CIVIL AND DELICTUAL CLAIMS

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.

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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
Infants 0-7 years of age	• No capacity. • A parent or guardian acts on behalf of an infant.
Minors 7-18 years of age	• Limited capacity. • A minor can enter into contracts with the consent or assistance of his/her parent or guardian. • 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.
0-12 years of age	• No criminal responsibility.
12-14 years of age	• There is a presumption that there is no criminal responsibility unless proven otherwise.

Age	Capacity
14 years of age and above	• Full criminal responsibility. • A minor can be a witness to a Will.
10 years of age and above	• A minor must consent to his/her adoption.
12 years of age and above	• 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.
12–15 years of age for girls 14–18 years of age for boys	• A minor may get married with the consent of his/her parent or guardian and the Minister of Home Affairs. • A minor who gets married becomes a major, and maintains this status upon divorce.
16 years of age and above	• A minor can make a Will without the assistance of his/her parent or legal guardian. • A minor can open a bank account.
Majority: 18 years of age and above	• 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).

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.

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