

**FAMILY LAW**

## Age, Domicile And Status

*A person's capacity is limited by his/her domicile, age, or mental and physical ability. Read this QuickLaw guide to learn about the effects of a person's status, domicile and age.*

**Date:** July 2023

### What effect does a person's status have?

- Status refers to a person's capacity to:
  - have rights and duties ("legal capacity");
  - enter into contracts ("capacity to act");
  - be held liable for crimes ("criminal liability"); and
  - sue or be sued ("capacity to litigate").
- A person's capacity is limited by his/her domicile, age, or mental and physical ability.

### What effect does a person's age have?

- A person has full, limited or no capacity, as explained in the table below:

Age	Capacity
<b>Infants</b> 0-7 years of age	<ul style="list-style-type: none"><li>• No capacity.</li><li>• A parent or guardian acts on behalf of an infant.</li></ul>
<b>Minors</b> 7-18 years of age	<ul style="list-style-type: none"><li>• Limited capacity.</li><li>• A minor can enter into contracts with the consent or assistance of his/her parent or guardian.</li><li>• A minor does not need assistance from his/her parent or guardian for HIV testing, acquiring rights without duties (like receiving a donation), or access to information.</li></ul>
0-12 years of age	<ul style="list-style-type: none"><li>• No criminal responsibility.</li></ul>
12-14 years of age	<ul style="list-style-type: none"><li>• There is a presumption that there is no criminal responsibility unless proven otherwise.</li></ul>

Age	Capacity
14 years of age and above	<ul style="list-style-type: none"> <li>• Full criminal responsibility.</li> <li>• A minor can be a witness to a Will.</li> </ul>
10 years of age and above	<ul style="list-style-type: none"> <li>• A minor must consent to his/her adoption.</li> </ul>
12 years of age and above	<ul style="list-style-type: none"> <li>• A minor can receive medical treatment without the consent of his/her parent or guardian provided that the minor understands the advantages, risks and implications of the treatment.</li> </ul>
12–15 years of age for girls 14–18 years of age for boys	<ul style="list-style-type: none"> <li>• A minor may get married with the consent of his/her parent or guardian and the Minister of Home Affairs.</li> <li>• A minor who gets married becomes a major, and maintains this status upon divorce.</li> </ul>
16 years of age and above	<ul style="list-style-type: none"> <li>• A minor can make a Will without the assistance of his/her parent or legal guardian.</li> <li>• A minor can open a bank account.</li> </ul>
<b>Majority:</b> 18 years of age and above	<ul style="list-style-type: none"> <li>• A person has full capacity, unless s/he is mentally ill, physically disabled or is a prodigal and cannot manage his/her affairs (a curator must be appointed); or is under the influence of alcohol and drugs (for example, the contract may be void as it was entered into while s/he could not control his/her actions).</li> </ul>

**Glossary of terms:**

CURATOR: a person appointed by a High Court to manage a person’s estate as s/he cannot manage his/her affairs.

GUARDIAN: both parents are guardians of a child born from the marriage; the mother of a child born out of wedlock is the guardian, unless the father acquires guardianship, for example, by living in a permanent life-partnership with the mother; or the court may appoint a guardian. Guardianship includes safeguarding the child’s property or property interests; representing the child in legal matters; and consenting to marriage, adoption, removal from South Africa, or an application for a passport.

PARENT: the biological father or mother of a child who has full or limited parental rights and responsibilities over his/her child.

PRODIGAL: a person who wastes money in an irresponsible and extravagant manner.

VOID: a term used to describe a contract as being invalid and unenforceable.

**How can LegalWise assist you?**

Should you require an explanation of your rights on this topic, please contact your nearest Branch.