



**By 2030 eThekweni will be Africa's
most caring and liveable city**



ENFORCEMENT AND PROSECUTION

**eThekweni Development Planning and Management:
Enforcement & Prosecution Branch**

PDA

TO

SPLUMA

The

eThekweni

Experience

Primary Focus Area

- The Enforcement and Prosecution Branch, amongst other tasks, focuses its efforts in the following areas:
 - Enforcement of the National Building Regulations and Standards Act;
 - Enforcement of the Planning and Development Act;
 - Enforcement of the Building and other By-Laws relevant to the offences in this specific sector;
 - Support Service to Legal Unit, Real Estate and other Secondary Enforcing Departments; and
 - Facilitation of all matters escalated to both Magistrates and High Court

Applicable Legislation (amongst others)

- National Building Regulations and Standards Act
- KZN Planning Development Act
- SPLUMA
- Durban Town Planning Scheme and Regulations
- Building By Laws & General By Laws
- Municipal Property Rates Act: eThekweni Municipality Rate Policy – Section 11
- Criminal Procedure Act
- Magistrates Court Act
- Supreme Court Act
- Uniform Rules of Court
- Adjustment of Fines Act
- Provision of Administrative Justice Act
- Promotion of Access to Information Act
- Prevention of Illegal Evictions Act
- **Prevention of Slums Act**
- Municipal Systems Act
- Municipal Structures Act
- Municipal Demarcation Act
- Municipal Financial Management Act
- The Constitution of the Republic of South Africa
- PAIA
- POPI
- PAJA
- Decided Case Law

Jurisdiction

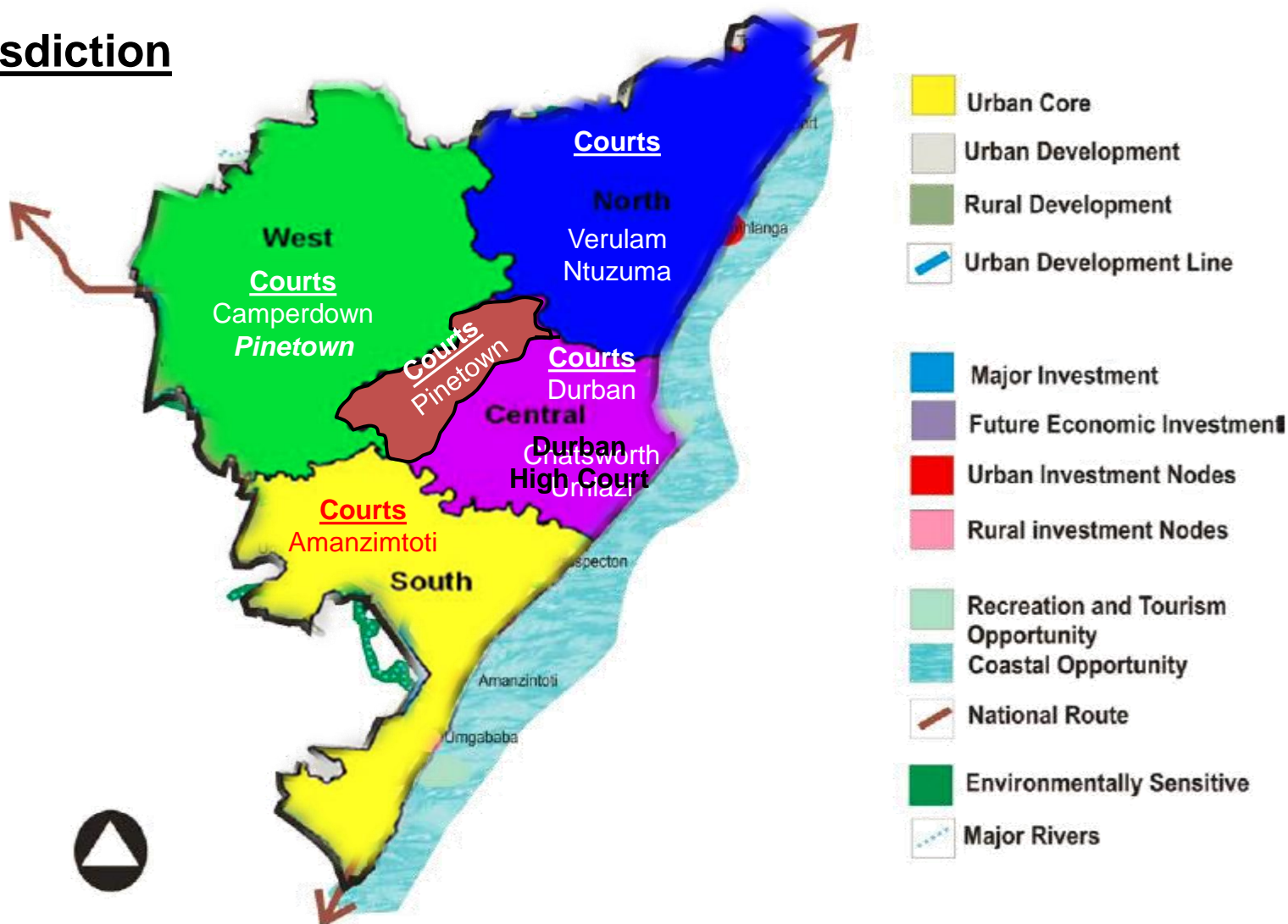


Figure 13: Spatial Development Concept

Source: eThekweni Municipality, Development, Planning, Environment & Management Unit

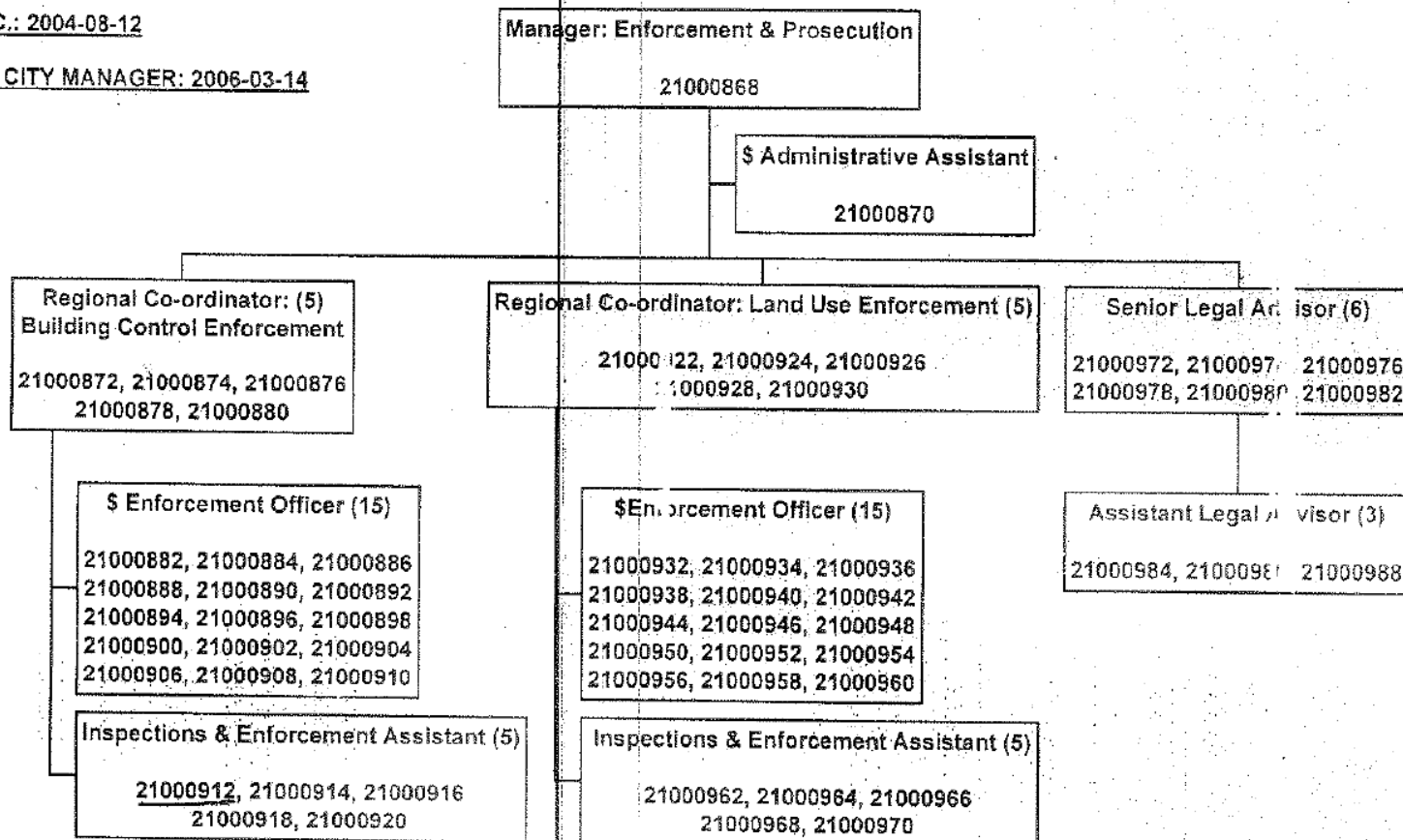
The Organogram

PG4.3

ETHEKWINI MUNICIPALITY
SUSTAINABLE DEVELOPMENT & CITY ENTERPRISES CLUSTER
DEVELOPMENT PLANNING, ENVIRONMENT & MANAGEMENT UNIT
DEVELOPMENT MANAGEMENT DEPARTMENT
ENFORCEMENT & PROSECUTIONS BRANCH

APPROVED B.C.: 2004-08-12

APPROVED CITY MANAGER: 2006-03-14





The Planning and Land Use Management By-law

No. 1871 PROVINCIAL GAZETTE, 31 AUGUST 2017

Municipal Notices • Munisipale Kennisgewings

MUNICIPAL NOTICE 114 OF 2017

ETHEKWINI MUNICIPALITY: PLANNING AND LAND USE MANAGEMENT BY-LAW, 2016

NOTICE IS HEREBY GIVEN that the eThekweni Municipal Council has enacted, by way of resolution in terms of section 12 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), the Planning and Land Use Management By-law, 2016 contained hereunder.

