



tourism

Department:  
Tourism  
REPUBLIC OF SOUTH AFRICA

## **AMENDED IMMIGRATION<sup>1</sup> REGULATIONS EFFECTIVE 1 DECEMBER 2018**

The updated regulations in respect of foreign minors (all children under 18 years of age) travelling to and from South Africa have been gazetted and published and came into effect on 1 December 2018. They are attached as Annexure A.

The Department of Tourism is liaising with the Airline industry and there will be a further communication when the airlines have updated their systems and are ready to board passengers according to the amended regulations. Meanwhile this is what the amended regulations mean.

### **South African Minors**

Relatively minor changes will be brought into effect by the amended regulations in respect of South African child travellers entering or leaving South Africa. New South African child passports are being issued containing details of the parents as a standard feature. Children travelling with both parents and in possession of such a passport need no other documentation, whilst children travelling with both parents and on a passport that does not have those details will still be required to carry a birth certificate (unabridged) with the details of their parent(s).

South African children not travelling with both parents will still be required to produce additional documentation, including consent letters, adoption orders, custody or guardianship papers and death certificates, as the case may be. However, the consent letter no longer has to be on a Department of Home Affairs (DHA) template or be an affidavit, and copies of documents are sufficient and need not be certified.

### **Foreign Minors**

In terms of foreign minors, the following are the salient changes which now apply:

#### **Visa Exempt Countries:**

- Copies of original documents are sufficient and need not be certified;
- Consent and authorization is simply in the form of a letter and need not be notarized or be an affidavit;
- Children travelling with both parents need no extra documentation, however if there is a situation where the surname is different, carrying proof of parental relationship is advised;
- In the event of a minor **not** travelling with both parents, but travelling with an adult, other documentation may be requested and it is strongly advised that such documentation be carried, being a birth certificate and other supporting documents such as a letter of consent, court orders or death certificate(s) as appropriate. A period of 24 hours is

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<sup>1</sup> Immigration Act 2002, Gazetted 29<sup>th</sup> November 2018

provided for to acquire such documents on arrival if they are requested and are not in the traveller's possession;

- In the event of a minor travelling alone, additional documentation must be carried;
- A birth certificate (copy) to satisfy the immigration processes should contain details of the parent(s).

#### Visa Required Countries:

- The requirements for children traveling with only one parent or another adult from visa requiring countries have been retained. This means that they have to produce the documentation on application for a visa, and a copy of a birth certificate will be required when applying for any child visa;
- Should the adult(s) travelling with a child on a visa change from what was stated on the visa application due to unavoidable short term circumstances, the travelling adult(s) are also advised to carry the same documentation as above (for visa exempt travellers).

Please note – the key change is that:

***Child travellers and accompanying adults will only be stopped and asked questions, and possibly be required to provide additional documentation in exceptional cases where there may be grounds for suspicion or in “high risk situations”.***

The above is outlined in the 25<sup>th</sup> September 2018 press statement of the then Minister of Home Affairs, when he stated that “*Our immigration officials will only insist on documentation by exception – in high risk situations – rather than for all travellers, in line with practice by several other countries.*”

Travel advice for forwarding to trade and customers and for use on websites and other communication platforms is attached as **Annexure B**.

#### Further Background

These minor traveller documentation requirements are in line with many other countries including Canada and the UK.

For instance, these are excerpts from the UK's “Children Travelling to the UK” Leaflet.

*“If you are travelling with a child (under 18) and are not the child’s parent, or may appear not to be the parent ..... It may help you next time you travel if you could carry evidence of your relationship with the child and/or the reason why you are travelling with the child.*

*This evidence could include copies of:*

- *a birth or adoption certificate showing your relationship with the child • divorce / marriage certificates if you are the parent but have a different surname to the child • a letter from the child’s parent/s giving authority for the child to travel with you and providing contact details if you are not the parent”.*

The Canadian guidelines carefully list the documents required in each specific case, (adopted, one parent travelling, deceased parent, guardian as applicable) and then state:

*“The Border Services officer may not ask to see these documents when the child enters Canada. However, it is strongly recommended you bring them in case that you are asked. The minor child will not be admitted to Canada if the officer is not convinced that the parents or legal guardian have authorized his stay.”*

