

19. (1) Any person against whom a judgment order has been made under the rules hereby repealed may apply for a rehearing of the judgment summons upon which the order was made.

(2) If the Court grants the application for a rehearing the former proceedings and any proceedings, convictions, or committal in respect of contempt of Court arising thereon shall be thereupon vacated.

(3) A rehearing granted under this clause shall take place at a time to be fixed by the Court, and shall be in all respects in accordance with the provisions of this Order relating to the hearing of a judgment summons in the first instance.

(4) A rehearing shall not be granted under this clause if the judgment debtor has paid the fine or has served the imprisonment imposed upon him in respect of the offence of contempt of Court arising out of his failure to pay moneys in accordance with a judgment order.

20. (a) The Court shall have power on the application of a judgment creditor to set aside any conviction for contempt of Court arising out of the failure of a debtor to obey a judgment order made under the rules hereby repealed if such debtor has not actually served any sentence of imprisonment or any part thereof imposed upon him therefor.

(b) Upon such conviction being set aside the judgment creditor may proceed under this Order, and all the provisions thereof shall apply in the same manner as if no proceedings had been taken under the rules hereby repealed and no such conviction obtained.

21. The fees set out in the Second Schedule hereto shall be payable in respect of proceedings under this Order and shall be prepaid in stamps.

FIRST SCHEDULE.

[Form I.]

APPLICATION FOR A JUDGMENT SUMMONS.

THE plaintiff hereby applies for the issue of a judgment summons against the defendant in respect of a judgment (or order) of this Court given (or made) on the _____ day of _____, 19____, for the sum of £ _____ and costs £ _____, and under which there is now due and owing the sum of £ _____.

Dated this _____ day of _____, 19____.

[Plaintiff (or Solicitor or Agent for Plaintiff).]

[Form II.]

AFFIDAVIT WHERE JUDGMENT SUMMONS IS SOUGHT.

The Samoa Imprisonment for Debt Limitation Order, 1930.

In the High Court of Western Samoa holden at _____ between _____, of [Address and description], plaintiff, and _____, of [Address and description], defendant.

I, _____, the above-named plaintiff [or agent for the above-named plaintiff], make oath and say,—

1. That on the _____ day of _____, 19____, I [or the above-named plaintiff] obtained a judgment [or order, or decree] in [Here set forth the style of the Court in which judgment, decree, or order obtained] against _____, the above-named defendant, for the payment of the sum of £ _____.

2. That subsequent costs of execution have been incurred amounting to £ _____.

3. That the defendant has [not] paid [any part of the debt] the sum of £ _____ towards the said debt.

4. That there is still due on the said judgment [or order, or decree] the sum of £ _____.

5. That I believe that the defendant, after providing for the reasonable maintenance of himself and his family, has, since the date of the judgment, had sufficient money to pay the debt, or [if fraud is alleged it must be specified, and if it is alleged that the debtor is about to leave Samoa without paying the judgment debt or such part of it as is unsatisfied with intent to evade payment, it must be so alleged.]

Sworn at _____, this _____ day of _____, 19____, before me, _____ Plaintiff [or agent for Plaintiff].

[A Judge of the High Court of Western Samoa (or a Commissioner of the High Court of Western Samoa, &c.).]