Mr S.C. Nzuzza

City Manager

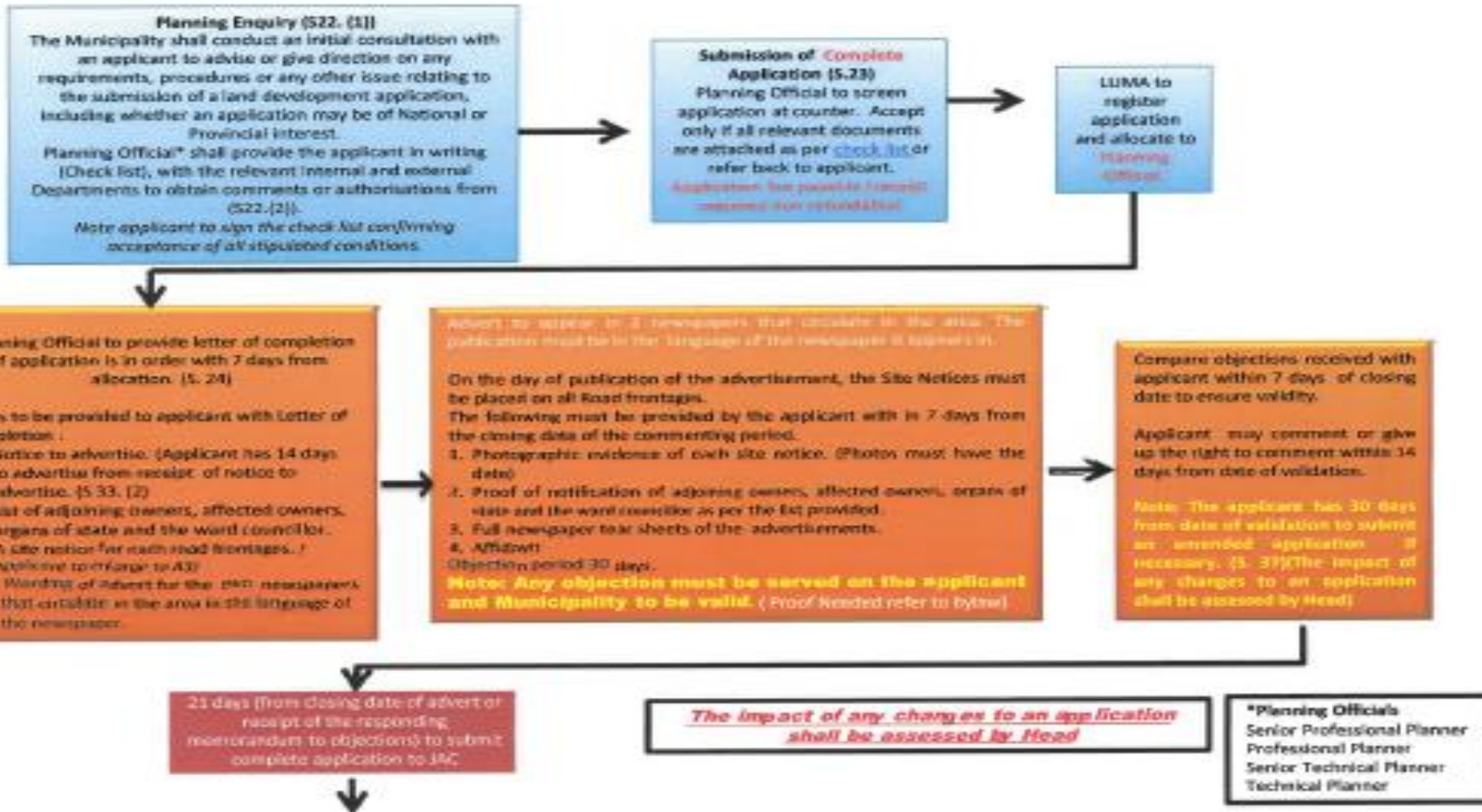
City Hall

Dr Pixley Kaseme Street

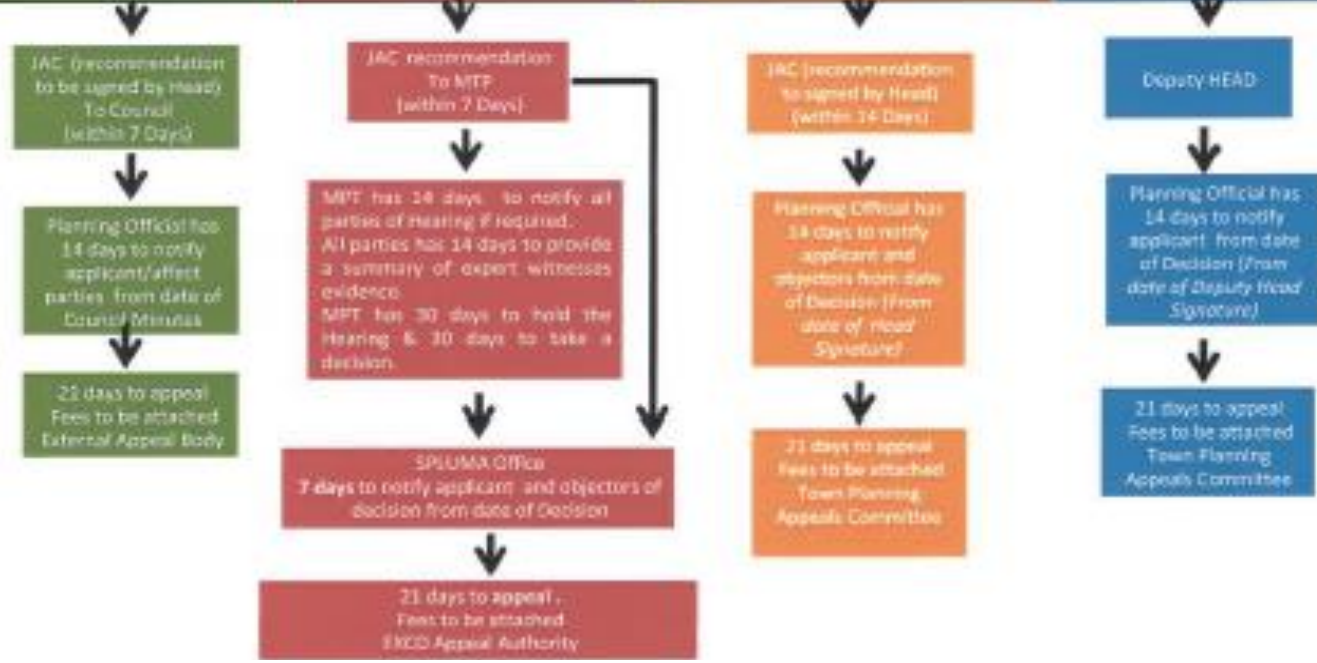
Durban

Dated:

BY-LAW WORK FLOW



CATEGORY 1 (COUNCIL) 6.24 of the By-law	CATEGORY 2 (MPT) 5.22 of the By-law	CATEGORY 3 (Head) 5.28 of the By-law	CATEGORY 4 (Deputy Head) 5.29 of the By-law	Commenting applications (Manager: Land Use Management & Regional Co-ordinators)
<ul style="list-style-type: none"> All Council initiated applications in terms of Section 23(1)a of SPLUMA (Public) Amendment to the Scheme in terms of 28 (1) of SPLUMA. 	<ul style="list-style-type: none"> Land Development applications where there is a departure from the MSDF. Re-zoning of land where objections have been lodged Introduction of a new area and an existing zone into the land use schemes. Zonings of land Combined application, which includes one or more of the land development uses set out above as well as any land uses falling within category 3 and 4. 	<ul style="list-style-type: none"> Special Consent Subdivision (No Public Participation) Subdivision & Consolidation (No Public Participation) Township Establishments Closure of Roads and Public Open Spaces Re-zoning of land which is in line with the MSDF The removal, amendment or suspension of a restrictive condition Development of Land outside a Scheme area (Major Applications) Combined application, which includes one or more of the land development uses set out above as well as any land uses falling within category 4 	<ul style="list-style-type: none"> Relaxations Exemptions Notarial Ties The development of land outside of a scheme in respect of an application for a relaxation or exemption where the necessary consent or consents have been obtained. 	<ul style="list-style-type: none"> Enforcement Leases (Traditional Land Leases) Major Hazard Installation Temporary land uses Land Use Letter DA's Land Transactions Planning Assessment of Building Plans Taxi Licences Business Licences



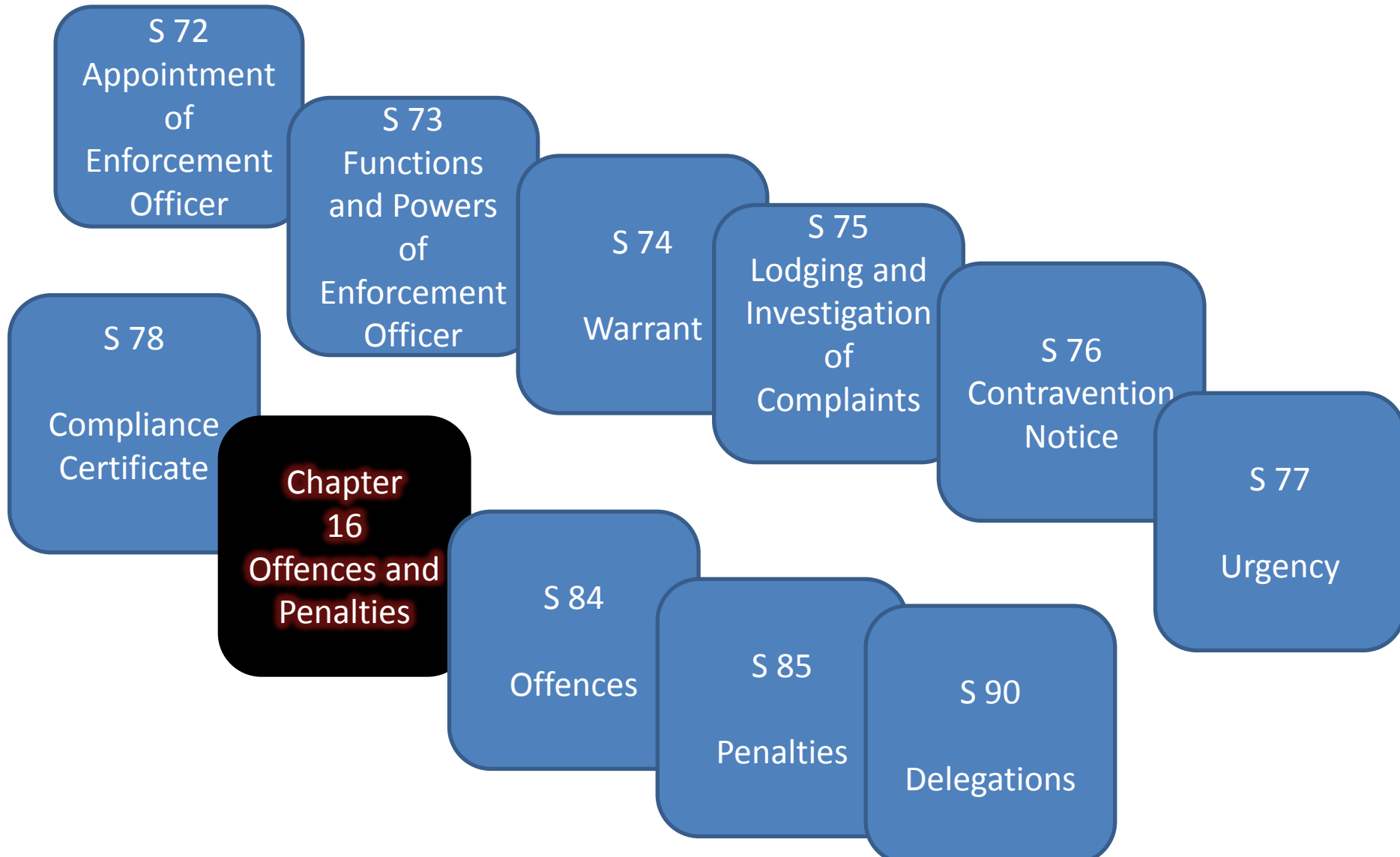
Notes :

- All Categories application shall go to JAC.
- For combined application submissions, the highest order application shall be adjudicated upon by that relevant committee in its entirety. An objection to one component of a combined application shall mean an objection to the entire application.
- Types of application which require Public Participation: All CATEGORY 1, 2 and 3 application with exception of Subdivisions and Consolidations.

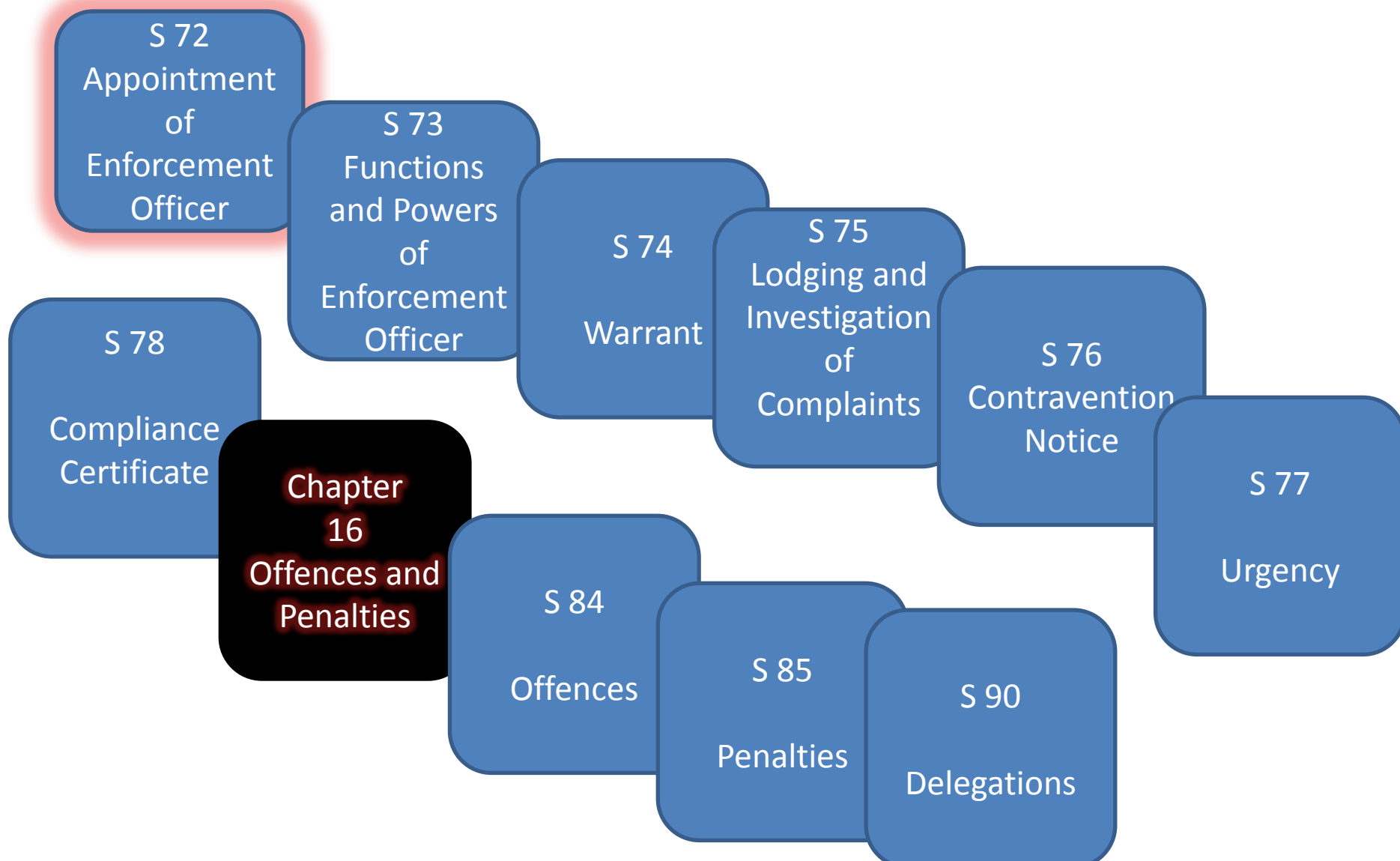
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Chapter 13: Compliance and Enforcement