The new regulations are also in line with the recommendations of the Inter-Ministerial Committee led by then Deputy President Cyril Ramaphosa which were finalized in October 2015. Their recommendations were followed by the statement:

*“this would remove the obligation from airlines to verify documentation. Immigration officers will retain the discretion to, at random, request additional evidence and that suspicious individuals may be questioned and additional information sought on their circumstances and corroborated.”*

IATA has accepted these new regulations and have confirmed this with the Department of Home Affairs in writing. IATA has further confirmed that the amended regulations, which follow the practice of countries such as the UK do remove the requirement for airlines to verify documentation of minor travelers [other than when they are traveling alone].

## ANNEXURE A – AMENDED REGULATIONS

### Amendment of regulation 6 of the Regulations

4. Regulation 6 of the Regulations is hereby amended by the substitution for subregulation (12) of the following subregulation:

“(12A) For the purposes of subregulation (12B)(a), (c) and (d), where a child presents a passport which contains the details of his or her parent or parents, an immigration officer shall not require such child to produce a birth certificate.

(12B)(a) Where a parent or parents, legal guardian or any other person is travelling with a child who is a South African citizen, such person must, upon departure from or entry into the Republic, produce—

- (i) a copy of a birth certificate or passport containing the details of the parent or parents of the child;
- (ii) where applicable, a copy of an adoption order;
- (iii) a letter of consent from the other parent or parents, or legal guardian, as the case may be, of the child authorising such person to depart from or enter into the Republic with the child he or she is travelling with;
- (iv) a copy of the passport, or identity card in the case of South African citizens, of the parent or parents or legal guardian of the child;
- (v) the contact details of the parent or parents, or legal guardian, of the child;
- (vi) a copy of a court order granting full parental responsibilities and rights or legal guardianship in respect of the child, if he or she is the parent or legal guardian of the child; or
- (vii) where applicable, a copy of a death certificate of the deceased parent, parents or legal guardian of the child.

(b) Where a parent or parents, legal guardian or any other person from a visa required country intends to travel with a child, he or she must, when applying for a visa for such child, submit—

- (i) a copy of a birth certificate of the child;
- (ii) where applicable, copy of an adoption order;
- (iii) a letter of consent from the other parent or parents, or legal guardian of the child authorising him or her to enter into or depart from the Republic with the child he or she is travelling with;
- (iv) a copy of the passport of the parent or parents, or legal guardian, of the child;
- (v) the contact details of the parent or parents, or legal guardian, of the child;

- (vi) a copy of a court order granting full parental responsibilities and rights or legal guardianship in respect of the child, if he or she is the parent or legal guardian of the child; or
- (vii) where applicable, a copy of a death certificate of the deceased parent, parents or legal guardian of the child.

(c)(i) Where one parent, legal guardian or any other person is travelling with a child, he or she may be required by an immigration officer to produce a copy of a birth certificate of the child in order to establish the relationship with such child, unless the child is from a visa required country, upon admission into or departure from the Republic and the immigration officer must, in examining such child for admission into or departure from the Republic request and consider, where applicable—

- (aa) the reasons for the absence of the other parent or parents of the child;
  - (bb) a letter of consent from the other parent or parents or guardian of the child authorising him or her to enter into or depart from the Republic with the child he or she is travelling with;
  - (cc) a copy of the passport of the absent parent or parents or legal guardian of the child;
  - (dd) the contact details of the absent parent or parents or legal guardian of the child;
  - (ee) a copy of a court order granting full parental responsibilities and rights or legal guardianship in respect of the child, if he or she is the parent or legal guardian of the child; or
  - (ff) where applicable, a copy of a death certificate of the deceased parent, parents or legal guardian of the child: Provided that the Director-General may, where the parent or parents are deceased and the child is travelling with a person related to him or her, approve such a person to enter into or depart from the Republic with such a child.
- (ii) Where an immigration officer requests a traveller to produce a birth certificate of a child or the documentation referred to in subparagraphs (aa) to (ff), and such is not provided within 24 hours, he or she may refuse admission into or departure from the Republic of such a child.
- (iii) Any person travelling with a child as contemplated in paragraph (c)(i) is strongly advised to be in possession of the documentation referred to in subparagraph (i) when seeking admission into or departure from the Republic.

