

Dealings by a Minor

By virtue of the Law Reform (Age of Majority) Act a persons shall attain the age of majority and be of full age on attaining the age of eighteen (18) years. Therefore any individual under the age of eighteen is referred to as a minor.

Dealings in Favour of a Minor

Any contract entered into by a minor is voidable by law and therefore a minor is incapable of entering into a contract for the sale or the disposition of registered land. However, a Certificate of Title may be issued to a minor and the Registrar of Titles shall state the age of such minor so far as is known to him (Section 64 of the Registration of Titles Act).

Any instrument lodged for registration in favour of a minor must include the date of birth of the minor as well as the full name of the minor. The minor or someone should sign the instrument; however, it is preferable if a trustee is appointed ab initio to act for the minor. The minor will be bound if the transaction is for his benefit. (There may also be burdens for e.g. restrictive covenants or other onerous positive covenants or obligations.

Dealings with a Minor

Any dealing with a minor will not be registered. Where it is intended to sell or otherwise dispose of land registered in the name of a minor, a trustee is to be appointed, usually by an application to a Court, to act in the dealing on behalf of the minor. The transfer, mortgage or the instrument to complete the dealing is prepared in the name of the minor and executed by the trustee. An adult may also be included in the instrument as joint proprietor or otherwise. An attested copy of the appointment of trustee must be annexed to the instrument lodged for registration.

Alternatively, an adult holding as trustee for a minor may be entered as registered owner in a transfer. The adult will execute a declaration of trust declaring the trust on which he holds the land. The declaration of trust or trust deed is not registered but may be deposited at the Office of Titles for safe keeping or reference (Section 60).

Another way to avoid the appointment of a trustee where the land is transferred to an adult and an infant jointly is to reserve the transferee, either during his lifetime or during the minority of the minor, the right to transfer mortgage, lease and otherwise deal with land as if the adult were the sole proprietor.