

# **ROYAL COURT OF JERSEY**

**RC21/03**

## **Applications for a Dégrèvement**

After a judgment debtor (“debtor”) has received formal notification from the Viscount, (following an Acte Vicomte chargé d’écrire) to satisfy a judgment debt, a judgment creditor (“creditor”) may, after a period of two months in the case of a judgment of the Royal Court or a period of three months in the case of a judgment of the Petty Debts Court apply to the Royal Court for an act declaring the debtor’s immoveable property renounced with a consequential order for a dégrèvement. Such applications have historically been made without notice to the debtor.

With effect from the date of this Practice Direction when making such an application, the creditor must be able to demonstrate to the Court that all reasonable steps have been taken to give notice to the debtor of the creditor’s intention to make an application at that time on that day. Notice to the debtor should be given substantially in the form set out in the attached schedule. Personal service is not necessary.

At least 4 working days must elapse between the date on which notice of the intended application is given to the debtor and the date for the hearing of the application. All supporting evidence to be relied upon at the hearing shall also be provided to the debtor at the same time as the notice of the intended application is delivered.

The Viscount is to be given written notice of the application (and all evidence relied upon) at the same time as notice of the application is provided to the debtor.

This Practice Direction will come into force with immediate effect and will replace Practice Direction RC15/02 which is repealed.

## **Schedule**

Dear [debtor]

Your current position and the *dégrèvement* proceedings.

As you are aware, we are instructed by [creditor] and on [date] judgment was taken against you in the sum of £[ ]. We obtained an order from the [Royal/Petty Debts] Court (without notice to you) on [date] for an *Acte Vicomte chargé d'écrire* which was served on you on [date]. That order gave you notice that if you did not repay the debt within [two/three] calendar months from the date of the order, your assets may be adjudged renounced by the Royal Court. In other words, any property you own could be seized for the benefit of one or more of your creditors.

Unless payment in full is received by [date] our client has instructed us to make an application for renunciation at the next Royal Court sitting on [date]. This letter constitutes formal notice that this application will be made; for any land or buildings you own the application will be for a process known as *dégrèvement*. For all your other possessions or property which is not land the application will be for a process known as *réalisation*.

The purpose of this letter is also to warn you of the effect of a successful application for *dégrèvement/ réalisation*, so that you may take immediate legal advice in relation to this matter, as there may be alternative options available to you that the Royal Court may order, in particular a declaration of *désastre* (bankruptcy) or a *remise de biens*. The Viscount's Department have published guides on *Désastre, Remise and Dégrèvement*, explaining the concepts and how to apply for them, copies of which are available on their website at [www.courts.je](http://www.courts.je) or on request in writing to the Viscount. You should consider whether these alternatives may be more appropriate for your financial situation. Notice is given of the date and time we will be making this application so that you can attend Court if you wish to make such representations as you think fit.

In summary, if the renunciation application is granted, the Royal Court will order a *dégrèvement* of any immovable property i.e. land or buildings in your name. The court

may also order a realisation of any movable property which is the remainder of your property which is not land or buildings.

Following an order for renunciation, two Advocates or Solicitors will be appointed by the Royal Court to be *Attournés*, and they will have possession and care of all of your property from the date of the order. They will carry out all of the procedural steps, including the publication of Notices in the Jersey Gazette, that lead up to the *dégrèvement* hearing, which will be held 4-6 weeks after the renunciation is ordered. At this hearing one of your creditors will become the legal owner of your immovable property. You will no longer have any rights in relation to the property and can no longer reside there. Should you refuse to leave, further eviction proceedings will be commenced against you. Your other possessions or property apart from land may also be disposed of.

When the *dégrèvement* process has been completed, you remain liable for any unpaid debts that existed before the procedure with the exception of the debt owed to the creditor by which he, she or it has become the legal owner of the immovable property, which debt will be discharged (unlike in a *désastre* or a successful *remise de biens* where the conclusion of the procedure grants you a discharge from all your debts).

You are urged to take legal advice on your position as soon as possible.

Yours sincerely

[Applicant creditors legal advisers]