home affairs

Department:
Home Affairs
REPUBLIC OF SOUTH AFRICA

SOUTH AFRICAN REQUIREMENTS FOR MINORS TAVELLING INTERNATIONALLY

1. Background

Pursuant to the 2011 amendments to the Immigration Act, 2002 (Act No 13 of 2002) and the subsequent Immigration Regulations promulgated on 22 May 2014, guidance material was revised to accord with the new provisions. Aspects related to the immigration requirements as they pertained to minors were held in abeyance until 1 June 2015.

2. Applicable legislation

2.1 Immigration Act, 2002 (Act No 13 of 2002) and the Immigration Regulations, 2014:

- Section 9 (Admission and departure);
- Regulations 6(10) and (11) (Child in alternative care as defined in the Children's Act, 2005);
- Regulation 6(12)(a) (Both parents travelling with a minor);
- Regulation 6(12)(b) (One parent travelling with a minor);
- Regulation 6(12)(c) (Person is travelling with a minor who is not his or her biological child);
- Regulation 6(12)(d): (Unaccompanied minors).

2.2. Children’s Act, 2005 (Act No 38 of 2005):

- Section 1 (Definition of a child);
- Section 18 (Parental responsibilities); and
- Section 169 (Child in alternative care).

2.3 Diplomatic Immunities and Privileges Act, 2001 (Act No. 37 of 2001), (foreign diplomats who enjoy immunities and privileges in the Republic.)

3. The following main categories of travel cases are discernable:

NO	DESCRIPTION	REQUIREMENTS
1	Child in alternative care	• Valid Passport; • Valid visa, if required; • Letter from the Provincial Head of the Department of Social Development where the child resides authorising his or her departure from the Republic as contemplated in section 169 of the Children's Act.
2	Minor accompanied by both of his or her parents	• Valid Passport; • Valid visa, if required; and • UBC or Equivalent Document.
3	Minor accompanied by one parent where parents are neither divorced nor is travelling parent widowed	• Valid passport; • Valid visa, if required; • UBC or Equivalent Document; and • PCA; or • Court order granted in terms of section 18(5) of the Children's Act, 2005; or • Letter of Special Circumstances. **Note:** • In the case of single parents, where only one parent's particulars appear on the UBC or Equivalent Document, no PCA is required. • In the case where parents were never married but both parents' particulars appear on the UBC or equivalent document, the consent of the non-travelling parent is required; • In the case of same sex parents appearing on the UBC, it may be accepted (e.g. 2 mothers or 2 fathers).
4	Minor travelling with one parent who is divorced or legally separated and who has been granted full parental responsibilities and rights (previously called —sole custody) or full legal guardianship in respect of the minor	• Valid Passport; • Valid visa, if required; • UBC or Equivalent Document; • Court order granting full parental responsibilities and rights (previously called sole custody) or full legal guardianship in respect of the minor.

5	Minor travelling with one parent who is divorced or legally separated and who has been granted specific parental responsibilities and rights (previously called —joint custody) or legal guardianship in respect of the minor	• Valid Passport; • Valid visa, if required; • UBC or Equivalent Document; • Court order granting specific parental responsibilities and rights (previously called joint custody) or joint legal guardianship in respect of the minor; and • PCA; or • Court order granted in terms of section 18(5) of the Children's Act, 2005; or • Letter of Special Circumstances. **NOTE:** Where the accompanying parent presents a PCA and both parents' names on the UBC correspond with the names on the PCA and the travelling parent's passport, a court granting specific parental responsibilities and rights or joint legal guardianship may be dispensed with.
6	Minor travelling with widow or widower parent	• Valid Passport; • Valid visa, if required; • UBC or equivalent document; • Death certificate of the deceased parent
7	Orphaned minor where no formal order of guardianship or adoption has been granted as yet	• Valid Passport; • Valid visa, if required; and • Letter of Special Circumstances.

8	Minor accompanied by a person who is not his or her biological parent	• Valid Passport;
		• Valid visa, if required;
		• UBC or equivalent document;
		• PCA; or
		• Letter of Special Circumstances.
		• Where a PCA is presented,
		  ○ copies of the identity documents or passports of the parents or legal guardian of the minor; and
		  ○ contact details of the parents or legal guardian of the minor; and contact details of the person in whose care the minor will be in South Africa.