Applicable Sections of the Bylaw (rw Preamble, Definitions & applicable sections)



Applicable Sections of the Bylaw (rw Preamble, Definitions & applicable sections)



Accreditation – Enforcement Staff

Qualification & Experience

Essential: 3yr Diploma and Experience in Enforcing

Training

Peace Officers training –
Durban Metro Police – 2
week course

SAPS Clearance

Done Annually –
Fingerprints submitted with
Indemnity. Certificate
issued with 1 year validity

Data Base

Must be maintained with
credentials of all Peace
Officers in the Unit.

Expungement

Employees with minor/old
offence records – referred
for expungement
applications

Appointment Certificates

Printed by HR and signed by
the Head: DPEM


Authority

Peace officers are
empowered in terms of
Section 334 of the Criminal
Procedure Act

Powers Conferred

1. Issue of Written Notice – S 56 CPA
2. Issue of Written Notice – S 341 CPA
3. Execution of Warrant of Arrest – S 44 & 55 (2) CPA
4. Powers conferred upon a Peace Officer – S 41(1) CPA

Certification – Enforcement Staff



I CERTIFY THAT THIS DOCUMENT IS A TRUE COPY/REPRODUCTION OF THE ORIGINAL WHICH WAS EXAMINED BY ME.

Signed: _____
Date: 15/08/2011

COMMISSIONER OF DISTRICT OFFICE DISTRICT OF DURBAN IN TERMS OF SECTION 5 OF ACT 1963 (AS AMENDED) DEVELOPMENT PLANNING, ENVIRONMENT AND MANAGEMENT UNIT, 156 RE NAKINGA ROAD, DURBAN.

Durban Metropolitan Police Service

This is to certify that
GOVENDER J
8505090159088

has successfully completed a

PEACE OFFICERS COURSE

as a

LAW ENFORCEMENT OFFICER

In terms of Section 334 of the Criminal Procedure Act (No. 51 of 1977)

LEGALS	COMMUNICATION
DOCUMENTATION	BYLAWS
ANTI CORRUPTION	


Hold at the

Durban Metropolitan Police Service Training Academy
From 16/05/2011 to 27/05/2011

Head, Training Academy
Date: 15/08/2011

Executive Head
Date: 15/08/2011

David Pool of my attention C/W PO/SUSTAINABLE DEVELOPMENT) -2011-024



South African Police Service

PEACE OFFICER CERTIFICATE

In terms of Section 334 of the Criminal Procedure Act 1977 Act 51/1977.

I, B NAIDOO, in my capacity as Deputy Provincial Commissioner, KwaZulu - Natal, am satisfied that:

NAME : JACQUELINE GOVENDER
IDENTITY NUMBER : 850509 0159 088

Is employed and appointed by the ETHEKWINI MUNICIPALITY as a

LAW ENFORCEMENT OFFICER

THAT THIS APPOINTMENT CONFIRMS WITH THE CRITERIA SET BY THE ACT AND THEREFORE IN MY OPINION CONSIDER HIM/HER COMPETENT TO BE APPOINTED AS A: -

PEACE OFFICER

In my opinion I consider the abovementioned official to be competent to exercise the relevant powers stipulated in part 5(a) column of the Schedule, namely:-

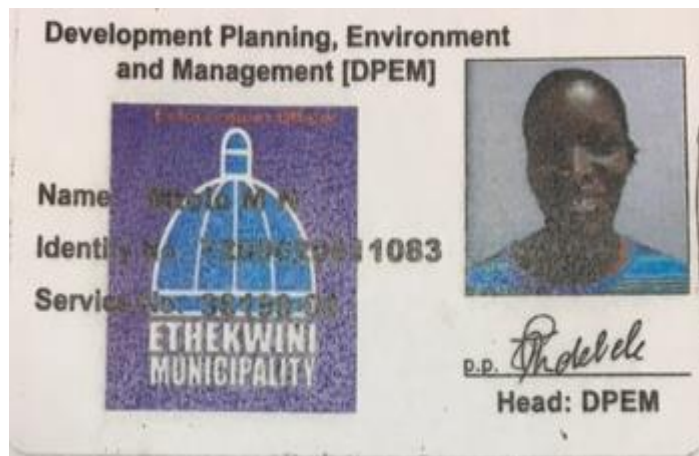
- The issue of written notices in terms of Section 341 of the Criminal Procedure Act, 1977
- The issue of written notices in terms of Section 56 of the Criminal Procedure Act, 1977.
- The execution of Warrant of Arrest in terms of Section 44 and 55(2) of the Criminal Procedure Act, 1977
- The powers conferred upon a Peace Officer in terms of Section 41(1) of the Criminal Procedure Act, 1977.

This certificate is valid for a period of twelve (12) months from date of issue and the Provincial Commissioner reserves the right at any stage to withdraw this appointment should any criteria for this appointment be contravened

PLACE : DURBAN
DATE : 2017-04-20
EXPIRY : 2018-04-20

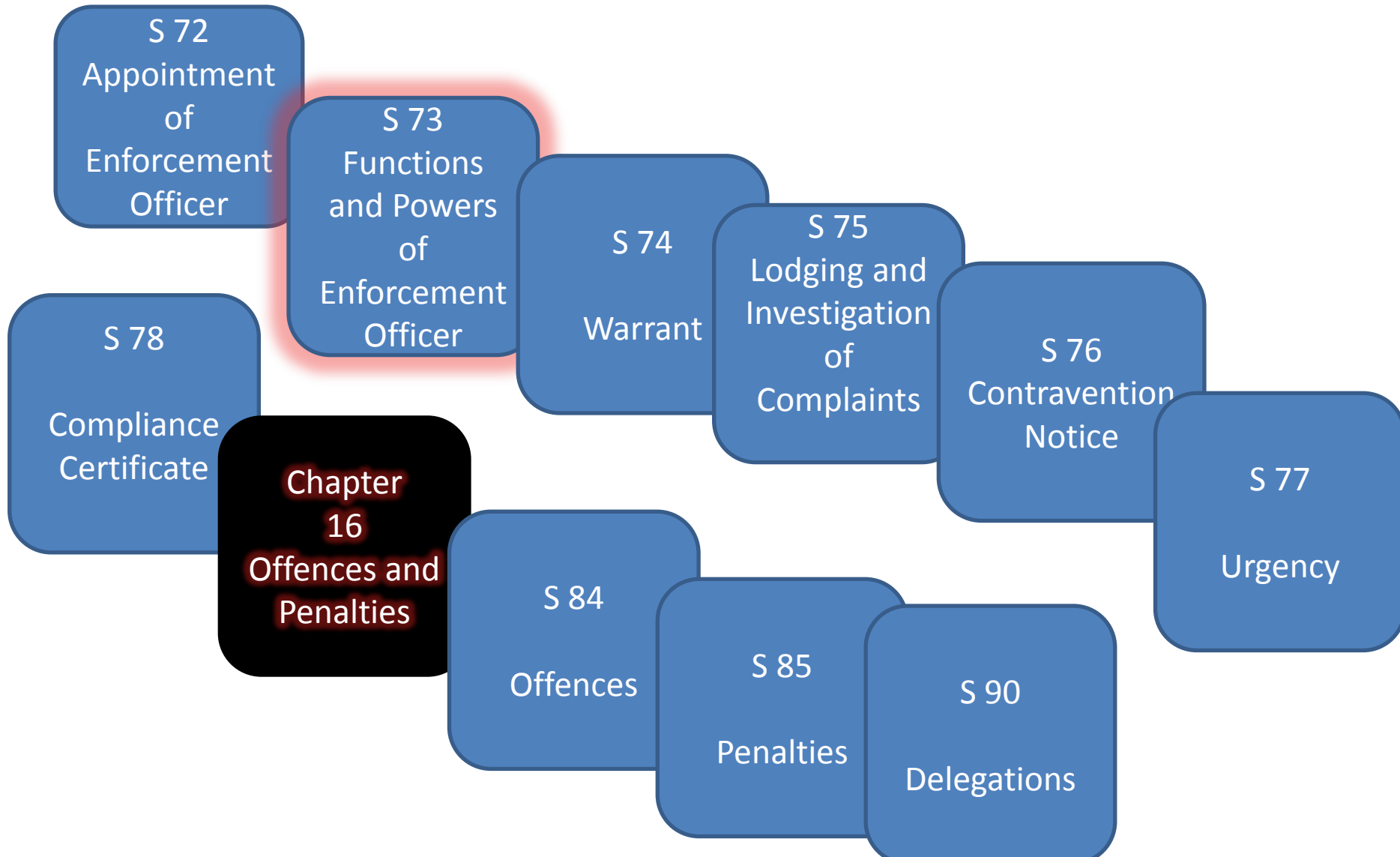
MAJOR- GENERAL
DEPUTY PROVINCIAL COMMISSIONER: KWAZULU-NATAL
B NAIDOO

Appointment Card: Section 334 CPA 51/1977



- “**peace officer**” includes any magistrate, justice, police official, correctional official as defined in
- section 1 of the Correctional Services Act, 1959 (Act 8 of 1959), and, in relation to any area, offence, class of offence or power referred to in a notice issued under section **334(1)**, any person who is a peace officer under that section;
- [Definition of “peace officer” amended by s. 4 of Act No. 18 of 1996.]

