

*24. Confession, Judgment by Consent, and Judgment by Default.*

A written confession of claim or consent to judgment by the defendant shall be in such of the Forms Nos. 26, 27, 28, and 29 as may be appropriate. Notice may be given in Form No. 24 where the confession is for the whole amount claimed, and unconditional; in other cases a duplicate of any confession may be served on the plaintiff by way of notice.

Whenever, after a summons has been served on him, a defendant attends at the office of the Clerk to confess the cause of action, and wishes to attach a condition to such confession in accordance with section 108 of the Act, the Clerk may, at his request, sign a notice to the plaintiff in Form No. 30, which may be served on the plaintiff, with a duplicate of the confession signed by the defendant attached. If the plaintiff then signs thereon his consent to the condition, and his signature is witnessed by a Magistrate, Clerk of Court, Justice of the Peace, or solicitor not engaged in the action, and the confession so signed and witnessed is returned to the Clerk by post or otherwise, then judgment may be at once entered up and signed by the Clerk of the Court without further attendance of the parties. No fee shall be payable for lodging the written confession or consent to judgment with the Clerk.

The application to enter judgment by default under section 104 (2) of the Act may be in the Form No. 133. No fee shall be payable for lodging Form 133 with the Clerk.

NOTE.—The following are instances of claims for a liquidated demand in money on which a plaintiff may proceed under the last paragraph, namely: Claims on simple contract debts, or on bills of exchange, promissory notes, cheques, or on bond or contract under seal for payment of a liquidated amount of money, or on statute where the sum sought to be recovered is a fixed sum of money, or in the nature of a debt, or on a guarantee, whether under seal or not, when the claim on the guarantee against the principal is in respect of such debt, or liquidated demand, bill, cheque, or note.

*25. Payment into Court.*

In paying money into Court the defendant shall sign in duplicate the notice thereof in such one of the forms Nos. 31 or 32 as may be appropriate. The Clerk shall thereupon note the fact of such payment and attach the original notice to the plaint-note, and the duplicate shall be served on the plaintiff.

*26. Production of Documents.*

Notice to admit or produce documents may be according to the Forms Nos. 44 to 47, with such variations as circumstances may require. An affidavit by the party, his solicitor, or the clerk of either, of the service of any notice to admit or to produce shall in all cases be sufficient *prima facie* evidence of the service of the notice and of the time when it was served. The order pursuant to section 91 of the Act may be in the Form No. 43.

*27. Discontinuance.*

The memorandum or notice of discontinuance provided for in section 115 of the Act shall be in one of the Forms Nos. 37 or 38, and shall be signed by or on behalf of the party or parties to the action.

On any such notice being filed, signed on behalf of both parties to the action, a discontinuance shall be entered up and signed by the Clerk of the Court forthwith; but if such notice is signed on behalf of the plaintiff only, discontinuance shall not be entered until the day appointed for the hearing, and costs may then be awarded by the Court on the application of the defendant. If no application is made for costs on the day of hearing the defendant shall be deemed to have abandoned his claim to them.

*28. Striking-out of Action, and Reinstatement; Costs thereupon.*

If at the time and place of hearing, or at any continuation or adjournment of the Court or action, neither party appears, the action shall be struck out.

The action may be reinstated—

- (a) When neither party has appeared, on the application of the plaintiff made on the same day without notice of reinstatement to the defendant, or within seven days on notice:
- (b) When the defendant has appeared on the application of the plaintiff, within seven days with notice of reinstatement to the defendant.

When the Court orders such action to be reinstated on any subsequent day or after the defendant has appeared, the notice to the defendant may be in the Form No. 54, or in such other form as the Court orders, and such notice, unless the Court otherwise orders, shall be served five clear days at least before the day to which the hearing is adjourned.

*29. Application for Rehearing.*

An application under section 161 of the Act for a rehearing of an action or interlocutory proceeding shall be in writing, in the Form No. 59. Such application shall set out the grounds upon which the applicant relies and shall be verified by affidavit. If both parties concur therein, the Clerk shall at once fix the time for the rehearing, being the first practicable sitting of the Court, or such other time as may be agreed on by the parties; but if both parties do not concur, the Clerk shall fix a