9	Minor accompanied by his or her adoptive parent(s)	• Valid Passport; • Valid visa, if required; • UBC of the minor reflecting particulars of adoptive parent(s), or, • Pending the issuance of an UBC containing the names of the adoptive parent(s), a court order confirming the adoption of the minor by the adoptive parent(s) accompanying him or her. **NOTE:** • Where only one of the adoptive parents is travelling with the minor or where such a minor is travelling unaccompanied, the PCA will still be required by the absent adoptive parent(s), or, in the case of a deceased adoptive parent, a copy of such parent's death certificate. • Where either or both adoptive parents are unable to issue a written consent due to recent death or incapacity a Letter of Special Circumstances may replace the PCA.
10	Unaccompanied Minor (this category includes a minor accompanied by another minor)	• Valid Passport; • Valid visa, if required; • UBC or Equivalent Document; • PCA or Letter of Special Circumstances; • Letter from the person who is to receive the minor in the Republic, containing his or her residential address and contact details in the Republic where the minor will be residing; • Copy of the identity document or valid passport and visa or permanent residence permit of the person who is to receive the minor in the Republic; and • Contact details of the parents or legal guardian of the minor. (This may be contained in the PCA.)

GENERAL NOTES:

1. All documents must be either original or copies certified as a true copy of the original by a commissioner of oaths or the equivalent commissioning authority, should commissioners of oath not be a practice in the country concerned.

2. The Affidavit must be dated within 4 months of the first arrival or departure travel date. The same affidavit will still be valid for the departure or return in relation to the same journey regardless of the period of the journey. The "first travel" date is the date of first presentation for travel at the POE for a journey that will be completed when the traveller returns or departs to or from the Republic. Minors who started their journey before 1 June 2015 would not be required to produce the documents if the return leg thereof takes place after 1 June 2015.

3. Different combinations of the travel cases could occur, e.g. when dealing with a minor accompanied by a person who is not his or her biological child, the requirements relating to

divorced or deceased parents must also be taken into account, where applicable. Minors accompanying school tours must also be dealt with in terms of this category of travellers.

4. The following types of Court Orders may be granted:
   a) Court order granting full parental responsibilities and rights (previously called "sole custody") or legal guardianship in respect of the minor: In this instance the consent of the other parent is not required;
   b) Court order in which both parents are granted responsibilities and rights in respect of the minor: The consent of the other parents is required; and
   c) Court orders that are silent on the parental responsibilities and rights: The consent of the other parent is required.

5. Visas
   a) Where a child applies for a visa inside South Africa or at a South African embassy abroad it shall be standard practise for all supporting documents to be submitted prior to the visa being issued.
   b) Should authentic visas be produced by the minor but any other supporting documents be unavailable, it may be assumed that all supporting documents have been provided.

6. Exceptions
   a) Diplomatic/consular representatives accredited in South Africa travelling with his or her children: - An accreditation card issued by the Department of International Relations and Cooperation (DIRCO) containing the particulars of the children may be accepted in lieu of the supporting documents. Where such a child is travelling unaccompanied or with the other parent who is not a diplomat the same card may be produced;
   b) A UBC should not be required in the case of countries that endorse the particulars of parents in children's passports, e.g. India;
   c) Minors accompanying VIPs where Protocol Officer is present at POE. (No supporting documents will be required in these cases);
   d) No supporting documents will be required by persons in direct transit at an International Airport.

Terminology **Annexure A**

"Supporting documents" include the following:

a) "Court order granting full parental rights and responsibilities" (previously called sole custody) or legal guardianship in respect of the minor;
b) "Court order granting specific parental rights and responsibilities" (previously called joint custody) or joint legal guardianship in respect of the minor;
c) "Court order in terms of section 18(5) of the Children's Act, 2005", authorising a minor to enter or depart from the Republic in the absence of parental consent of either parent;
d) "Copies of the identity documents or passports of the parents or duly appointed legal guardian of the minor";
e) "Confirmation of Parenthood" issued by the DG in the event of an UBC not being able to be issued;
f) "Contact details of the parents or legal guardian of the minor" (This may form part of the Parental Consent Affidavit);
g) "Copy of the identity document or valid passport and visa or permanent residence permit" of the person who is to receive the unaccompanied minor in the Republic.
h) "Death Certificate of a parent/ parents of a minor";
i) "Parental Consent Affidavit";
j) "Equivalent Document" in lieu of an unabridged birth certificate (Confirmation of Parenthood);
k) Letter from the Provincial Head of the Department of Social Development where the minor resides authorising his or her departure from the Republic as contemplated in section 169 of the Children's Act, 2005;
l) "Letter of Special Circumstances" issued by Director-General of Home Affairs in the event that a parent or parents are incapacitated or deceased and no legal guardian has been appointed as yet;
m) Letter from the person who is to receive the minor in the Republic;
n) "Unabridged Birth Certificate" of the minor.

"Alternative Care" means the care of a minor in accordance with section 167 of the Children's Act, 2005, which reads as follows:

"A child is in alternative care if the child has been placed—

(a) in foster care;
(b) in the care of a child and youth care centre following an order of a court in terms of this Act or the Criminal Procedure Act, 1977 (Act No.51 of 1977); or
(c) in temporary safe care."

