
GOVERNMENT NOTICE GOEWERMENTSKENNISGEWING

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT DEPARTEMENT VAN JUSTISIE EN STAATKUNDIGE ONTWIKKELING

No. R. 513

6 May 2009

REGULATIONS UNDER THE CRIMINAL PROCEDURE ACT, 1977 (ACT NO. 51 OF 1977)

The Minister of Justice and Constitutional Development has under section 271E of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), made the regulations in the Schedule.

SCHEDULE

Definitions

1. In these regulations any word or expression to which a meaning has been assigned in the Act bears that meaning and, unless the context otherwise indicates –

“**applicant**” means the person who applies for the expungement of his or her criminal record as is intended in section 271B and 271C of the Act;

“**Director-General**” means the Director-General: Justice and Constitutional Development;

“**Minister**” means the Minister of Justice and Constitutional Development; and

“**the Act**” means the Criminal Procedure Act, 1977 (Act No. 51 of 1977).

Application for expungement of criminal record

2. (1) An application referred to in section 271B(1)(a) of the Act, must be in the form of Part II and Part III of Form A of the Annexure.

(2) An application referred to in section 271C(2)(a) of the Act, must be in the form of Part II and Part III of Form B of the Annexure.

(3) An application referred to in section 271C(2)(b) of the Act, must be in the form of Part II and Part III of Form C of the Annexure.

(4) An official of the Department of Justice and Constitutional Development who is assigned to deal with the expungement of criminal records may request further information from the applicant, if the information in Forms A, B or C, as the case may be, is inadequate or not clear.

Certificate of expungement

3. (1) The certificate of expungement issued by the Director-General in terms of sections 271B(2) or 271C(3) of the Act must be in the form of Form D of the Annexure.

(2) The certificate of expungement issued by the Minister in terms of section 271C(5)(b) of the Act must be in the form of Form E of the Annexure.

(3) The Director-General must, within 14 working days after the certificate of expungement has been issued in terms of sections 271B(2) or 271C(3) or 271C(5), submit that certificate, together with a copy of Part III of the relevant application form to the Criminal Record Centre of the South African Police Service.

(4) The Director-General must, within 14 working days after the applicant's application is declined by the Director-General or the Minister, inform him or her by post, in writing, of such decision, together with the reasons for the refusal.

Expungement of criminal records by Criminal Record Centre

4. The head of the Criminal Record Centre of the South African Police Service must, within 21 working days after receipt of the certificate of expungement and Part III of the application form, inform the applicant by post in writing that his or her criminal record in respect of the specific offence or conviction is expunged and attach a copy of the certificate of expungement to that communication.

FORM A

[Regulation 2(1)]

APPLICATION FOR EXPUNGEMENT OF A CRIMINAL RECORD**[SECTION 271B (1) OF THE CRIMINAL PROCEDURE ACT, 1977****(ACT NO. 51 OF 1977)]**

(To be completed by a person who has a criminal record older than 10 years and upon whom a fine of not more than R20 000 was imposed and has not been sentenced to a period of imprisonment)

PART I**GENERAL INFORMATION****Who may apply for the expungement of a criminal record:**

- **A person may apply if:**
 - **10 Years has lapsed after the date of the conviction for that offence.**
 - **The person has not been convicted of any other offence and sentenced to a period of imprisonment without the option of a fine during those 10 years.**
 - **The person was sentenced to any of the sentences set out in Part II of this Form.**
- **A person will not qualify if:**
 - **He or she was convicted of a sexual offence against a child or a person who is mentally disabled or of an offence, where he or she was found to be unsuitable to work with children.**
 - **His or her name is included in the National Register for Sex Offenders or the National Child Protection Register but may qualify if his or her name has been removed from the National Register for Sex Offenders or the National Child Protection Register.**

Note:

- **Before submitting the application for expungement of a conviction, a clearance certificate showing that a period of 10 years has lapsed after the conviction(s) and sentence(s), must be obtained from the Criminal Record Centre of the South African Police Service. The clearance certificate must be attached to the application.**
- **If the person's name has been included in the National Register for Sex Offenders, a confirmation must be obtained from the Registrar that his or her name has been removed from the Register. The confirmation or a certified true copy of the confirmation must be attached to the application.**
- **If the person's name has been included in the National Child Protection Register, a confirmation must be obtained from the Director-General: Social Development that his or her name has been removed from the Register. The confirmation or a certified true copy of the confirmation must be attached to the application.**

Process:

- The completed application form (Part II and Part III), together with the attachments must be posted or delivered by hand to the Director-General: Justice and Constitutional Development:
 - Postal Address: Private Bag X 81 Pretoria 0001
 - Street Address: Momentum Centre, 329 Pretorius Street (corner of Pretorius and Prinsloo streets), Pretoria 0001
- If the Director-General is satisfied that a person meets the requirements set out in section 271B(1) of the Act, he or she will issue a certificate of expungement directing that the conviction(s) and sentence(s) of the person be expunged.
- The certificate of expungement issued by the Director-General will be submitted to the head of the Criminal Record Centre of the South African Police Service within 14 working days.
- If the application for expungement is refused, the person will be informed by post of this decision and reasons for the decision.
- The head of the Criminal Record Centre of the South African Police Service will, within 21 working days confirm to the person in writing that the conviction(s) and sentence(s) in question has/have been expunged.

Note: Failure to complete the form in full or to attach the required documents may cause the application for expungement to be delayed.

PART II

APPLICATION FOR EXPUNGEMENT OF A CRIMINAL RECORD IN TERMS OF SECTION 271B OF THE CRIMINAL PROCEDURE ACT, 1977 (ACT NO. 51 OF 1977)

(If the space provided is insufficient, information should be supplied on a separate page)

(i) I,
 (full name and surname of applicant),
 ID Number:
 or Passport number:
 or Date of birth:

was convicted of the following offence(s) and on date(s) appearing below:

OFFENCE	DATE

(ii) The following sentence(s) was imposed on me:

Mark the sentence(s) imposed with an X

- The passing of the sentence was postponed.
- Cautioned and discharged.
- Fine imposed did not exceed R 20 000. The fine imposed was R
- Corporal punishment (lashes).
- Imprisonment of with the option of a fine not exceeding the amount of R20 000. The fine was R
- Sentence of imprisonment was wholly suspended.
- Correctional supervision.
- Periodical imprisonment.

A period ofyears has lapsed after the date of my conviction.

(iii) I have not been convicted during the 10 year period of any other offence and been

sentenced to a period of imprisonment without the option of a fine.

(iv) A clearance certificate bearing Enquiry No: issued on obtained from the Criminal Record Centre of the South African Police Service reflecting that a period of 10 years has lapsed after the date of the conviction is attached.

*** Delete whichever is not applicable**

(v) I was not convicted of a sexual offence against a child or a person who is mentally disabled, and my name is not included in the National Register for Sex Offenders.

I was convicted of a sexual offence against a child or a person who is mentally disabled and my name was included in the National Register for Sex Offenders on and removed from the said register on Confirmation from the Registrar is attached.

(vi) I was not found unsuitable to work with children by a criminal court and my name is not included in the National Child Protection Register.

I was found unsuitable to work with children by a criminal court and my name was included in the National Child Protection Register on and removed from the said register on Confirmation from the Director-General: Social Development is attached.

(vii) I request that a certificate of expungement be issued directing that the conviction be expunged from my record in terms of section 271B(2) of the Act.

PART III

PERSONAL AND CONTACT DETAILS OF THE APPLICANT

(i) PERSONAL DETAILS

Surname: _____
Full names: _____
ID Number: _____,
or Passport number: _____
or Date of birth: _____

(ii) CONTACT DETAILS

Residential address: _____

_____ Postal code: _____

Postal address: _____

_____ Postal Code: _____

Telephone numbers:
Work: _____
Home: _____
Cell phone: _____

E-mail address: _____
Fax number: _____

Signed at thisday of
year

.....
SIGNATURE (Applicant)

Part IV

For official use only: Reference No

NAME OF APPLICANT:

(i)	<u>Responsible official: Recommendation</u>
.....	
_____ Signed Date	
(ii)	<u>Checking official: Recommendation</u>
.....	
_____ Signed Date	
(iii)	<u>Director – General: Decision</u>
* I am satisfied that _____ <div style="text-align: right; margin-right: 150px;">(name of applicant)</div> complies with the criteria set out in section 271B(1) for the issuing of a certificate of expungement and I therefore direct that the particular offence(s) and sentence(s) in question on his/her criminal record be expunged. I therefore, in terms of section 271B(2), issue the attached certificate of expungement. I request that(assigned official) submit the certificate to the head of the Criminal Record Centre to be dealt with in accordance with section 271D of the Act. * I refuse to issue the certificate because the applicant, _____ <div style="text-align: right; margin-right: 150px;">(name of applicant)</div> does not qualify for the following reasons: _____ _____ _____ _____	