Applicable Sections of the Bylaw (rw Preamble, Definitions & applicable sections)



Functions and Powers of an Enforcement Officer

- Power to investigate
- Importantly the Bylaw specifies that the Power to inspect is in terms of this Bylaw and any other law which grants authority
- A Peace Officer may also execute any other Powers conferred, for example:
 - Section 40 of the CPA – Powers of Arrest
- This section also qualifies what an enforcement officer may:
 - require from a person in charge of a property,
 - what may be seized,
 - Particulars that may be requested and the obligation to supply correctly;
 - The ability to seize machinery
- This section provides for the enforcement officer to be accompanied by a Police Official (Safety)

The two talking Points are:

Inspection is permitted without a warrant of a non private premises where the officer is confident that a warrant will be issued and that the delay in obtaining will defeat the object of the search

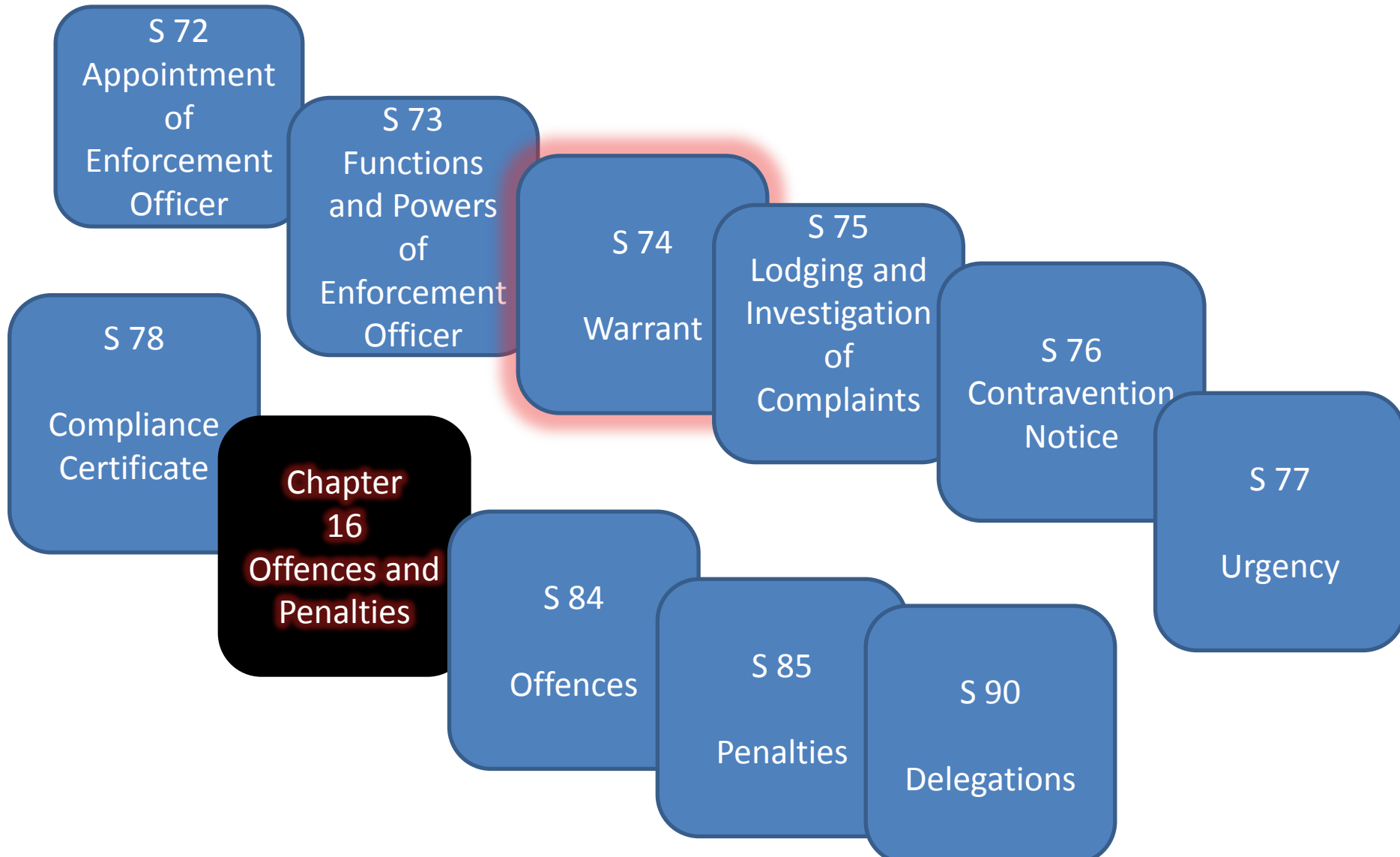
Search warrant from a Magistrates Court required for the Inspection of a private premises where there has been no reasonable notice or agreement by the owner to search

Storage/Safekeeping

The Criminal Procedure Act requires that items that have been seized and intended to be used as evidence in a criminal case to be handed over asap to the SAPS

Questions arise, for example, if an Officer needs to seize mechanical or Panel beating equipment – This requires a Strategy

Applicable Sections of the Bylaw (rw Preamble, Definitions & applicable sections)

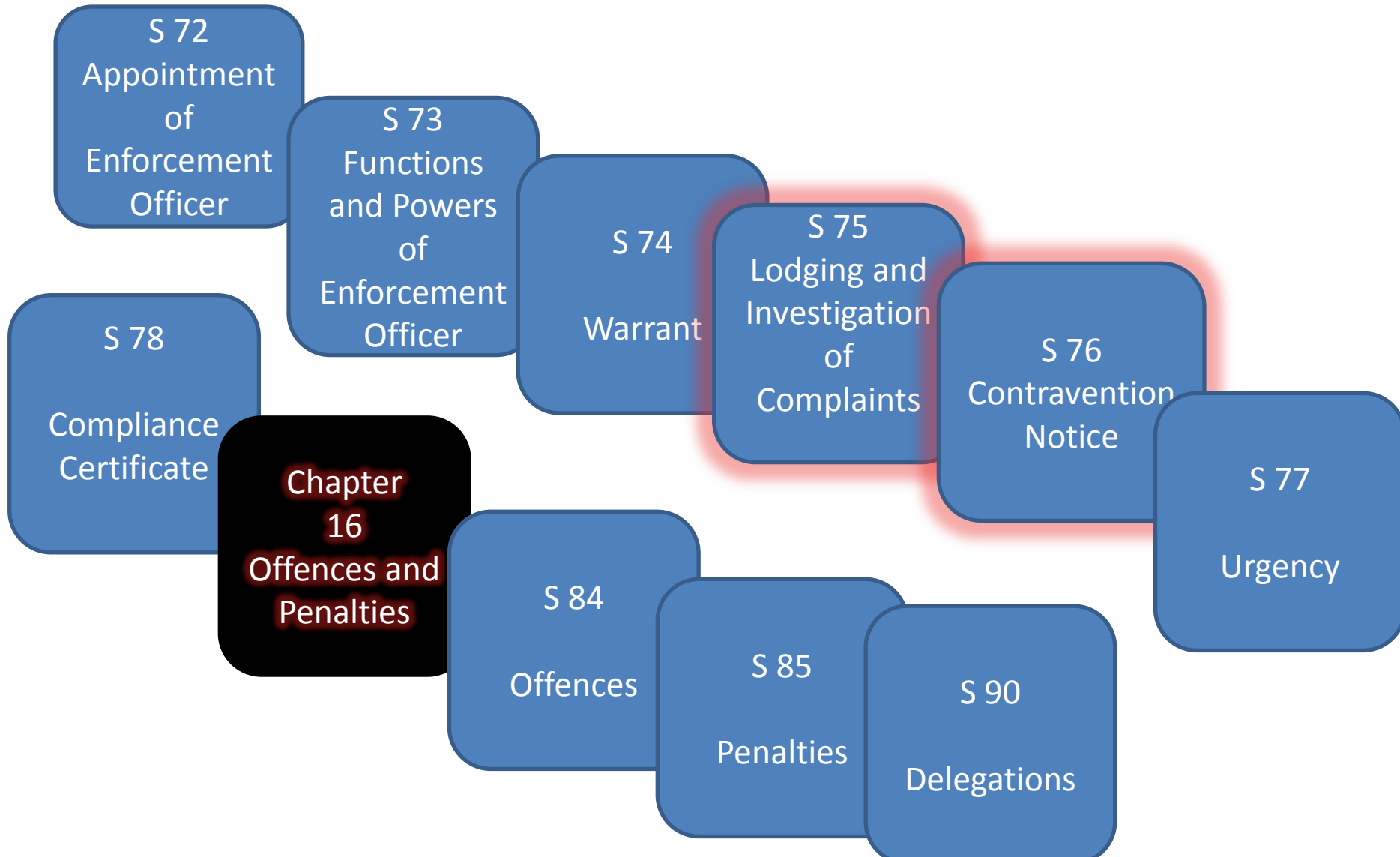


The Important Aspects for obtaining a warrant

- It is imperative to note that the Bylaw permits inspection by by means of all empowering legislation:
 - Note: The NBRBSA provides a right of access at any reasonable time
- Notwithstanding the above, it is vital that a strategy and effective business process is implemented to facilitate the warrant securing process;
- The application to a magistrate is done on a formal basis (affidavit), providing:
 - Reasonable grounds for suspicion;
 - Search will yield evidence pertaining to a contravention;
 - Reasonableness for the search in order to enforce the Byaw.
- Warrants need to be executed during daylight hours, unless motivation is provided, and the magistrate orders the execution at a reasonable dark hour.

Cite the Durban North
Chemical Plant
experience

Applicable Sections of the Bylaw (rw Preamble, Definitions & applicable sections)





Bylaw: Section 76 Contravention Notice

GCFP No. : 15/6/1/1
Our Ref : CSM20170800064
Enquiries : R INDURJEETH
Tel No. : 031 – 311 7078
E Mail : ravin.indurjeeth@durban.gov.za

CONTRAVENTION NOTICE

IN TERMS OF SECTION 76 OF THE ETHEKWINI MUNICIPALITY: PLANNING AND LAND USE MANAGEMENT BY-LAW 2016 (MUNICIPAL NOTICE 114 OF 2017)

BUX, IRFAAN
48 MOSES KOTANE ROAD
OVERPORT
4091

WHEREAS **BUX, IRFAAN** is the owner of the property described as Portion 10 of Erf 501 Brickfield, **48 Moses Kotane Road**, Overport (hereinafter referred to as the property).

Which property falls within the jurisdiction of the Durban Scheme and in terms of the said scheme is zoned Special Residential 650.

AND WHEREAS you, **BUX, IRFAAN** is using part of the property as a Bus Body Building/Motor Vehicle Repair Workshop, such use being classified as an Industrial land use in terms of the Scheme;

YOU ARE HEREBY INSTRUCTED in terms of Section 76 (3) that you have to:

- cease the illegal activity, on the land with immediate effect, and;
- provide an affidavit in response of the complaint of the illegal activity within 5 days of the date of notification.

The ETHEKWINI MUNICIPALITY reserves all its rights to take such further action as it may deem necessary to promote the health, safety, order, convenience and general welfare of its inhabitants.

Dated at Durban on this 15th day of November 2017

REGIONAL CO-ORDINATOR: NORTH CENTRAL

RECEIVED BY:-

NAME:

DATE:

TIME:

CONTACT NO.:

SIGNATURE:

ANNEXURE

THAT THE ACCUSED did wrongfully contravene SECTION 76 OF THE ETHEKWINI MUNICIPALITY: PLANNING AND LAND USE MANAGEMENT BY-LAW 2016 (MUNICIPAL NOTICE 114 OF 2017).

WHEREAS on the 12 MAY 2017, the Head: Development Planning, Environment & Management acting in terms of her plenary powers, by a hand delivered notice addressed to the accused persons, ordered the accused to within FOURTEEN (14) days of the date of the said notice, to terminate the illegal use of the property and to ensure the cessation of the **ILLEGAL STORAGE/SALE OF LIVESTOCK** on the property described as **PORTION 506 OF MELKE HOUTE KRAAL No. 789**, and being known as **6 TORVALE CRESCENT**, situated within the Central Region of the eThekweni District, of which the accused persons are the registered owners of the property being utilised to operate an **ILLEGAL STORAGE/SALE OF LIVESTOCK**.

WHEREAS the accused persons had failed to comply with the terms of the said Order, in that on the 7 JUNE 2017 an inspection revealed that they had:

Failed to ensure cessation of the use of the property, 6 TORVALE CRESCENT, as an **ILLEGAL STORAGE/SALE OF LIVESTOCK**.

THEY wrongfully and unlawfully contravened SECTION 76 OF THE ETHEKWINI MUNICIPALITY: PLANNING AND LAND USE MANAGEMENT BY-LAW 2016 (MUNICIPAL NOTICE 114 OF 2017).

**LAND USE CONTRAVENTIONS
HAND OVER TO ENFORCEMENT**

REGION: CENTRAL

AL: RAVIN INDURJEETH	CONTACT NUMBER: 031 – 311 7078
RTY DESCRIPTION: PORTION 506 OF HOUTE KRAAL No. 789	STREET ADDRESS: TORVALE CRES BRIDGE CITY
3: GENERAL INDUSTRIAL	
E OF CONTRAVENTION: ILLEGAL STORAGE/SALE OF LIVESTOCK	
3S/TRANSGRESSORS DETAILS: J. S RAMKISSON	
TION DATES: 14 JUNE 2016 AND 7 JUNE 2017	
SECTION 79 SERVED: 12 MAY 2017	EXPIRY DATE OF SECTION 79: 25 MAY

LAND USE STATEMENT

AS on the 12 MAY 2017, a notice was addressed to the accused persons and served by viting the accused to within fourteen* (14*) days of the date of the said notice, to gi nts on the above alleged illegal use of the site of which the accused persons are the of the premises.

used persons have failed to comply with the terms of the said contravention notice and are ite an illegal use from the property.

efore hand over the attached file to your Branch for further action in terms of SECTION 7 WINI MUNICIPALITY: PLANNING AND LAND USE MANAGEMENT BY-LAW 2016 (MUN E 114 OF 2017).

.....
NED
DATE

REMARKS: eg. Copy of Section 76 letter, Owners details, complaint letter, photos

OVER DATE:	RECEIVED BY:	SIGNED:

AND WHEREAS in terms of in terms of Appendix 1: Zone: Special Residential 650 of the Durban Scheme, the Industrial land use is Pre-cluded.