"Equivalent Document" is any official document or letter issued by a foreign government (including a foreign embassy) or a letter issued by the Director-General of the Department of Home Affairs, in lieu of an unabridged birth certificate and which serves as a confirmation of parenthood.

“Legal separation” unlike divorce, a does not put an end to marriage, it enables spouses to live separately but remain married. During the time they are living apart, they have a court order that outlines the rights and responsibilities of each spouse. Issues that can be addressed in a separation agreement are child custody and child support, visitation schedules and spousal support.

“Letter of Special Circumstances“ means a letter issued by the DG as contemplated in paragraph 3 above;

“Minor” means a child under the age of 18 years as defined in section 1 of the Children's Act, 2005. Note: Marriage confers majority status on minors.

Unless the context indicates otherwise, “Parents” include adoptive parents and legal guardians;

“Parenthood” means the state of being a mother or a father;

“Parental Consent Affidavit” means an affidavit containing the consent of any parent who is not accompanying a travelling minor (Suggested format is attached as Annexure C);

“Resident” means a foreigner who has permanent or temporary residence status in the Republic in terms of the Immigration Act, 2002;

“Republic” means the Republic of South Africa;

“Travel document” means a passport or travel document issued by the competent authority of the State of which the holder is a citizen;

“Unabridged Birth Certificate” is an extract from the birth register containing the particulars of a minor and his or her parent or parents, as the case may be. In South Africa, such certificates are issued by the Department of Home Affairs in terms of the Births and Deaths Registration Act, 1992 (Act No 51 of 1992). In foreign countries, such certificates are issued by the competent authority concerned.

Abbreviations **Annexure B**

DG	Director-General of the Department of Home Affairs
DIRCO	Department of International Relations and Cooperation
IO	Immigration Officer
PCA	Parental Consent Affidavit
POE	Port of Entry
UBC	Unabridged Birth Certificate
UM	Unaccompanied Minor
VIP	Very Important Person

Annexure C

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SUGGESTED FORMAT: PARENTAL CONSENT AFFIDAVIT
(CONSENT FOR PERSON UNDER THE AGE OF 18 TO TRAVEL TO OR FROM THE REPUBLIC OF SOUTH AFRICA)

I/We* hereby declare my/our consent that my/our daughter/son whose Unabridged Birth Certificate (UBC) or **Equivalent document is attached may travel to and from South Africa:

Surname: _____ Name: _____ Date of birth _____

Identified by Passport no: _____ is travelling from _____ to

_____ for the period _____ to _____ 20_____.****

The child is accompanied / will be received in South Africa by (delete appropriately):

Surname, Name		
Relationship		
Identified by** ☐ I.D. no. ☐ Passport no.		
Residential Address		
Work Address		
Contact no. Work	Mobile	Residence

Attach copy of South African ID or if a foreign national attach passport and visa of person receiving the child in SA.

Mother:

Surname, Name		
Residential Address		
Identified by** ☐ I.D. no. ☐ Passport no.		
Contact no. Work	Mobile	Residence
Signature		
Date		

Attach copy of mother's ID or passport.

Father:

Surname, Name		
Residential Address		
Identified by** ☐ I.D. no. ☐ Passport no.		
Contact no. Work	Mobile	Residence
Contact no.		
Signature		
Date		

Attach copy of father's ID or passport.

Legal Guardian:

Surname, Name		
Date of birth		
Residential Address		
Identified by** ☐ I.D. no. ☐ Passport no.		
Contact no. Work	Mobile	Residence
Contact no.		
Signature		
Date		

Attach legal guardian's appointment letter or court order and ID or passport.

Copies of the following documents are attached:

☐ Unabridged Birth Certificate (UBC) or Equivalent Document of child travelling

☐ ID or Passport and Visa of person receiving child in the Republic

☐ Court Order (where applicable)

☐ Death Certificate (of any deceased parent reflected on the UBC or Equivalent Document)

☐ ID or Passport of parent(s) or legal guardian(s)

Thus signed and **sworn/solemnly affirmed before me on this ……. day of …….20...

……. **OFFICE STAMP**

Commissioner of Oaths
(May be attested free of charge at any embassy or mission of the Republic of South Africa)

First name(s): ……

Surname: ……

Capacity: …….

Place: ……

**Both parents whose details appear on the UBC or Equivalent Document shall consent to the child's travel. Where only one parent's details appear, only such parent's consent is required.*

***Delete whichever is not applicable.*

****An Equivalent Document is any official document or letter issued by a foreign government (including a foreign embassy) or a letter issued by the Director-General of the Department of Home Affairs in lieu of an unabridged birth certificate and which serves as a confirmation of parentage of a person below the age of 18.*

*****This document remains valid only for the period stipulated.*