(d) Any unaccompanied child shall produce to the immigration officer—

- (i) a copy of his or her birth certificate;
- (ii) where applicable, a copy of an adoption order;
- (iii) a letter of consent from one or both his or her parents or legal guardian, as the case may be, for the child to travel into or depart from the Republic;
- (iv) a copy of the passport of the parent or parents or legal guardian of the child;
- (v) the contact details of the parent or parents or legal guardian of the child;
- (vi) a copy of a court order granting full parental responsibilities and rights or legal guardianship in respect of the child, if he or she is the parent or legal guardian of the child;
- (vii) where applicable, a copy of a death certificate of the deceased parent, parents\_or legal guardian of the child;
- (viii) a letter from the person who is to receive the child in the Republic, containing his or her residential address and contact details in the Republic where the child will be residing; and
- (ix) a copy of the identity card or valid passport and visa or permanent residence permit of the person who is to receive the child in the Republic.

## ANNEXURE B – TRAVEL ADVICE

### Foreign Children Travelling to and from South Africa

As a responsible country, South Africa must safeguard and promote the welfare of children from any country. South Africa therefore has taken steps to ensure that when children are travelling there are safeguards to protect vulnerable children and those who may potentially be trafficked. Please be understanding if immigration officials question you on entry if you are accompanying a child or children.

1. Generally, children (under 18) travelling with both parents will experience no additional questioning and will not be requested to provide any additional documents, over and above a valid passport, and a visa if required.
  - a. However, if it may appear that you are not the parents of the child for any reason, such as different surnames, same sex marriages, significant age differences, or different nationalities, documentation may be requested. It is suggested that you consider carrying a birth certificate which features the details of the parent or parents, or other documentation that might assist to prove the parental relationship such as a marriage certificate, adoption certificate etc.
2. If only one parent is travelling with a child, or a child is travelling with another adult (or adults) who is/are not the child's parent, you **may** be asked a few questions to establish your relationship with the child, the reason the child is travelling with you and/or the reason the other parent is not travelling with you.

Such travellers are **strongly advised** to carry evidence of their relationship with the child and/or the reason why they are travelling with the child, and evidence of consent to travel with the child from the absent parent or parents, together with their identification and contact details. However, should officials ask for documents you are not carrying with you, you will be given some time after arrival to source the relevant documentation requested.

This additional documentation could include:

- A copy of a birth certificate of the child with the parent or parents' details;
- Written consent (which need not be an affidavit or notarized) from the absent parent or parents, or legal guardian of the child, authorising the child to travel to the Republic with the adult he or she is travelling with;
- Copy of the passport of the parent or parents or legal guardian of the child;
- The contact details of the parent or parents, or legal guardian, of the child;
- Where applicable, copy of an adoption order;

- Where applicable, a copy of a court order granting full parental responsibilities and rights or legal guardianship in respect of the child, if he or she is the sole parent or legal guardian of the child;
  - Where applicable, a copy of a death certificate of the deceased parent or parents of the child.
3. Should a foreign child be travelling to South Africa alone, i.e. not with any accompanying adult(s), the child will be required to carry the following specific documents:
- A copy of his or her birth certificate;
  - Proof of consent from one of or both his or her parents or legal guardian, as the case may be, for the child to travel into or depart from the Republic;
  - A copy of the passport of the parent or parents or legal guardian of the child;
  - The contact details of the parent, parents or legal guardian of the child;
  - A letter from the person who is to receive the child in the Republic, containing his or her residential address and contact details in the Republic and where the child will be residing;
  - A copy of the identity card or valid passport and visa or permanent residence permit of the person who is to receive the child in the Republic;
  - Where applicable, copy of an adoption order;
  - Where applicable a copy of a court order granting full parental responsibilities and rights or legal guardianship in respect of the child, if there is a sole custody parent or legal guardian of the child;
  - Where applicable, a copy of a death certificate of the [other] deceased parent, parents or legal guardian of the child;

We trust that you understand that this is done to ensure that travelling to and from South Africa does not prejudice the welfare of any child.