

debt or demand, by way of set-off in the form in Schedule marked D, shall have been delivered to the plaintiff or left at his usual place of abode if within the Division, or if living without the Division, to the Clerk of the said Court, at least six days before the trial or hearing: And provided also, that when any judgment shall be given in any case where a set-off is set up, the judgment of the Stipendiary Magistrate on such set-off shall be a full discharge, as well of the amount allowed to be set-off as the amount by which such claim of the defendant exceeded twenty-five pounds, and such judgment shall be so entered accordingly.

Proviso.

XXX. On the day named in the summons, the plaintiff shall appear in the Division Court in person, or by some person in his or her behalf, and thereupon the defendant shall be required by himself or herself or by some person on his or her behalf, to answer; and on answer being made in Court, the Stipendiary Magistrate shall proceed in a summary way to try the cause and give judgment without further pleading or formal joinder of issue; and if the defendant shall not appear as aforesaid, or sufficiently excuse his or her absence, or shall neglect to answer, the Judge, on proof of due service of the summons, may proceed to the hearing or trial of the cause on the part of the plaintiff only, and the order, verdict or judgment thereupon which shall be given, made or rendered after hearing the evidence to be adduced on the part of the plaintiff, shall be final and absolute, and as valid as if both parties had attended: Provided always that the Judge may make any order for granting any time to the plaintiff or defendant to proceed in the prosecution or defence of the suit; and in cases where the plaintiff shall not appear in person or by some one in his behalf, or appearing, shall not make proof of his demand to the satisfaction of the Stipendiary Magistrate, it shall be lawful for the Stipendiary Magistrate, if he shall think fit, to award the defendant such costs and such further sum of money, by way of satisfaction for his trouble and attendance, as he in his discretion may think proper, to be recovered as in other cases provided under this Act.

Appearance of parties and mode of trial.

Default of defendant.

Proviso: delay may be allowed by Court.

XXXI. On the hearing or trial of any action, or in any other proceeding in the said Division Courts holden under this Act, the parties thereto, and all other persons may be summoned as witnesses and examined either on behalf of the Plaintiff or Defendant, upon oath (or solemn affirmation, in those cases in which persons are allowed to make affirmation instead of taking an oath,) to be administered by the proper officer of the Court; Provided always that no party to a suit shall be summoned or examined except at the instance of the opposite party or the Stipendiary Magistrate.

Examination of witnesses, &c.

Proviso: as to examination of parties.

XXXII. In any suit for a debt or money demand not exceeding ten pounds brought in any Division Court under this Act, the Stipendiary Magistrate, in his discretion, may receive the affidavit

Affidavits may be received in certain cases.