



# THE DEFINITION OF A “CHILD” WHEN SHOULD A CHILD BECOME AN ADULT?

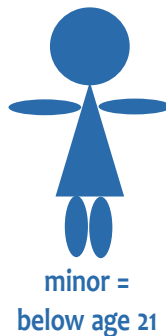
## THE DEFINITION OF A CHILD

The draft 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 also defines a “child” as a person below the age of 18.



## THE AGE OF MAJORITY

There is a different rule about the “age of majority”, which is set at 21 in Namibia by a 1972 law called the Age of Majority Act.



### What is the age of majority?

The concepts of “minor” and “major” relate to the legal capacity of a person. In Namibia, a person who is below age 21 is a “minor” and a person who has reached age 21 is a “major”. 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.

### What is a minor able to do?

Minors gradually acquire certain specific rights as they mature. They are gradually treated more like adults even before they reach age 21.

A minor who is at least 16 years old can

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

A minor who is at least 18 years old can:

- ⦿ work in any type of job
- ⦿ drive
- ⦿ buy alcohol
- ⦿ gamble
- ⦿ obtain a firearm licence
- ⦿ give independent consent to medical treatment
- ⦿ vote (although a person must be 21 years of age to stand for public office)
- ⦿ be tried for a crime as an adult and locked up in a prison with adults.

### 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 cannot enter into contracts without assistance from their responsible parent or guardian. Contracts entered into by minors without assistance are generally not legally enforceable. This is one of the key limitations faced by minors who are living and working on their own.
- ⦿ A minor cannot normally act alone to bring or defend a court case.
- ⦿ Minors cannot enter into a civil marriage without the consent of their responsible parent or guardian.
- ⦿ A minor cannot sell or mortgage land.
- ⦿ Minors cannot administer money or property which they have inherited.

An 18-year-old can vote, drive, drink, own a gun and be locked up in a police cell with adults, but would still need parental assistance to sign a cell phone contract.

### What do other countries do?

Most countries in the world set the age of majority at 18. The Committee which monitors the Convention on the Rights of the Child 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. In South Africa, new children’s legislation recently lowered the age of majority from 21 to 18.

Please turn the page to find out how to contribute your opinions to the public debate on this issue.

# WHAT ARE THE PROS AND CONS OF LOWERING THE AGE OF MAJORITY FROM 21 TO 18?

## Some arguments *against* lowering the age of majority:

- ④ Lowering the age of majority would mean that 18-20 year-olds would lose certain legal protections. For example, contracts which they sign would become legally enforceable so that they would have no way to avoid their contractual responsibilities.
- ④ Many individual laws already give 18 year-olds permission to do many adult things, such as driving and voting.
- ④ Children over age 18, who might still be in school, would have to apply on their own for maintenance.
- ④ A lower age of majority might reduce parental control over learners who are majors but still being supported by their parents.

## Some arguments *for* lowering the age of majority:

- ④ The change would mean that 18-20 year-olds would be able to enter into binding contracts, acquire property, take legal actions, and make other personal and business decisions without oversight from their parents or guardians. This would reflect the reality that many 18-21 year-old Namibians are already working, living independently from their parents, caring for their siblings or their own children, and handling other responsibilities of adulthood.
- ④ The change would make Namibian law more consistent on the age at which a child becomes an adult.
- ④ The change would bring Namibia in line with international law and the laws in most other nations.

**A possible alternative:** Children under the age of majority who are living and working independently can apply to the High Court to be declared majors at a younger age. This is called “emancipation”. A compromise approach would be to make the option of emancipation more accessible, such as providing for an emancipation procedure in magistrates’ courts.

## WHAT DO YOU THINK?

Send your comments to:

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Be sure to say **WHY** you are in favour of making the age of majority 21 or 18.



For more information on the draft Child Care and Protection Act, contact Monalisa Zatjirua (061-2833116) or Celeste Feris (061-2833179) at the Ministry of Gender Equality and Child Welfare, or Rachel Coomer at the Legal Assistance Centre (061-223356).