FORM B

[Regulation 2(2)]

APPLICATION FOR EXPUNGEMENT OF A CRIMINAL RECORD**[SECTION 271C (2)(a) OF THE CRIMINAL PROCEDURE ACT, 1977****(ACT NO. 51 OF 1977)]**

(To be completed by a person who wants to have his or her criminal record expunged on the basis that his or her conviction was as a result of legislation based on race or which would not be regarded as an offence under the constitutional dispensation)

PART I**GENERAL INFORMATION****Who may apply for the expungement of a criminal record:**

- **A person may apply if:**
 - **He or she was convicted of an offence based on race.**
 - **He or she was convicted of an offence which would not be regarded as an offence in an open and democratic society based on human dignity, equality and freedom under the democratic constitutional dispensation.**

Note:

- **Before submitting the application for expungement of a conviction, a clearance certificate reflecting the offence must be obtained from the Criminal Record Centre of the South African Police Service. The clearance certificate must be attached to the application.**

Process:

- **The completed application form (Part II and Part III), together with the attachments must be posted or delivered by hand to the Director-General: Justice and Constitutional Development:**
 - **Postal Address: Private Bag X 81 Pretoria 0001**
 - **Street Address: Momentum Centre, 329 Pretorius Street (corner of Pretorius and Prinsloo streets), Pretoria 0001**
- **If the Director-General is satisfied that a person meets the requirements set out in section 271C(2)(a) of the Act, he or she will issue a certificate of expungement directing that the conviction(s) and sentence(s) of the person be expunged.**
- **The certificate of expungement issued by the Director-General will be submitted to the head of the Criminal Record Centre of the South African Police Service within 14 working days.**
- **If the application for expungement is refused, the person will be informed by post of this decision and reasons for the decision.**
- **The head of the Criminal Record Centre of the South African Police Service will, within 21 working days, confirm to the person in writing that the conviction(s) and**

sentence(s) in question has/have been expunged.

Note: Failure to complete the form in full or to attach the required documents may cause the application for expungement to be delayed.

PART II

APPLICATION FOR EXPUNGEMENT OF A CRIMINAL RECORD IN TERMS OF SECTION 271C(2)(a) OF THE CRIMINAL PROCEDURE ACT, 1977 (ACT NO. 51 OF 1977)

(If the space provided is insufficient, information should be supplied on a separate page)

I,
(full name of applicant),

ID Number:

or Passport number:

or Date of birth:

was convicted and sentenced for contravention of

..... (particulars of the offence(s))

on (date(s)).

Complete applicable space hereunder:

(i) This offence was based on race because:.....
.....
.....

(ii) The offence would not have been considered to be an offence in an open and democratic society based on human dignity, equality and freedom under the democratic constitutional dispensation because:.....
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.....

(iii) A clearance certificate bearing Enquiry No: issued on obtained from the Criminal Record Centre of the South African Police Service reflecting the conviction and sentence is attached.

(iv) I request that a certificate of expungement directing that the conviction and sentence stated above be expunged be issued in terms of section 271C(3) of the Act.

PART III

PERSONAL AND CONTACT DETAILS OF APPLICANT

(i) **PERSONAL DETAILS**

Surname: _____
Full names: _____
ID Number: _____
or Passport number: _____
or Date of birth: _____

(ii) **CONTACT DETAILS**

Residential address: _____

_____ Postal code: _____

Postal address: _____

_____ Postal code: _____

Telephone numbers:
Work: _____
Home: _____
Cell phone: _____

E-mail address: _____
Fax number: _____

Signed at thisday of
year

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SIGNATURE (Applicant)

Part IV

For official use only: Reference No

NAME OF APPLICANT:

(i) Responsible official: Recommendation

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Signed Date

(ii) Checking official: Recommendation

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Signed Date

(iii) Director – General: Decision

* I am satisfied that the applicant, _____
(name of applicant)

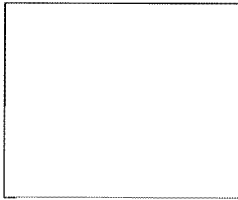
complies with the criteria set out in section 271C(2)(a) for the issuing of a certificate of expungement and I therefore direct that the particular offence(s) and sentence(s) in question on his/her criminal record be expunged.

I therefore, in terms of section 271C (3), issue the attached certificate of expungement. I request that(assigned official) must submit the certificate to the head of the Criminal Record Centre to be dealt with in accordance with section 271D of the Act.

