



# THE DEFINITION OF A “CHILD”

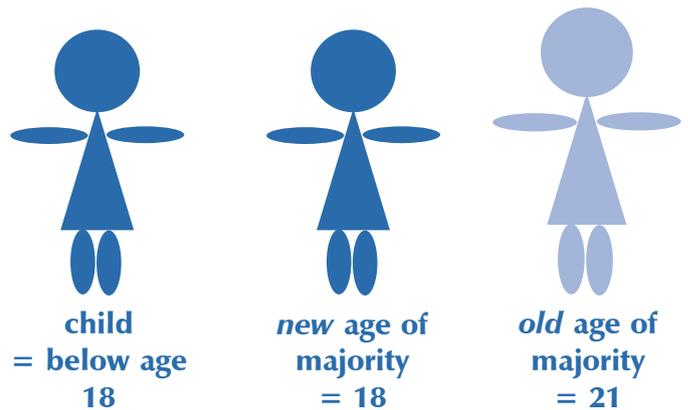
## WHEN DOES A CHILD BECOME AN ADULT?

### THE DEFINITION OF A CHILD

The Child Care and Protection Act defines a “child” as being a person below the age of 18. The UN Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child both define a “child” as a person below the age of 18.

### THE AGE OF MAJORITY

To bring Namibia in line with these definitions, the age of majority has been changed from 21 to 18. However, persons below age 21 must still get the consent of a parent or guardian in order to marry.



### What is the age of majority?

The concepts of “minor” and “major” relate to the legal capacity of a person. **A person who is a major is legally an adult.** A major has full legal capacity. This means that people who have reached the age of majority can enter into contracts, bring court cases, and perform other legal acts independently. A minor can do these things only with assistance from a parent or guardian.

### Why was Namibia’s age of majority originally set at 21?

This age of majority was inherited from South Africa at independence. This age was based on the idea that some children typically finished schooling at 18 and then completed a three-year university course while still being supported by their parents, after which they were ready to begin work. Children in Namibia follow different courses of education, so the pattern described is not typical for all Namibian children.

### What is a minor *unable* to do?

Minors can engage in certain legal actions only with the consent or assistance of a parent or guardian. A minor acting without assistance from a parent or guardian cannot:

- Ⓞ enter into contracts
- Ⓞ bring or defend a court case
- Ⓞ enter into a civil marriage
- Ⓞ sell or mortgage land
- Ⓞ use or manage inherited money or property.

### What is a minor *able* to do?

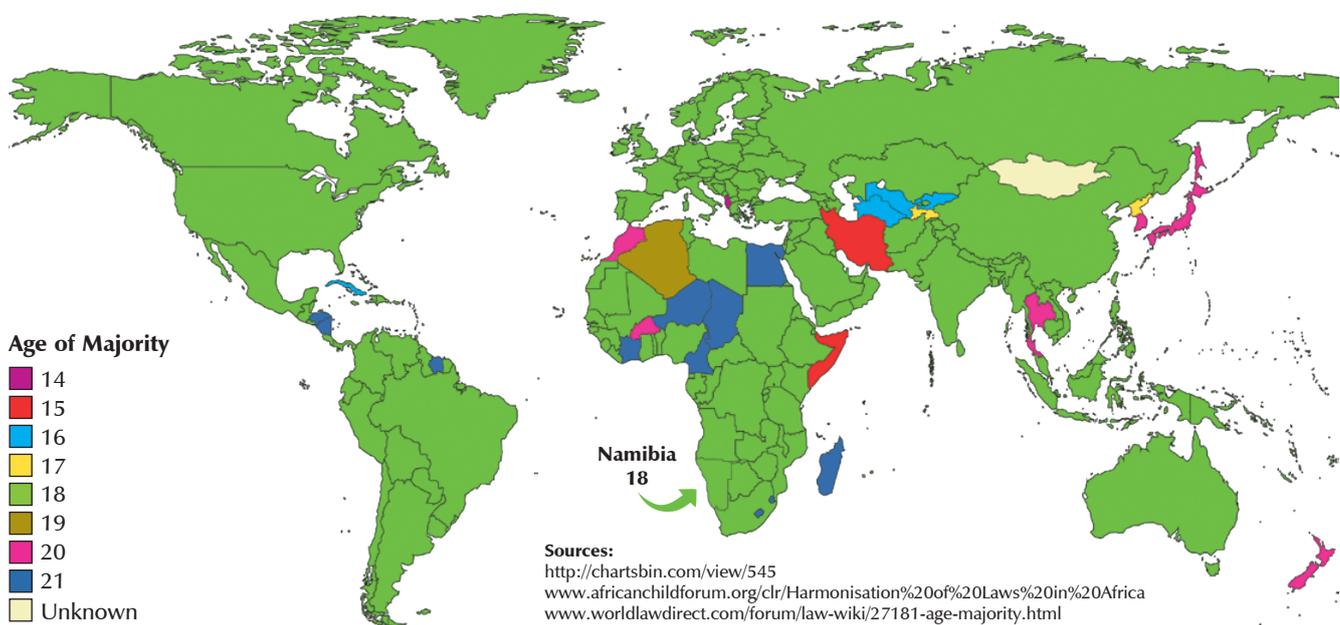
Minors gradually acquire certain rights as they mature, so that they are gradually treated more like adults. A minor who is at least 16 years old can:

- Ⓞ make a will
- Ⓞ open and operate a bank account
- Ⓞ consent to sexual activity.

Before the change in the age of majority, an 18-year-old could vote, drive, drink, own a gun and be locked up in a police cell with adults, but still needed parental assistance to sign a cell phone contract. Now that the age of majority has been changed to 18, an 18-year-old is an adult, able to do all the things that any adult can do, with one exception: persons under age 21 need the consent of a parent or guardian in order to marry. Also, persons in tertiary education will still be eligible for parental maintenance up to age 21 in appropriate circumstances.

## Other countries

Most countries in the world set the age of majority at 18. The United Nations encourages countries to harmonise the definition of “child” and the age of majority if they are not already the same. This helps to ensure that children do not lose any of their special legal protections before they get complete adult rights. By lowering the age of majority from 21 to 18, Namibia will be bringing its legislation in line with most other countries in the world.



## Transitional provisions

The Act says that documents such as trusts and wills which refer to majors and minors will be interpreted in light of the law as it stood at the time the document in question was made – to respect the intentions of the persons who made the documents. Existing maintenance orders and provisions for child maintenance in divorce orders will also be applied as if the age of majority had not changed. The Act also provides protections to ensure that the change in the age of majority does not disadvantage anyone who was between the ages of 18 and 21 when the law came into force.

