

Rehabilitation and ITC Clearance

A rehabilitation Application consist of 2 components:

- Rehabilitation Order obtained in the High Court
- ITC Clearance on Credit Bureaus.

Information Rehabilitation

This is a totally separate Application than the Voluntary Surrender or Sequestration Application)

What is Rehabilitation?

Rehabilitation is a legal process which happens by order of the High Court of South Africa, whereby the Insolvent (applicant) is declared financially fit and proper again by the High Court. When a person has been sequestrated, he/she can apply for rehabilitation. Once rehabilitated, the sequestration comes to an end and the insolvent can start afresh. Rehabilitation is not compulsory after you have been sequestrated but in certain circumstances an Insolvent would like his/her credit worthiness to be re- instated as quickly as possible for example when you want to buy a property or when you need your name to be in good faith for business purposes. In terms of the Insolvency Act, Act 24 of 1936, a person is automatically rehabilitated after a period of 10 years has expired from date of sequestration that means that should you not apply for a Rehabilitation you will automatically be rehabilitated after 10 years

When do I qualify for Rehabilitation?

It is generally accepted that one can only rehabilitate after a period of four or five years has lapse since the time of your Sequestration order was granted. This is just a general time frame and in actual fact in some instances one can rehabilitate much sooner and in certain circumstances as quickly as 6 months after your Sequestration Order was granted. There are 7 Sections in the Insolvency Act which deals with 8 circumstances under which you can Rehabilitate. Each of these instances has its own time frame and can be complicated to explain. The first criteria in all of these different circumstances is that the Curator Fees must be paid in full, or if there was a property involved in the sequestration the rule of thumb is to wait until the Curator finalized the estate before one can apply for Rehabilitation.

The best way to determine when you are eligible for a Rehabilitations is: once you have paid your Curator fees in full to start with an Application for Rehabilitation and ITC Clearance. As soon as we receive your Application Form our office will do all the necessary checks and assessments and will report back to you when you can apply for Rehabilitation.

Rehabilitation Process.

Once we establish that we can proceed with your Rehabilitation Application a notice is published in the Government Gazette. A report is requested from the Curator as well as from the Master of the High Court, which gives permission for a rehabilitation application to be lodged. The report from the Master can take anything from two weeks to one months to obtain and it is necessary before we can proceed with the application. An affidavit is drafted for the Applicant to sign before a Commissioner of Oath and an application for rehabilitation is made to the High Court.

On the court date an Advocate will present the application on your behalf. There is no need for you to attend the court hearing in person. We will notify you of the outcome and will send you a Copy of the Rehabilitation Order.

ITC Clearance.

(this can only be done after the Rehabilitation Order is Granted)

Information ITC Clearance.

The fact that a rehabilitation order was granted by a High Court, does not mean that the insolvent's blacklisting on ITC is removed automatically. Our office will inform all 12 ITC Bureaus in South Africa of the Rehabilitation Order that was granted. ITC Bureaus takes approximately 30 days to update their records. Some of our clients reverted to us within the 21 days, which ITC confirmed with text message that their credit record has been updated. The ITC Bureau's policies are not consistent and although they should apply with the new national credit act's regulations we find that in some instances they have not update their records after receiving the necessary documents and information regarding the Rehabilitation. But be assured that we will do all in our power to have our client's name restored. All communication between us and the ITC Bureaus will also be send to you so you will have all the necessary proof that it was done and will have all information on hand for in case you need proof that it was done. We find that the banks have no problem granting bonds or other debt once a person have been rehabilitated.

New Life Debt Advisers will do the ITC Clearance process once the Rehabilitation Order is available.

Costs to Apply for Rehabilitation and ITC Clearance.

Facilitation Fee R4850

A Facilitation Fee of R4850 is payable to New Life Debt Advisers. This fee can be paid in 2 Instalments of R2425. This fee is to prepare the application with all necessary documents, do all checks to see when the application can be brought in the High Court and to do the ITC Clearance after the Rehabilitation Order is granted. It might happen that you pay the Facilitation fee but we can only bring the Rehabilitation Application in the High Court in a year or two. The time frame all depends on your Application, Curator and if you're Creditors claimed from the Estate.

Should it happen that your estate can not be Rehabilitated due to circumstances out of our control the Facilitation Fee already paid to New Life Debt Advisers will not be refundable as it was already distributed to service providers.

High Court Rehabilitation Application R 12 000 – R15 000

Only once we know that we can proceed with the High Court Rehabilitation Application an Application Fee of R 12 000 – R15 000 is payable Direct to the Attorney and Advocate to bring the Rehabilitation Application in the High Court. This Fee can be paid in instalments.

Your next step is to complete an Application Form

Important Notes

A rehabilitation order is not a complicated matter. If you have been sequestrated, may we recommend that you start saving towards costs for rehabilitation.

Rehabilitation is about new beginnings: it gives you the opportunity to purchase your new home again, or to manage your money to your advantage and forget the past.

If there were complications in the insolvent estate, for example if the insolvent did not co-operate with the curator or did not pay the Curator in full, then there may be reasons for the curator not to approve the application for rehabilitation. If the insolvent co-operated with the curator and paid the curator fees in full, the latter would probably not have a problem giving permission.