* I refuse to issue the certificate because the applicant, _____
(name of applicant) does not

qualify for the following reasons: _____

_____ Director-General: Justice and Constitutional Development	_____ Date



(Official stamp of the Director-General)

FORM C**[REGULATION 2(3)]****APPLICATION FOR EXPUNGEMENT OF A CRIMINAL RECORD****[SECTION 271C(2)(b) OF THE CRIMINAL PROCEDURE ACT, 1977****(ACT NO. 51 OF 1977)]**

(To be completed by a person who has been convicted of certain offences in terms of legislation prior to 1994)

PART I**GENERAL INFORMATION:****Who may apply for the expungement of a criminal record:**

- **A person may apply if:**
 - **An offence on his or her criminal record is listed in Part II of this Form.**
 - **The conviction and sentence appearing on the criminal record of the person were not automatically expunged by the Criminal Record Centre of the South African Police Service.**

Note:

- **Before submitting the application for expungement of a conviction, a clearance certificate reflecting the offence (and confirmation that the offence in question was not automatically expunged by the Criminal Record Centre) must be obtained from the Criminal Record Centre of the South African Police Service.**

Process:

- **The completed application form (Part II and Part III), together with the attachments must be posted or delivered by hand to the Director-General: Justice and Constitutional Development:**
 - **Postal Address: Private Bag X 81 Pretoria 0001**
 - **Street Address: Momentum Centre, 329 Pretorius Street (corner of Pretorius and Prinsloo streets), Pretoria 0001**
- **If the Director-General is satisfied that a person meets the requirements set out in section 271C(1) of the Act, he or she will issue a certificate of expungement directing that the conviction(s) and sentence(s) of the person be expunged.**
- **The certificate of expungement issued by the Director-General will be submitted to the head of the Criminal Record Centre of the South African Police Service within 14 working days.**
- **If the application for expungement is refused, a person will be informed by post of this decision and reasons for the decision.**
- **The head of the Criminal Record Centre of the South African Police Service will, within 21 working days, confirm to the person in writing that the conviction(s) and**

sentence(s) in question has/have been expunged.

Note: Failure to complete the form in full or to attach the required documents may cause the application for expungement to be delayed.

PART II**APPLICATION FOR EXPUNGEMENT OF A CRIMINAL RECORD IN TERMS OF SECTION 271C(2)(b) OF THE CRIMINAL PROCEDURE ACT, 1977 (ACT NO. 51 OF 1977)***(If the space provided is insufficient, information should be supplied on separate page)*I,,
(full name of applicant)

ID Number:

or Passport number:.....

or Date of birth:

was convicted of the following offence(s) in contravention of –

Please mark the relevant offence(s) with an X

- section 1 of the Black Land Act, 1913 (Act No. 27 of 1913);
- section 12 of the Development Trust and Land Act, 1936 (Act No. 18 of 1936);
- section 5(1), read with section 5(2), of the Blacks (Urban Areas) Consolidation Act, 1945 (Act No. 25 of 1945);
- section 6, read with section 6(2), of the Blacks (Urban Areas) Consolidation Act, 1945 (Act No. 25 of 1945);
- section 8(1), read with section 8(3), of the Coloured Persons Settlement Act, 1946 (Act No. 7 of 1946);
- section 2 of the Prohibition of Mixed Marriages Act, 1949 (Act No. 55 of 1949);
- section 4 of the Prohibition of Mixed Marriages Act, 1949 (Act No. 55 of 1949);
- section 11 of the Internal Security Act, 1950 (Act No. 44 of 1950);
- section 10(6) of the Black Building Workers Act, 1951 (Act No. 27 of 1951);
- section 10(7) of the Black Building Workers Act, 1951 (Act No. 27 of 1951);

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- section 11(4) of the Black Building Workers Act, 1951 (Act No. 27 of 1951);
 - section 14 of the Black Building Workers Act, 1951 (Act No. 27 of 1951);
 - section 15 of the Black Building Workers Act, 1951 (Act No. 27 of 1951);
 - section 16 of the Black Building Workers Act, 1951 (Act No. 27 of 1951);
 - section 20(1) of the Black Building Workers Act, 1951 (Act No. 27 of 1951);
 - section 28(7) of the Black Building Workers Act, 1951 (Act No. 27 of 1951);
 - section 29(1) of the Black Building Workers Act, 1951 (Act No. 27 of 1951);
 - section 30 of the Black Building Workers Act, 1951 (Act No. 27 of 1951);
 - section 15 of the Blacks (Abolition of Passes and Co-ordination of Documents) Act, 1952 (Act No. 67 of 1952);
 - section 2 of the Criminal Law Amendment Act, 1953 (Act No. 8 of 1953);
 - section 2(2) of the Reservation of Separate Amenities Act, 1953 (Act No. 49 of 1953);
 - section 16 of the Sexual Offences Act, 1957 (Act No. 23 of 1957);
 - section 46 of the Group Areas Act, 1966 (Act No. 36 of 1966);
 - section 2 of the Terrorism Act, 1967 (Act No. 83 of 1967);
 - section 3 of the Terrorism Act, 1967 (Act No. 83 of 1967); or
 - section 2, read with section 4(1), of the Prohibition of Foreign Financing of Political Parties Act, 1968 (Act No. 51 of 1968).

