

## Is a criminal record holding you back professionally?

**15 August 2018** – Securing a job in South Africa today is tough for many. Latest figures from Stats SA indicate that unemployment has increased to 27.2% for the second quarter of the year (from 26.7%) – where hiring organisations are more cautious than optimistic about growth in the economy, their markets and their businesses. Hiring someone with a criminal record is often just not an option.

According to Michelle Baron-Williamson, CEO of Managed Integrity Evaluation (MIE), “In times of instability and evolving change, such as we are experiencing now, businesses particularly tend to become more risk adverse to their gainful investment, including in their people, and take a more inspective and discretionary approach to hiring. As a result, we are seeing increasing investing into comprehensive background screening solutions to assist businesses in mitigating against potential risk of an inappropriate candidate being hired. And if a candidate is found to have a criminal record, his or her job application may not be viewed favourably.”

MIE [research](#) shows that uptake of background screening services has grown by 6.77% in the last five years and criminal record screening remains the most frequently requested check by our clients in South Africa. In 2017 alone, the company conducted over seven-hundred-thousand criminal checks, of which 9.91% were found to have a criminal or pending criminal record; from violent crimes to theft and narcotics offences, crimes against the state, white collar and other crimes.

“The fact is, having a criminal record – no matter how small or ‘insignificant’ the offence may seem – will haunt a candidate professionally. Just like being ‘black listed’ or being recorded as a bad creditor can severely lessen a consumer’s chances of securing credit; having a criminal record could significantly impact a candidate’s future employability. Unless the candidate has their record expunged,” says Baron-Williamson.

“As a responsible South African business, we don’t condone criminal activity, and neither do the laws of the country. However, concessions have been made in recognising that honest and hardworking individuals are hindered from securing meaningful employment due to convictions of minor offences committed in the past. In recognition of this, in 2009 changes were made to Section two and three of the Criminal Procedure Amendment Act to allow for the expungement of criminal records related to certain minor criminal offences,” adds Baron-Williamson.

An expungement is a legal process that, under certain circumstances, allows individuals to apply to have their name and record cleared of any past minor criminal offenses through the Department of Justice (DoJ). Once an expungement application has been approved by the DoJ, the conviction is removed from the database of the Criminal Record Centre of the South African Police Service (SAPS). It will be as if it never happened and future background checks will not show any trace of the prior conviction.

Baron-Williamson indicates that there are some exclusionary conditions sited in the Criminal Procedure Amendment Act, as records are only considered for expungement if:

- The criminal record is 10-years or older, followed by the option of paying a fine of less than R20 000.00.
- It was a minor offence, such as “petty theft”, shoplifting and crimes for which the punishment is no longer constitutional.
- An individual was told that paying a fine would not result in a criminal record and has since discovered the existence of such a record.

- An expungement is also not applicable for crimes of a serious nature such as murder, rape and other sexual offences, or violent crimes. More details can also be viewed on the [SAPS website](#).

"Hiring organisations certainly still retain the right to be presented with all the available facts before making an informed hiring decision, however, we believe that an offence should always be weighed in relation to the position for which the candidate is applying for. Categories of criminal offences differ in severity – and there needs to be balance between managing risks and legal obligations of the business, and fair employment opportunities," says Baron-Williamson.

"Fortunately, candidates don't need to let their past criminal records haunt them. There are options available to job seekers and gaining advice from trusted industry professionals will aid in having their name and record cleared – and allowing them to reach their full potential professionally," concludes Baron-Williamson.