

Judgment by default

If no notice of intention to defend is given (process)

- In claim for debt or liquidated demand (can approach court for judgment by default)
- In unliquidated claim (must give evidence in respect of quantum before judgment is granted)

If late notice of intention to defend is given but before judgment, plaintiff must approach court to set aside the appearance as an irregular proceeding

Failure to file a plea (plea)

- Notice of bar must be given (except for replication and ensuing pleas)
- If defendant still fails to deliver plea, apply for set down and judgment

Failure to deliver a declaration (plea)

- Notice of bar must be served on the plaintiff first
- If still fails to deliver, will be ipso facto (automatically barred) from doing so
- Defendant can request for absolution because has not proved his claim or judgment (for claim to be dismissed)

Failure to appear at trial

- Pleadings will be exchanged and matter set down

Defendant can apply to have default judgment set aside in respect of unliquidated claims. Must apply within 20 days after knowledge of the judgment. Must have reasonable explanation for the failure, be bona fide and not merely a delaying tactic, must have bona fide defence.

Summary judgment

- Protects plaintiff who has a claim of a particular nature from a defendant who enters appearance just to gain time or prevent plaintiff from obtaining their desired relief
- Infringes on audi alteram partem rule
- Should only follow from a simple summons (debt or liquidated demand)
- Grounds: plaintiff must issue notice of application for summary judgement along with affidavit stating cause of action and indicate that 1. It is her opinion that the defendant has no bona fide defence 2. The defendant has only entered appearance to delay the action
- Plaintiff can apply for summary judgement after notice of intention to defend has been given