

THE RIGHT TO BE A DAD: UNMARRIED AND DIVORCED FATHERS HAVE RIGHTS TOO

This Father's Day, let's celebrate the rights that South African law gives to our dads.



At Legal&Tax, it's important to us that South Africans are aware of the rights they are entitled to; it's just another way we're making sure our members are protected, informed and empowered. "When it comes to unmarried and divorced fathers, many people still believe that they have limited rights to their children. However, this is no longer the case," says Yusuf Boda, head of Servicing at Legal&Tax. So, in celebration of Father's Day, let's take a closer look at the rights that unmarried or divorced fathers are entitled to in South Africa.

RIGHTS OF FATHERS

According to the Children's Act of South Africa (38 of 2005), even after a divorce, the biological father of a child still has full parental rights to his child/ren, unless a court orders otherwise. While married fathers have these rights automatically, unmarried fathers do not.

CARING

This is the right to have a child live primarily with one partner and to supervise the daily life of a child.

CONTACT

This means maintaining a personal relationship with a child and allowing a person to see, spend time with or communicate with a child.

GUARDIANSHIP

This includes safeguarding a child's property interests, representing a child in legal matters and consenting to a child's marriage, adoption, removal from South Africa, or an application for a passport.

ACCESSING THESE RIGHTS

According to the Children's Act, the unmarried, biological father has full parental rights to his child if he:

- Is living with the mother of the child in a permanent life-partnership at the time of birth
- Has agreed to be identified as the child's father at birth;
- Has successfully applied to be identified as the child's father (this means that if an unmarried mother does not want to acknowledge the father of her child, the father can apply for a court order which forces the mother

to put his name on the child's birth certificate or prove his paternity with a paternity test);

- Has contributed or tried to contribute to the child's upbringing for a reasonable period; or
- Has contributed or has tried to contribute towards maintenance expenses for the child for a reasonable period.

If the mother has denied the father access to their child, an unmarried father can exercise his rights by applying for care and/or contact rights at the Children's Court. Guardianship rights must be lodged at the High Court. If the father wants care/contact rights and to be the guardian of his child, he must bring the application in the High Court.

A HELPING HAND FOR FATHERS

Fathers, if you struggle to pay for your child's needs, such as school fees, you can apply for a child social grant. The Child Support Grant offers monthly income support to adults who care for children, under the age of 18, born after 31 December 1994. To qualify for the grant, a single parent or caregiver must earn R3 300 or less per month. Fathers (or mothers) can apply for a grant at the nearest South African Social Security Agency (SASSA) office, for free.

If you or someone you know needs advice or assistance with any legal or parental issue, Legal&Tax can help!

Hey moms and dads – have you seen our latest offering called **TeleTeacher**, a Legal&Tax benefit which helps grade 1-12 learners anywhere in the country in all major subjects and languages? Go to legalandtax.co.za to find out more.

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