AND WHEREAS the said activity as described above is a precluded use in terms of the Durban Scheme, the EtheKwini Municipality in its capacity as the enforcement authority in terms of the eThekwini Municipality: Planning and Land Use Management By-law 2016 (Municipal Notice 114 of 2017) hereby notifies you [REDACTED] that you are guilty of an offence in terms of Section 76 of the By-Law,

FURTHER, should you persist with the said illegal activity you shall be committing an offence in terms of:

1. Section 85 of the By-Law which carries a penalty of either a fine or imprisonment for a period not exceeding twenty (20) years, or both to a fine and a period of imprisonment; and
2. In the case of a continuing offence, an additional fine or imprisonment for a period not exceeding three months, for each day on which such offence continues or both such fine and imprisonment, will be imposed.

FURTHERMORE, in terms of Section 75(9) of the By-Law, the eThekwini Municipality will implement an increase in your property rates in terms of the Property Rates Policy which has been adopted by Council required in terms of the Municipal Rates Act, 2004 (Act 6 of 2004).

The eThekweni Rates Police (rw. The National Property Rates Act)

11. ABANDONED, UNAUTHORISED OR ILLEGAL DEVELOPMENT / USE

- 11.1 Where a property is abandoned, developed or used illegally and in contravention of the Municipality's bylaws and regulations, the Municipality shall change its category to the Unauthorised or Illegal Development / Use category, notwithstanding any other remedies available via any other Act, Bylaw or Regulation
- 11.2 It will be presumed that, the owner is the person liable for or for allowing the continuance of such abandonment, development or illegal use occurring in contravention of the Municipality's bylaws and regulations on such offending site
- 11.3 Any rate coding applied under this section shall remain in place until such time as the abandonment, unauthorised development, illegal use has been regularised or fully removed to the satisfaction of the Local Authority

Definitions required for:

Abandoned: means any property within the Geographical boundary of the eThekweni Municipal area that may be visibly void of up keep and subject to a use that is contrary applicable legislation

Developed: shall mean the construction and/or preparation of land or building with an intention to occupy, conduct any activity not permitted by any applicable legislation, without having obtained the prior approval of the Local Authority

Illegal Use: means to conduct any activity that is prohibited on a site, or to conduct any activity in a manner which may cause a nuisance to the neighbourhood without having first obtained the approval of the Local Authority.

Owner: as per the definition in the National Building Regulations and Standards Act in relation to a building or land, means the person in whose name the land on which such building was or is erected or such land, as the case may be, is registered in the deeds office in question:

Provided that if-

(a) such person, in the case of a natural person, is deceased or was declared by any court to be incapable of managing his own affairs or a prodigal or is a patient as defined in section 1 of the Mental Health Act, 1973 (Act 18 of 1973), or if his estate has been sequestrated, the executor or curator concerned, as the case may be;

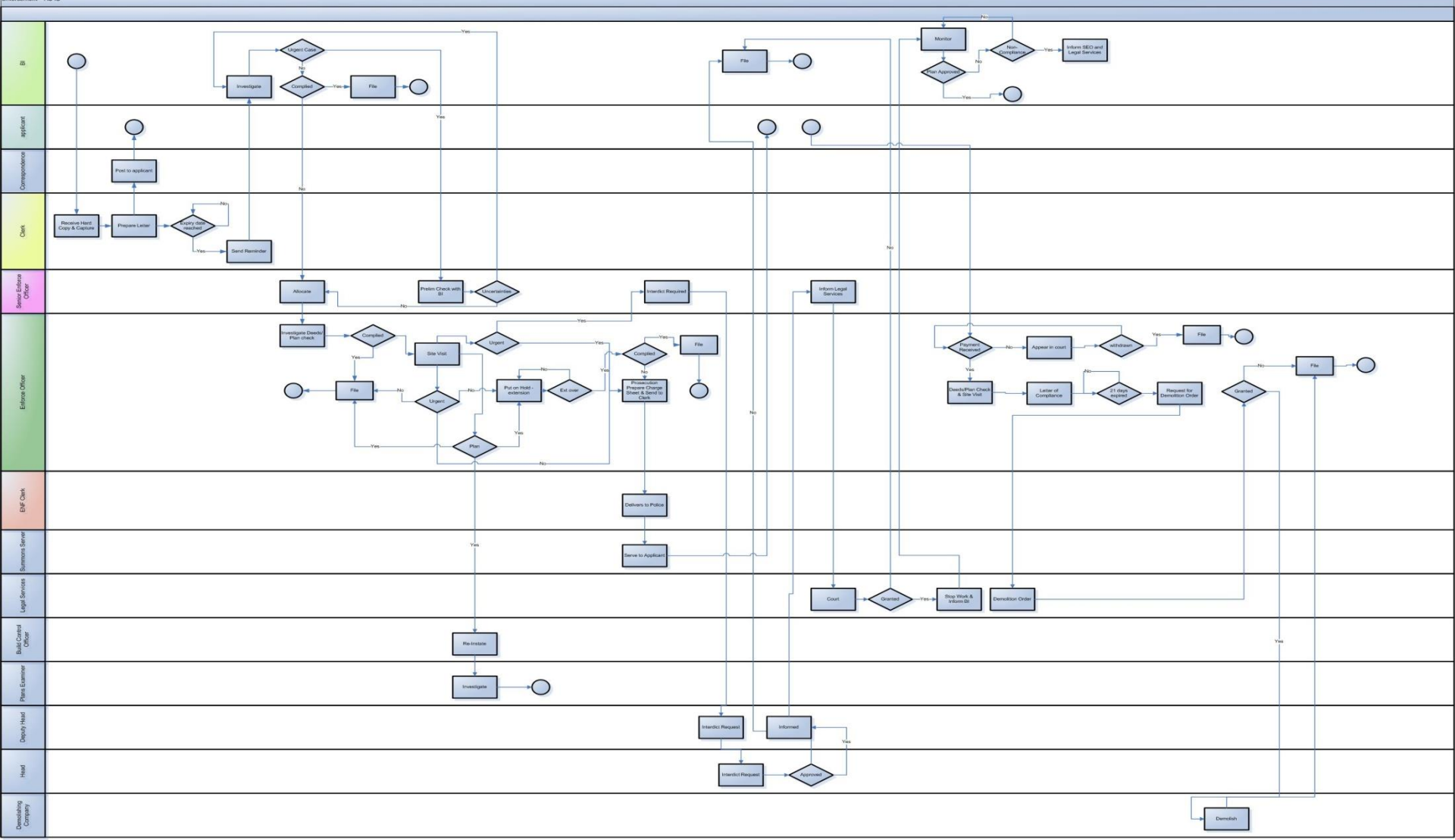
(b) such person, in the case of a juristic person, has been liquidated or placed under judicial management, the liquidator or judicial manager concerned, as the case may be;

(c) such person is absent from the Republic or if his whereabouts are unknown, any person who, as agent or otherwise, undertakes the management, maintenance or of rentals or other moneys in respect of such building or land or who is responsible therefore;

(d) the local authority in question is unable to determine the identity of such person, any person who is entitled to the benefit of the use of such building or land or who enjoys such benefit, shall be deemed to be the owner of such building or land;

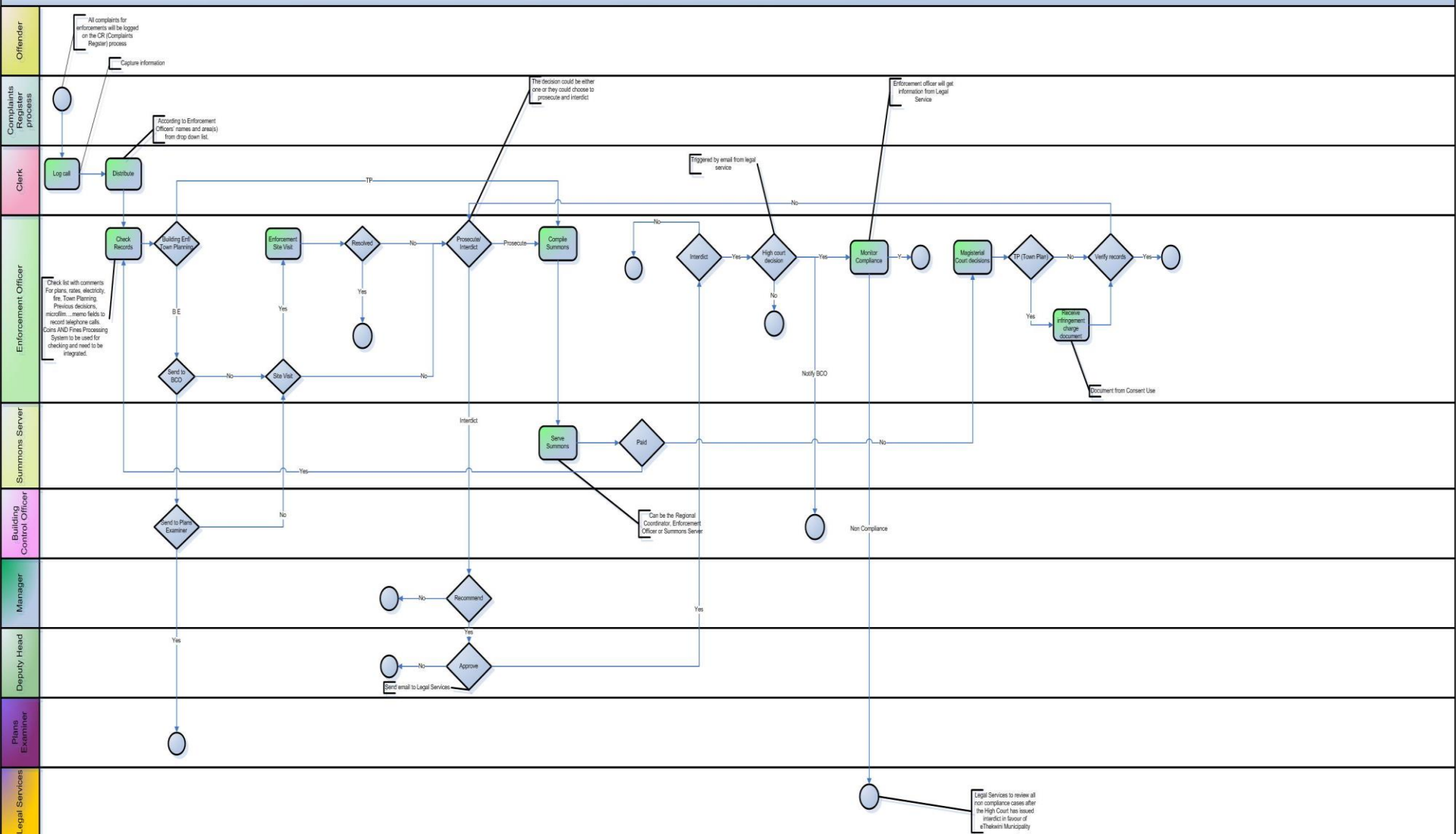
Process Mapping - Old

Enforcement - AS IS



Process Mapping – Re - Engineered

Enforcement Reengineered Process 17/10/2007



Investigation of the Contravention

INVESTIGATION DIARY

MARIA MTOLO	ENF: 18/07/2013	DATE: 24/07/2013
DBI:J.RAMCHURAN	PLAN NO:	OFFENCE: R1(1)

.....

.....

