



VOLUNTARY SURRENDER OF ESTATE – NO PROPERTY

INFORMATION REGARDING THE SURRENDERING OF YOUR ESTATE

The surrendering of your estate is a process instituted by the Courts to help persons that are no longer in a position to honor their debts due to uncontrollable circumstances. Surrender enables you to regain normality in your financial affairs. From now on your income goes mostly to you and not all of it to creditors. It is a fantastic mechanism that exist 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:

What are the advantages?

- Most importantly – A PERCENTAGE OF YOUR DEBT IS WRITTEN OFF – including the debt already listed on ITC. (You will not have to pay back all of your creditors debt and you will be completely debt free afterwards).
- You will no longer be liable towards your creditors, including banks, personal loans, TAX etc.
- You will no longer need to communicate with any of your creditors, we will handle all communications.
- After your voluntary surrender your FULL income will remain your own. All garnishee orders against your salary will be stopped once court approval has taken place.
- All other orders or deductions from your bank accounts shall stop as you will open a new account.
- You do NOT need to appear in court or communicate with your creditors (creditors letter will be provided from attorney's).
- You will be able to keep your furniture and other movable assets (If in the event there's no debt on it).
- You will be able to keep your vehicle/s if it is paid up to date or is under a lease agreement that's term is less than 12 months left on it.
- Within 6-12months after your voluntary surrender you will be able to apply for rehabilitation (see Rehabilitation)
- After the Rehabilitation your Credit Record and ITC will be clean and you can continue debt free with your life.

What are the disadvantages?

- You will be insolvent for at least the next 24 -36months (Depending affordability plan).
- For your insolvency period, you will not be credit worthy.
- You may not have a current account or a credit card facility.
- You may under no circumstances incur any debt.
- Your 3rd party broker company Loans Acceptable will be the only company to help obtain a vehicle in the event you require one.

What will it cost me?

- An administration fee is payable for processing your application in the High Court. As soon as we receive your Application form we will be able to give you the total costs that you will have to cover and then it will be up to you to decide if you want to continue.

What happens to your Vehicle?

If your vehicle is under hire purchase, the Rules of Court stipulate that the Curator may repossess the vehicle. **Please inquire from the Consultant about what we can arrange with the vehicle/s still under finance in order for you to keep your vehicle/s.**

Vehicles registered in another person, or legal persons, name will not form part of the estate also if your vehicle is

paid in full or on a **Lease Agreement** it will not form part of the application.

Here with a short summary of the procedure.

1. We publish an advert in the Government Gazette and the Citizen. This will prevent any further legal procedures against you i.e. execution notices, seizure on your movable and/or immovable property, etc.
2. An ability statement is drafted that you must sign before a Commissioner of Oaths. This document is submitted for inspection at the Master of the High Court for 14 days or with the local Magistrate.
3. Thereafter a registered letter is forwarded to all your creditors as notice of the surrendering of your estate. Your creditors will then contact us for information. You will also be provided with the same notice to enable you to forward to nagging creditors.
4. The South African Revenue Services are also notified, even if you are not registered with SARS.
5. At the day of the Court proceedings an Advocate will represent you; there will be no need to attend any court hearing in person.
6. After the application has been approved and granted by the Court, a curator is appointed to handle all financial matters on your behalf. The curator will contact you to arrange a consultation to explain the details to you.
7. The Court Rules determine that you must pay about +-35c in every rand you owe back to your Curator. In other words if you owe FNB, R1-00, you must pay them at least +-35c back. Example : If your total debt is R200 000, you will pay R75 000.00 back to the Curator who will distribute it to your creditors (Please note that these are approximate figures). Arrangements may be made with the curator to settle the amount with them in installments between 12 to 45 months. Therefore, if you owe the Curator R75 000, you can repay it in installments of R1667 per month for 45 months – there are **admin cost involved**. Please note that once you apply we will be able to give you the exact amount that you will have to pay back to the Curator.
8. On the application form you will list all your movable assets like furniture. Your furniture will never leave your house. Your Furniture stands collateral for the money that you must pay back to the Curator. Once the application has been approved and granted in the Court the Court will appoint a Curator. Once the Curator is appointed he will contact you to introduce himself and to confirm the details in respect of your assets.

*** Failure to comply with the arrangements made to pay the curator may result in removal of the furniture.**

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

An insolvent can make an application to the High Court to be Rehabilitate. An application for Rehabilitation can be made as soon as the Curator fees are paid in full and as soon as the Curator settled the Estate. This can be anything from 6-12 months. This time frames are not guaranteed. We find that the banks have no problem granting bonds or other debt once persons have been rehabilitated. If an insolvent do not apply for a rehabilitation then the insolvent will be automatically rehabilitated after a period of 5-10 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 with the Rehabilitation Application.