

1975 WL 29589 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 14, 1975

*1 Honorable T. Dewey Wise
Senator
P. O. Box 38
Charleston, South Carolina 29402

Dear Senator Wise:

During our telephone conversation of March 11, you requested information as to what effect the recent ratification of an amendment to our State Constitution regarding eighteen year olds would have on settlements to tort claims. In response, I submit that eighteen year olds may now enter into such agreements.

The amendment states:

Every citizen who is eighteen years of age or older, not laboring under disabilities prescribed in this Constitution or otherwise established by law, shall be deemed sui juris and endowed with full legal rights and responsibilities, provided, that the General Assembly may restrict the sale of alcoholic beverages to persons until age twenty-one.

BLACK's Law Dictionary defines 'sui juris' as

Of his own right; possessing full social and civil rights; not under any legal disability, or the power of another, or guardianship. Having capacity to manage one's own affairs; not under legal disability to act for one's self.

Section 10-1005, CODE OF LAWS OF SOUTH CAROLINA, 1962, provides in part:

'Any guardian ad litem who may institute any action in any of the courts of this State for the recovery of damages to the person or property of any minor or other person laboring under a disability to sue for himself may effect a settlement of such action provided the settlement be approved by the resident or presiding judge of the circuit in which is comprised the county in which the action is brought or by the judge of the county court in which the action is instituted. . . .'

With the definition of 'sui juris' in mind, this section of the code appears not now to apply to persons aged eighteen and above, unless some other disability such as mental incompetency is involved.

However, it is worth noting here that Section 10-1005 does not purport to establish below what age constitutes minority, but rather the definition of a minor in this section was left to the Common Law (see Opinion Attorney General No. 3162 of 1971) and this has now been modified by amendment to the Constitution of 1895. Therefore, the amendment may have a differing effect on other Sections of the Code specifying age twenty-one, or those differentiating the married individuals from single minors, and to these questions we do not now express opinion.

Please feel free to contact me should you have any questions.

Very truly yours,

Harry B. Burchstead, Jr.
Staff Attorney

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