substitute (l).

CLAUSE 4

1. On page 4, in line 24, after “where” to insert “a maintenance order has not been made and”.
2. On page 4, in line 26, after “there”, to omit “is prima facie evidence” and to substitute “are sufficient grounds”.
3. On page 4, in line 26, after “postponement”, to insert “indicating”.
4. On page 4, in line 31, after “16(1)(a)”, to omit “or (b)”.
5. On page 4, from line 37, after “circumstances”, to omit “, taking into account the conduct of persons involved in the enquiry in so far as it may be relevant”.

CLAUSE 5

1. On page 4, in line 44, after “(a)”, to omit everything up to and including “jurisdiction”, and to substitute “Any court—”.
2. On page 4, from line 45, after “(i)”, to omit everything up to and including “court”.
3. On page 4, in line 49, to omit “[**under subsection (1)(a)(i) or (b)(i)**]” and to substitute “under subsection (1)(a)(i) or (b)(i)”.
4. On page 4, in line 50, to omit “[**such**]” and to substitute “such”.
5. On page 5, in line 1, after “(aa)”, to insert “where applicable,”.
6. On page 5, in line 3, after “(bb)”, to insert “where applicable,”.
7. On page 5, in line 5, after “(cc)”, to insert “where applicable,”.
8. On page 5, in line 7, after “(dd)”, to insert “where applicable,”.
9. On page 5, in line 11, after “case”, to insert:

“: Provided that nothing precludes the court from making an order in terms of this subsection if it is of the opinion that any further postponement of the enquiry in order to obtain the evidence of the person referred to in subparagraph (dd) will give rise to an unreasonable delay in the finalisation of the enquiry, to the detriment of the person or persons to be maintained”.

CLAUSE 11

1. On page 6, in line 43, to omit “receipt” and to substitute “the granting”.
2. On page 6, in line 43, after “subsection (2)” to insert “by a maintenance court”.
3. On page 6, in line 44, after “officer” to insert: “or clerk of the court at the request of the maintenance officer”.
4. On page 6, in line 45, after “law,” to omit “in the prescribed circumstances and”.

5. On page 6, in line 47, after “copy of the” to omit “relevant”.
6. On page 6, in line 47, after “order” to insert:
 “of the court contemplated in subsection (2)(a)(i), (ii) or (iii)”.

CLAUSE 12

1. On page 7, in line 10, after “(d)” to insert “where applicable,”.
2. On page 7, in line 19, after “paid in full” to insert:
 “: Provided that nothing precludes the court from making an order in terms of this subsection if it is of the opinion that any further postponement of the enquiry in order to obtain the evidence of the person referred to in paragraph (d) will give rise to an unreasonable delay in the finalisation of the enquiry, to the detriment of the person or persons to be maintained”.

CLAUSE 13

1. On page 7, in line 31, after “law,” to omit “in the prescribed circumstances and”.

CLAUSE 17

1. On page 8, in line 17, after “person” to insert:
 “, other than a clerk of the court who is requested to assist a maintenance investigator in the performance of his or her functions,”.
2. On page 8, in line 19, after “investigator” to omit “by or”.
3. On page 8, in line 20, after “law;” to insert “or”.
4. On page 8, in line 21, to omit paragraph “(b)”.
5. On page 8, in line 22, to omit “(c)”, and to substitute “(b)”.