

Voluntary Surrender of Your Estate and how you can benefit from it

The surrendering of your estate is a process instituted by the Courts to help people that are no longer able to pay their debts due to circumstances out of their control. After Surrendering Your Estate your debts are deemed to have been written off. Your creditors are no longer allowed to demand payment from you. From now on your income goes to you and not to the creditors. It is a fantastic mechanism that exists in our law for anybody with financial problems. It gets one out of a state of alarm and poverty into a state of calmness and back on the road to creating wealth, putting the focus where it belongs. Most people hold on too long, trying to flog a dead horse. It is best to learn to stand back and make a clinical decision instead of an emotional one:

“You will be able to legally get rid of all your debt and start with a new beginning”

What are the advantages?

- Most importantly – **ALL YOUR DEBT IS WRITTEN OFF** – including the debt you are already blacklisted for on ITC. (You will not have to pay back any of your creditors and you will be completely debt free).
- You will no longer be liable towards your creditors, including banks, personal loans, SARS, etc.
- You will no longer need to communicate with any of your creditors, we will handle all communications.
- You will be able to stay in your house or rent it out for \pm another 8 - 10 months before you must move.
- After your voluntary surrender your FULL income will remain your own. All garnishee orders against your salary will be stopped.
- All deductions from your bank account will stop.
- You do NOT need to appear in court or communicate with your creditors.
- You will be able to keep your furniture and other movable assets.
- You will be able to keep your vehicle/s if it is paid up. If your vehicle is still under finance the Curator will repossess it, sell it at auction and use the proceeds of the sale as benefit to pay your creditors.
- After your Voluntary Surrender you will be able to apply for rehabilitation and you will be creditworthy again (see Rehabilitation).

What are the disadvantages?

- For your insolvency period, you will not be credit worthy.
- You may under no circumstances make any new debt.
- You may not have a current account or a credit card facility.

What will it cost me?

- Most of the costs will be covered by the Curator from the proceeds of the liquidation (sale) of your estate.
- A once-off administration fee is payable for processing your application and making an application to the High Court. As soon as we receive your application, we can give you a quotation.

The Voluntary Surrender of Estate Process

- You will be required to complete an application form with your personal information as well as information regarding your creditors.
- Upon receipt of your fully completed application form we will forward your application form to our attorneys. They will do an assessment, and we will inform you about your options.
- Should you want to continue you will sign a Consent Form with us, instructing us to continue with your application.
- Once we receive your Consent to continue with the application the nominated Attorney will immediately place an advertisement in the Government Gazette. This advertisement will stop all legal action against you.
- We will send you a copy of the advertisement so that you can see that the application is done. You can also use this advertisement to notify your creditors and stop any further action against you.
- At this stage we will wait for the application to appear in the High Court.
- After the application is approved in the High Court the Court must appoint a Curator. This can take 1-3 months.
- Once the Curator is appointed, he will contact you to introduce himself and to inform you when he will have to arrange an auction for the sale of your property.

Rehabilitation (after the Surrender process is done, not compulsory)

An insolvent can make an application to the High Court to be Rehabilitate. The insolvent can make this application as soon as the Curator settled the Estate, if there was a property involved in the Sequestration then it can take anything from 24 -36 months for the Curator to Settle the Estate. We find that the banks have no problem granting bonds or other debt once people have been rehabilitated. If an insolvent does not apply for rehabilitation, then the insolvent will be automatically rehabilitated after a period of 10 years. A Rehabilitation Application is again a High Court Application and is totally separate from the Voluntary Surrender Application. As soon as your Estate is settled contact us to assist you with the Rehabilitation Application.

FREQUENTLY ASKED QUESTIONS:

CAN MY CREDITORS TAKE MY SALARY?

Once you are sequestrated no creditor is allowed to attach your salary,

WILL I LOSE MY FURNITURE?

No. Your attorney will negotiate on your behalf for the household furniture to be excluded from the Insolvent Estate.

WHY HAVE THE BANK GRANTED A JUDGMENT IF I HAVE BEEN WITH A DEBT COUNSELLOR? IS THE JUDGMENT VALID?

If the court has granted judgment against you, in most cases your Debt Counsellor's application was not successful, and the bank can indeed go ahead with legal action and sell your house on an auction.

BUT I HAVE ALREADY PAID MY DEBT COUNSELLOR A MONTHLY FEE?

Even though your Debt Counsellor may have distributed a certain amount of money between your creditors, if your Debt Counsellor's application was refused by the court, the money already paid to them will not stop legal action already started against you.

WILL A DEBT COUNSELLOR BE ABLE TO HELP ME IF THE JUDGMENT WAS ALREADY GRANTED?

No. A Debt Counsellor may only be able to assist you if the court has not yet granted a judgment against you.

WILL I BE ABLE TO BUY ANOTHER HOUSE OR VEHICLE AFTER MY SEQUESTRATION?

Yes, once you are rehabilitated you can make a new debt again.

WILL I STILL BE ABLE TO BE A MEMBER OF A COMPANY OR CLOSED CORPORATION IF I APPLY FOR A VOLUNTARY SURRENDER?

If you are already a member of a company or a close corporation it will affect your position and you will not be able to become a member of a new company or close corporation until you are rehabilitated.