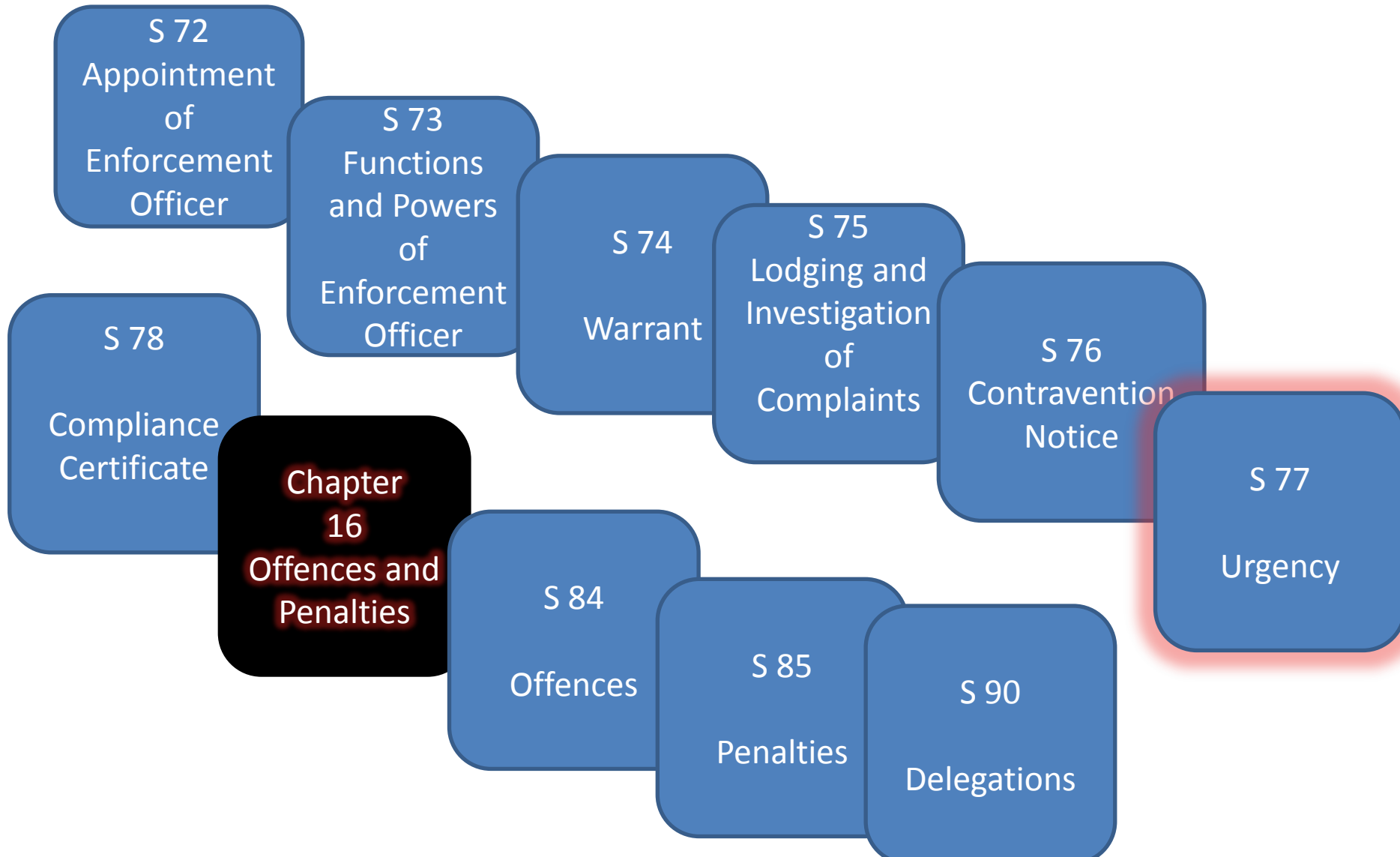
PREMISES: 15 BURSTONE PLACE, PHOENIX		
OWNERS FULL NAME: MOODLEY M & G		
ADDRESS:		
TEL NO:	B:	C:

.....

...

<u>DATE</u>	<u>REPORTS</u>
12/07/2013	Checked with DBI offender didn't comply with the
	controlling the stormwater- DBI request prosecution
24/07/2013	Prosecuted F/S 3/3367290
	BPM/ DBI updated File

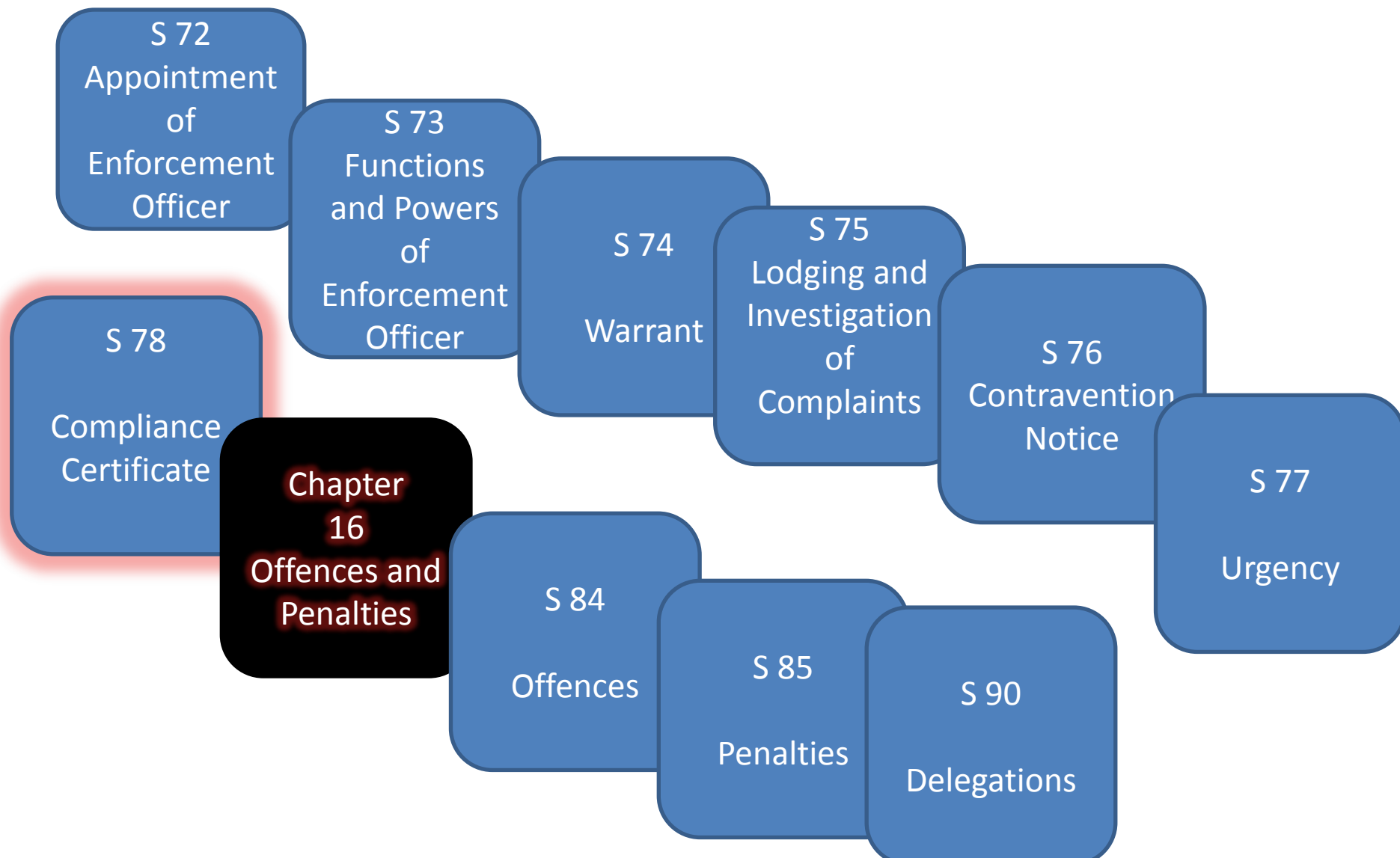
Applicable Sections of the Bylaw (rw Preamble, Definitions & applicable sections)



Dealing with Urgent Contraventions

- This clause is similar to the Urgent Prevention Order contained in the PDA
- Additional content such as:
 - The provision of remedial action and recovery of costs, obviously to be confirmed in the order of Court;
 - The inclusion (read with) of the penalty clause which may be imposed as an order of court, independent to the other costs which may be imposed;
 - Protection for the Officer[s] dealing in the execution of the application;
 - Further offences for tampering with actions linked to the affixing of orders

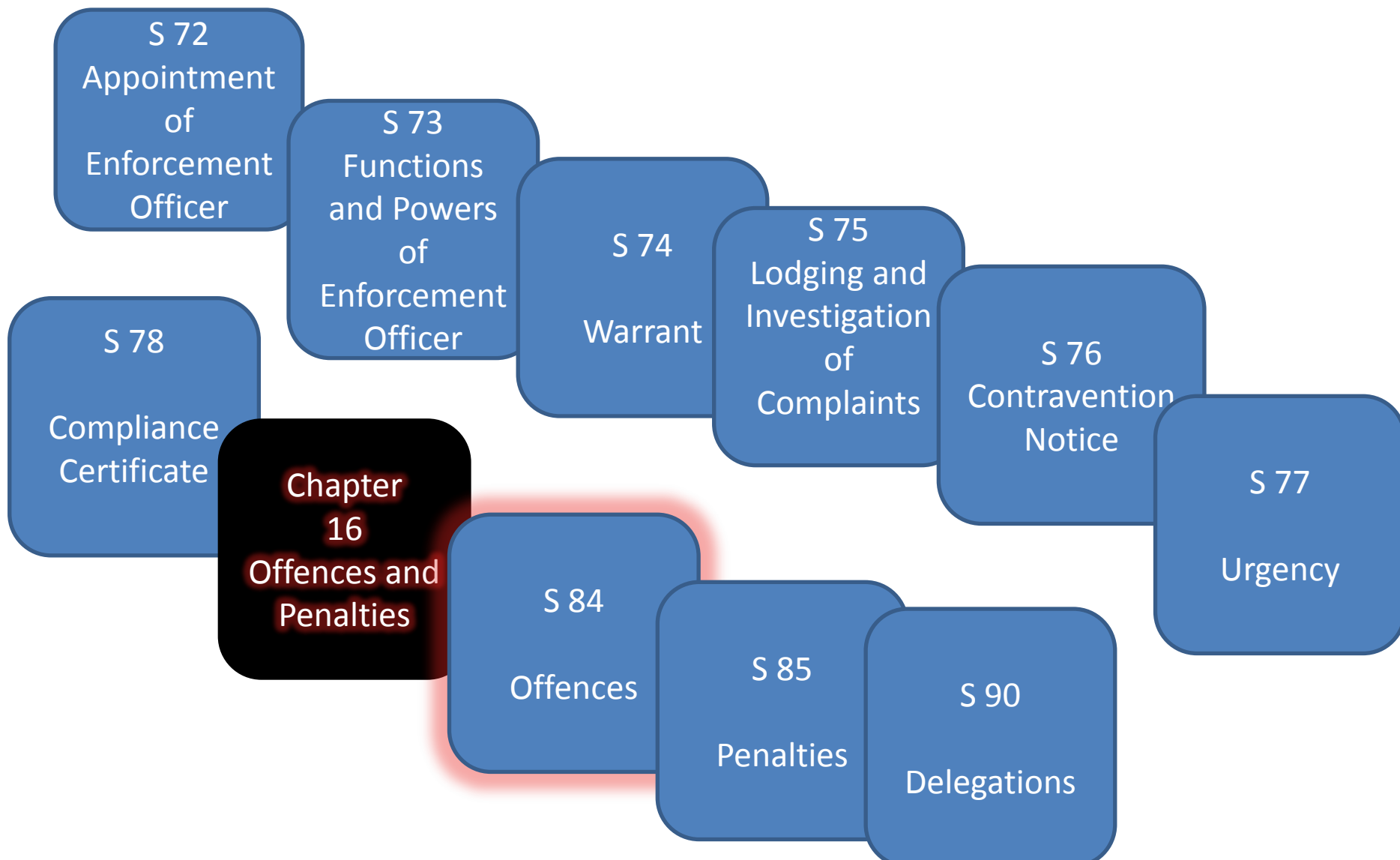
Applicable Sections of the Bylaw (rw Preamble, Definitions & applicable sections)



The issuing of a Compliance Certificate

- The Bylaw makes reference to different types of Compliance Certificates;
- In this instance the reference is to compliance which signifies adherence to a contravention notice;
- The compliance certificate is a prerequisite to having an illegal rate coding reversed (as per the Rates Policy S11)
- It may also be used to verify compliance to a Court and confirm adherence to an order which may carry a contempt and/or Warrant for arrest

Applicable Sections of the Bylaw (rw Preamble, Definitions & applicable sections)





eTHEKWINI M

Section No.	Contravention	Section No.	Contravention
73(2)(c)	Failing to produce a book, or document upon request by	76(2)(c)	Failure to comply with a provision contained in a deed
73(2)(d)	Preventing an enforcement officer from inspecting a register or document	77(6)	Removing, destroying or tampering with a court order
73(2)(e)	Failing to provide an explanation of a book record or other document	84(1)(a)	Obstructing or hindering a person from performing a function
73(2)(f)	Preventing an enforcement officer from inspecting his or her inspection	84(1)(b)	Refusing to provide information to an official
73(2)(g)	Preventing an enforcement officer from inspecting a book, record, register, document or electronic data storing device, or part or sample thereof	84(1)(c)	Knowingly furnishing false information to an authorised person
16(2)(a) or (b)	Using land to which a zoning scheme or (b)	84(1)(d)	Prevents the owner from entering premises
16(3)	Using land to which a zoning scheme with an approval of the Planning Ordinance or any other act	84(1)(e)	Impersonating a person
21(1)	Commencing land development without an approval	84(1)(f)	Contravening or disobeying a notice issued
47(5)	Failing to advise a person ready to commence	84(1)(g)	Contravening an order or restrictions or prohibition
50(8)	Sale of even without the Municipality	84(1)(h)	Contravening an order or restrictions or prohibition
73(2)(h)	Failing to appear before an enforcement officer required to do so by the enforcement officer	84(1)(i)	Contravening an order or restrictions or prohibition
73(5)	Failing to provide facilities as required by the enforcement officer to safely perform his or her function	84(1)(j)	Uses land in a manner inconsistent with a zoning scheme
73(12)	Hindering or obstructing an enforcement officer from the exercise of his or her powers	84(1)(k)	Alters or destroys property
76(2)(b)	Failure to comply with a provision of a zoning scheme		

Section No.	Contravention	Proposed Fines	Approved Fines
	the land use scheme		
90(2)	Allowing or failing to take reasonable steps to ensure use ceases or permitting another person to breach	R 5000 first offence 2 nd offence No AG	

I hereby certify that the admission of guilt fines listed above as submitted by the eThekweni Municipality have been approved by me in terms of Section 57(5)(a) of the Criminal Procedure Act, 1977 (No. 51 of 1977).

