

Royal Court Practice Direction

RC 20/08

Applications for an Acte Vicomte chargé d'écrire ("AVCD") pursuant to Rule 11/1 of the Royal Court Rules 2004.

1. In the matter of the representation of Alfalfa Investments Limited [2020] JRC055, the Court pronounced that the amendments to the Loi (1832) sur les Décrets occasioned by the Statute Law Reform (Miscellaneous Provisions) (Jersey) Law 2014 meant that applications by creditors for an AVCD would be entertained where the creditor had the benefit of a valid acknowledgement of debt and a subsequent registered Act of Court.
2. Such applications for an AVCD must, in accordance with Rule 11/1 of the Royal Court Rules, be made by Representation and accompanied by an Affidavit which exhibits the act or judgment and verifies the amount of the debt still outstanding.
3. Where such an application is made, and to avoid the potential of unfairness for the debtor, the Royal Court requires that the supporting Affidavit must include the following:
 - a) Confirmation that the creditor is not aware that the debt for a liquidated sum is subject to a genuine dispute and arguable defence or counterclaim.
 - b) Prima facie evidence that the debtor has not paid the outstanding debt and that the outstanding debt is now due.
 - c) Evidence that the creditor had engaged or attempted to engage with the debtor in order to explain that bankruptcy and dégrèvement is imminent
 - d) Evidence that appropriate steps have been taken by the creditor to make the debtor aware that an application for an AVCD is to be made to the Royal Court and
 - e) Evidence that a reasonable period of time has elapsed between the outstanding debt falling due and the application for an AVCD, which would necessarily be a period of one month as provided for under Article 2 of the Loi (1832) sur les Décrets.
4. This Practice Direction is effective immediately

12th May 2020