My criminal record containing the conviction and sentence in respect of the above-mentioned offence(s) should have been expunged automatically by the Criminal Record Centre of the South African Police Service in terms of section 271C(1) of the Act.

A clearance certificate bearing Enquiry No: issued on obtained from the Criminal Record Centre of the South African Police Service on which the offence reflected is attached.

- My conviction and sentence in respect of the above-mentioned offence(s) have not been expunged.

- I request that a certificate of expungement directing that my conviction and sentence indicated above be expunged be issued in terms of section 271C(3) of the Act. My request is based on the following grounds:

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PART III

PERSONAL AND CONTACT DETAILS

(i) **PERSONAL DETAILS**

Surname: _____

Full names: _____

ID Number: _____

or Passport number: _____

or Date of birth: _____

(ii) **CONTACT DETAILS**

Residential address:

Postal Code: _____

Postal address:

Postal Code: _____

Telephone numbers:

Work: _____

Home: _____

Cell phone: _____

E-mail address: _____

Fax number: _____

Signed at this day of
year

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SIGNATURE (Applicant)

PART IV

For official use only: Reference No.

NAME OF APPLICANT:

(i) Responsible official: Recommendation

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Signed Date

(ii) Checking official: Recommendation

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Signed Date

(iii) Director – General: Decision

* I am satisfied that the applicant, _____

(name of applicant)

complies with the criteria set out in section 271C(1) for the issuing of a certificate of expungement and I therefore direct that the particular offence(s) and sentence(s) in question on his/her criminal record be expunged.

I therefore, in terms of section 271C(3), issue the attached certificate of expungement. I request that (assigned official)

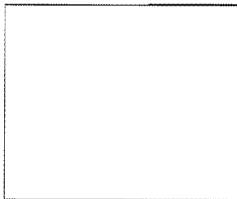
submit the certificate to the head of the Criminal Record Centre to be dealt with in accordance with section 271D of the Act.

* I refuse to issue the certificate because the applicant, _____

(name of applicant)

_____ does not qualify for the following reasons:

<hr/> <hr/> <hr/>	
.....
Director-General:	Date
Justice and Constitutional Development	



(Official stamp of the Director-General)

FORM D
[Regulation 3(1)]

CERTIFICATE OF EXPUNGEMENT OF CRIMINAL RECORD

Clearance certificate Enquiry No: _____

Acting in terms of section 271B(2)/271C(3) of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), I hereby issue this certificate of expungement in respect of the following applicant:

Surname: _____

Full names: _____

ID Number: _____

or Passport number: _____

or Date of birth: _____

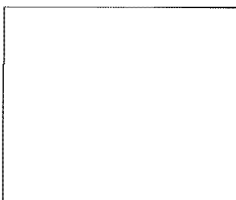
in respect of the following offence(s):

OFFENCE	DATE

.....

Date:

DIRECTOR-GENERAL: JUSTICE AND CONSTITUTIONAL DEVELOPMENT



(Official stamp of the Director-General)

FORM E

[Regulation 3(2)]

CERTIFICATE OF EXPUNGEMENT OF CRIMINAL RECORD

Clearance certificate Enquiry No: _____

Acting in terms of section 271C(5) of the Criminal Procedure Act, 1977 (Act No. 51 of 1977),
I hereby issue this certificate of expungement in respect of the following applicant:

Surname: _____

Full names: _____

ID Number: _____

or Passport number: _____

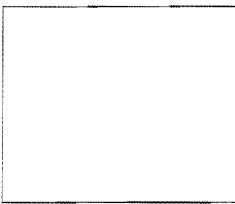
or Date of birth: _____

in respect of the following offence(s):

OFFENCE	DATE

.....

Date:.....

MINISTER OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

(Official stamp of the Minister)