Magistrate _____
Date _____

Prosecution Instruments

- **38. Methods of securing attendance of accused in court.**—The methods of securing the attendance of an accused in court for the purposes of his trial shall be arrest, summons, written notice and indictment in accordance with the relevant provisions of this Act.
- [Summons – Sect. 54 CPA](#) - Discuss Process
- [Written Notice – Sect. 56 CPA:](#)
- [Full Statement](#) / [Annexure](#) / [Fines Processing System](#) / [Warrants](#) / [Summons](#)
- [Admission of Guilt Fines](#)
- Discussion of “Spot Fine”

Prosecution Forms

DURBAN METRO

FORCE NO.

ACCUSED NAME 1, I.D. NO., ACCUSED HOME ADDRESS 1

ACCUSED NAME 2, I.D. NO., ACCUSED HOME ADDRESS 2

DATE

SECTION

CLEARANCE CERT.

I, _____ state that at about _____

Vehicle Registration No. _____
License Disc No. _____

hereby certify that I informed the court of my own choice and if he/she cannot approach for legal assistance. This was explained to him/her.

Signature of Officer (please print) / Name

You may admit your guilt in respect of the offence and details.

WITNESS: _____

Note: Payment must be made on the day of sentencing.

Warning: If you fail to comply with the court order, you may be fined a fine of R300,00 or 12 months imprisonment or both.

SUMMONS IN CRIMINAL MATTERS

District of DURBAN

DURBAN CITY COURT

Defendant: _____
Mag. No: 1/3572193

To the Magistrate of the Court

I hereby certify that I am being represented at his/her choice. If he/she cannot approach for legal aid and of the assistance.

ID: 9906130219081

SAMUEL DABEE
84 FALCON STR
KAPPAWASTAN
4152

Class of the said Court

ADDITIONAL INFORMATION IN REGARD SECTION 56 OF THE CRIMINAL PROCEDURE ACT

THE STATE VERSUS DEVILANI GOVEN

hereby certify that I, in addition to that certified in the written notice, personally explained his/her understanding, namely, ENOUGH aid of an interpreter*/or/ with the aid of an interpreter.*(delete which is not applicable)

YOU ARE INFORMED AS FOLLOWS:

- In terms of Section 56(2) of the Criminal Procedure Act, you are informed that you are entitled to make representation for reduction of the fine or for reduction of the sentence or for reduction of the sentence and sentence may appear in the Criminal Records Bureau. (Note that some of the matters to the Criminal Records Bureau are not recorded).
- On payment of the above mentioned admission of guilt, you are entitled to:
 - A fair trial in an open court, i.e.
 - contest the allegation
 - confront your accuser
 - call witnesses;
 - testify in open court;
 - (adduce) evidence against the State
 - Legal representation
 - Be convicted only upon proof of the stipulated offence(s);

The Accused was informed of the date, time and place of the notice was explained to the accused. The

Signature

I, _____ the above-mentioned was explained to me and

Signature: Accused

Durban Metropolitan Police Service
P.O. BOX 1172
DURBAN
4000

VISHNU MOODLEY
8 WILSON GREEN PLACE
GREENHURST
SHEPPHINGTON
4068

CASE NO. 2017006358
SERIAL NO. 0001754158
REFERENCE 2/41298931

WARRANT OF ARREST

A warrant for your arrest has been authorised for your alleged failure to appear in the Verulam Magistrate's Court

ON 2017-10-06

ON a charge of:

TRADE NO LICENCE/PERISHABLE FOODSTUFF

Kindly call at the Clerk of Court, Ground floor, Room 14A, Verulam Magistrate's Courts, Moas Street, between 08:00 and 15:00 with this communication.

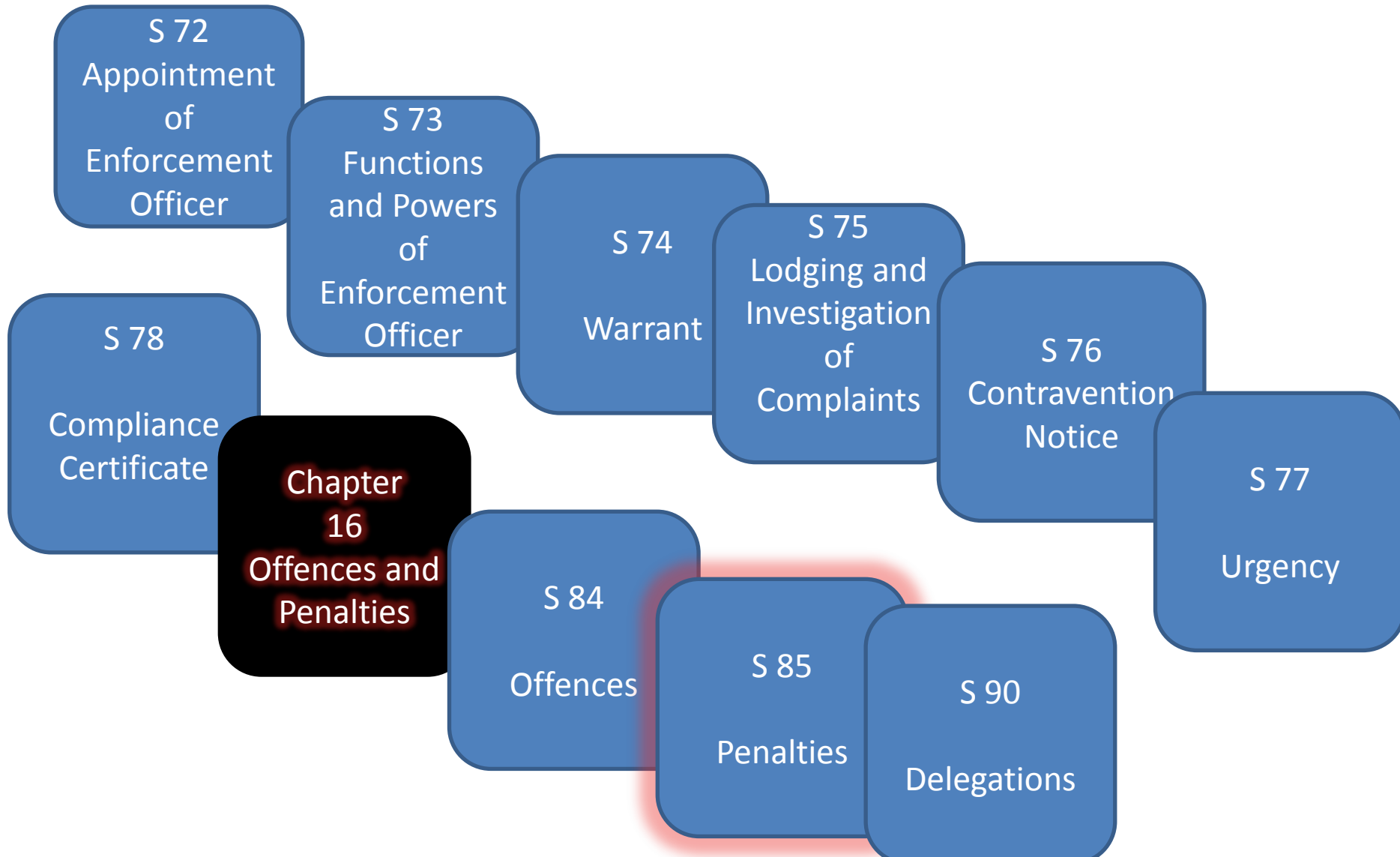
For enquiries regarding any admission of guilt fines payable, including any fine for failing to appear in court as mentioned above, please telephone 032 5331629.

CASH ONLY WILL BE ACCEPTED.

PLEASE TREAT THIS MATTER AS URGENT

DIRECTOR : METRO POLICE

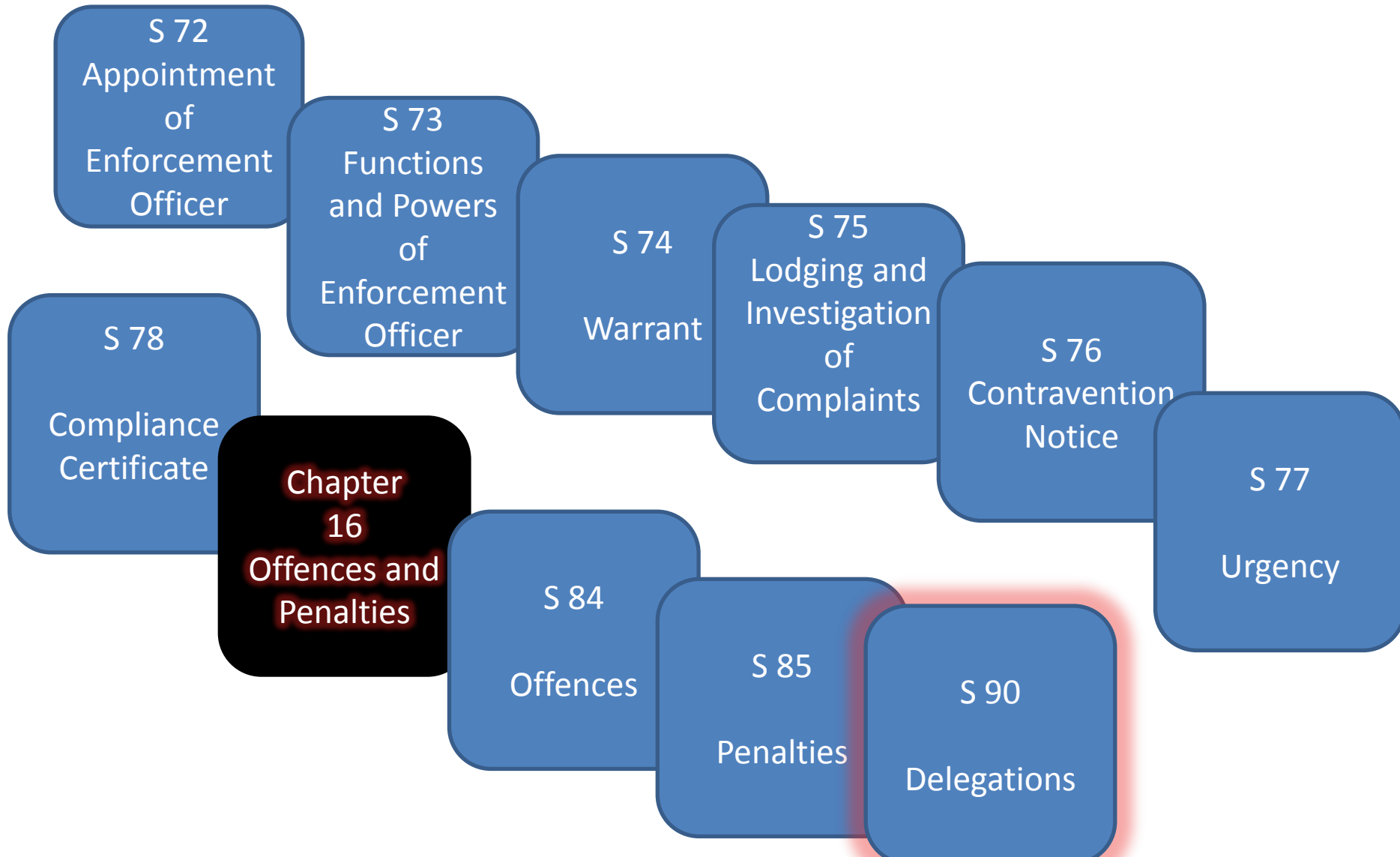
Applicable Sections of the Bylaw (rw Preamble, Definitions & applicable sections)



Penalties which provide Impetus for an applicable sanction

- The Bylaw provides for a fine and/or imprisonment for a period not exceeding 20 years or both such fine and imprisonment;
- It will be interesting to discover the Courts response to the Bylaw;
- The Penalties clause also provides for an additional fine and 3 months imprisonment for continuing offences, and both such fine and imprisonment;
- Important for enforcers will be to guard against any risk of a “double jeopardy” defence, which will require documented monitoring – with a rule that more evidence is an imperative.
- This penalty clause is highly welcomed in a scenario where serious offender escape a sanction by the imposition of a trivial fine.

