

Parental Rights and Responsibility Agreement (Section 22 Agreements)

A Parental Rights and Responsibility Agreement is not a Parenting Plan. It is used when a 3rd person for example a grandparent, aunt or uncle apply for either full Parental Rights and Responsibilities or specific Parental Rights and Responsibilities.

As per Section 22 of the Children's Act 38 of 2005

(1) Subject to subsection (2), the mother of a child or other person who has parental responsibilities and rights in respect of a child may enter into an agreement providing for the acquisition of such parental responsibilities and rights in respect of the child as are set out in the agreement, with-

- a. the biological father of a child who does not have parental responsibilities and rights in respect of the child in terms of either section 20 or 21 or by court order or
- b. any other person having an interest in the care, well-being and development of the child

(2) The mother or other person who has parental responsibilities and rights in respect of a child may only confer by agreement upon a person contemplated in subsection (1) those parental responsibilities and rights which she or that other person has in respect of the child at the time of the conclusion of such an agreement.

(3) A parental responsibilities and rights agreement must be in the prescribed format and contain the prescribed particulars.

(4) Subject to subsection (6), a parental responsibilities and rights agreement takes effect only if

- a. registered with the family advocate; or
- b. made an order of the High Court, a divorce court in a divorce matter or the children's court on application by the parties to the agreement.

(5) Before registering a parental responsibilities and rights agreement or before making a parental responsibilities and rights agreement an order of court, the family advocate or the court concerned must be satisfied that the parental responsibilities and rights agreement is in the best interests of the child.

(6) (a) A parental responsibilities and rights agreement registered by the family advocate may be amended or terminated by the family advocate on application-

- i. by a person having parental responsibilities and rights in respect of the child;
- ii. by the child, acting with leave of the court; or
- iii. in the child's interest by any other person, acting with leave of the court.

(b) A parental responsibilities and rights agreement that was made an order of court may only be amended or terminated on application-

- i. by a person having parental responsibilities and rights in respect of the child;
- ii. by the child, acting with leave of the court; or
- iii. in the child's interest by any other person, acting with leave of the court.

(7) Only the High Court may confirm, amend or terminate a parental responsibilities and rights agreement that relates to the guardianship of a child.