Applicable Sections of the Bylaw (rw Preamble, Definitions & applicable sections)



Completion of a Schedule of Delegations

Date: 15th August 2017



LEGAL AND COMPLIANCE UNIT

REPORT TO THE ECONOMIC DEVELOPMENT AND PLANNING COMMITTEE

ETHEKWINI MUNICIPALITY: PLANNING AND LAND USE MANAGEMENT BY-LAW,
2016: DELETION, AMENDMENT AND INSERTION OF DELEGATIONS INTO PART C
AND PART D OF THE ETHEKWINI TERMS OF REFERENCE AND DELEGATIONS
DOCUMENT

1. PURPOSE

The purpose of this report is to request the Committee to approve the amendments to the SPLUMA delegations and the insertion of delegations pursuant to the eThekweni Municipality: Planning and Land Use Management By-law, 2016 (hereinafter referred to as “the By-law”) into Part C: System of Delegations and Part D: System of Administrative Delegations of the eThekweni Terms of Reference and Delegations document.



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Land Use Management: Enforcement and Prosecution Process



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Expired Notice From LUM's

Contravention in terms of the SPLUMA Planning & LUM Bylaw

Consider Illegal Rate Coding

Receive Complaint/Case
Manual Process Contravention Book

EA Logs onto Data Base
BPM Process

Case is checked by RC for Correctness
Check Section Bylaw Check Particulars of Accused

EA Distributes to EO
Case is transferred onto EO's work queue

EO Receives Case and Conducts Record Check
The first phase of the 14 day turnaround commences

Contact Offender arrange site visit
Verify that Contra is still prevalent. Confirm particulars

Conduct Site Visit and prosecute if possible
Prosecution is executed on a S 54 CPA

Return to Office and Fill a full statement
Metro Police Process a Summons and Summons Server or EO serves

Serve Summons and e-mail LUMs to Update
Summons served at all hours. Fines Processing Data Base for Stats. Spread sheet update by EA

OR

Second Phase

Escalate to High Court
Consolidate all evidence pertaining to the site

Motivation to D/Head DM
ON authority from DH. Set meeting with Legal

Third Phase

Obtain Order from High Court and Monitor for Compliance
Obtain a warrant if non compliant

Abbreviations

- EO: Enforcement Officer
- EA: Enforcement Assistant
- RC: Regional Co-ordinator
- LUM's: Land Use Management
- BPM: Business Process Management System
- CPA: Criminal Procedure Act

Time Frame – 7 Days

Branch receives complaint

Complaint logged onto BPM Data base - EA

Case Distributed to EO – Conducts desktop and records enquiry

EO conducts site Inspection and updates BPM

EO Drafts Full Statement and updates BPM. Full Statement sent to Metro Police for Processing

Summons is served on the accused by EO or the Summons Server.

EA – Enforcement Assistant
EO – Enforcement Officer

Time Frame – 7 Days

Accused must admit guilt or appear in court – AG paid BI to monitor

If AG not paid, accused appears in Magistrate's Court – Criminal Prosecution

Non appearance Warrant. May be withdrawn or convicted – seek order for compliance

If Convicted monitor in terms of Order.

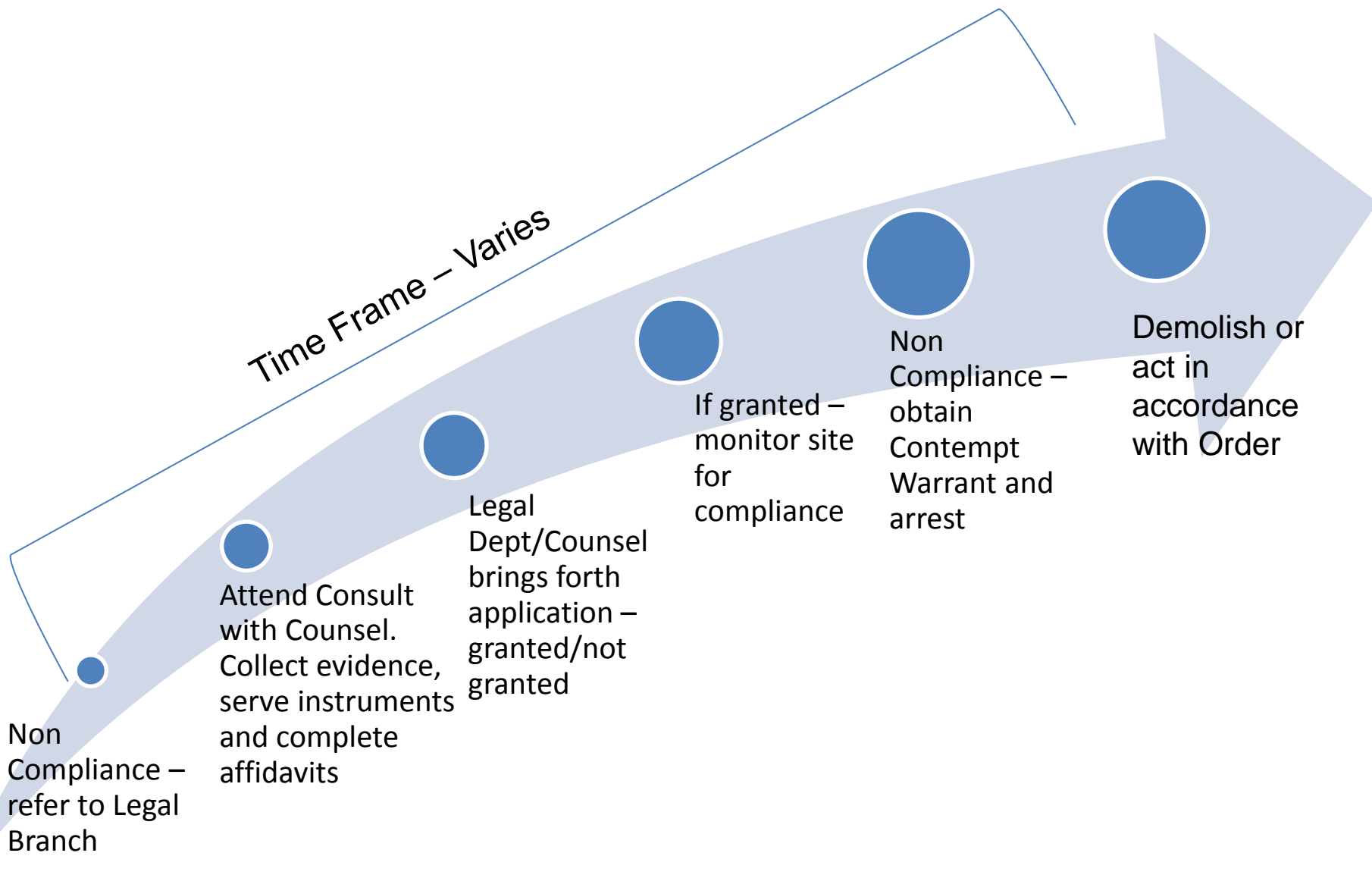
Non Compliance – obtain Contempt Warrant and arrest

Monitor for Compliance

BI – Building Inspector
AG – Admission of Guilt



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Strategy Issues





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Vision Forming Process

Scorecard KPI
1.4. Implement referred (stage 2) NBR & PDA cases for prosecution within 21 Days

IDP

Unit Vision

8 Point Plan

Plan 1: Develop and Sustain our Spatial, Natural and Built Environment

Environment

Planning

Dept Vision

Management

Develop, manage and regulate the Built and Natural Environment

Branch Vision

Wilful Compliance with Regulations

Annual Target
Annual Enforcement Strategy Completed



Annual Target
Implement Referred [Stage 2] NBRSA & PDA cases for prosecution purpose within 21 Days

SDBIP

Strategic Focus Area
1. Develop, manage and regulate the Built and Natural Environment

Programme
Manage and Regulate the Built Environment

Project
1.4.3 Enhancement of Turnaround times for dealing with Enforcement Cases

Project
1.4.4 Review the New Enforcement Strategy



IPP: Regional Coordinator

Key Performance Area	Performance Standards / Indicators	Weighting	Mid Term Report	Score	Weighted Score
Update Peace Officer Data Base and maintain Annual Accreditation	Peace Officers Data base fully Updated Accreditations completed for year	10			
90% of all Current Complaints meet turnaround times [14 days] in allocated Regions	BPM Data Base Statistics and EO's Data bases reflect adherence to 14 day turnaround times	10			
Establish a Communication Forum with Regional Co-ordinators in the various regions	12 Attendance Registers filled and signed for the meetings	15			
Complete the Implementation of the New Enforcement Strategy	Increase in the Number of Warrants issued and executed by 65% on [baseline] Increase in the number of summons served [3500 summons served for the year for the branch]	25			
One on Ones with EO's	4 qualitative sessions with EO's on File	5			
Zero Defects on Summons for all EO's in the allocated Region	Returns from Metro Police Summons Processing Section	5			
Weekly Briefing and Debriefing Sessions with staff	52 Sessions for the year	10			
Microfilming of Enforcement Files and Document	70 % of all files for the year Microfilmed	10			
Effective Management of Court related matters	24 Registers for visits to all courts Maintain High Court Statistics	10			
		Total: 100			



IPP: Enforcement Officer

Key Performance Area	Performance Standards / Indicators	Weighting	Mid Term Report	Score	Weighted Score
Summonses served for EO's operational area	60 % of all cases	25			
90% of all Current Complaints meet turnaround times	14 days turnaround time per case	10			
Monthly meetings with respective BI Teams	Register maintained per meeting	10			
Maintain update on the BPM System	All cases are closed off in accordance with 14 day turnaround time	15			
Maintain Effective Communication with respective Court Staff	6 Attendance registers from Prosecutor 12 Matters finalized	10			
Effective Investigation and Finalization of Priority Cases	24 Matters finalised for the year [e.g. High Court, Deeds Office, Legal Services]	10			
Clear Backlogged Summonses on Fines Processing System	24 Priority Cases Resolved for the year	15			
Zero Defects on Summonses	Returns from Metro Police Summonses Processing Section	5			
		Total: 100%			Total:

IPP: Enforcement and Prosecution Assistant

Key Performance Area	Performance Standards / Indicators	Weighting	Mid Term Report	Score	Weighted Score
All Contraventions are timeously entered onto the BPM System	100 % of all cases	10			
All Finalized cases are filed in accordance with filing system	4 days turnaround time per case	10			
Ensure that the Housekeeping in the respective offices are good	Maintain an inspection register for inspections 24 for the year	10			
Effective Service at counters and telephone calls	No complaints lodged for the year	10			
Deal effectively with prosecution related matters submitted to Metro Police	Matters are transported twice a week Nil complaints from EO's and Metro Police	10			
Maintain all data bases effectively and provide spreadsheets timeously	Weekly stats submitted by the Monday of every week Data Bases are updated and presented monthly	20			
Clear Backlogs Summons from the Metro Police Fines Processing System	24 Matters to be cleared in the financial year	20			
Provide Administrative Support for the Microfilming Project in the Branch	Assist in ensuring that 70% of all cases are Microfilmed	10			
		Total: 100%			Total:



- Abdull Domingo 031 311 7755
- Senior Manager

- Steven Moses 031 311 7143
- Regional Coordinator

- George Mzimela 031 311 7175
- Regional Coordinator

- Mazande Mankazana 031 3227768
- Regional Coordinator

- Mrs Nonkululeko Hlongwa 031 311 7140
- Principal Clerk: Enquiries



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Thank You