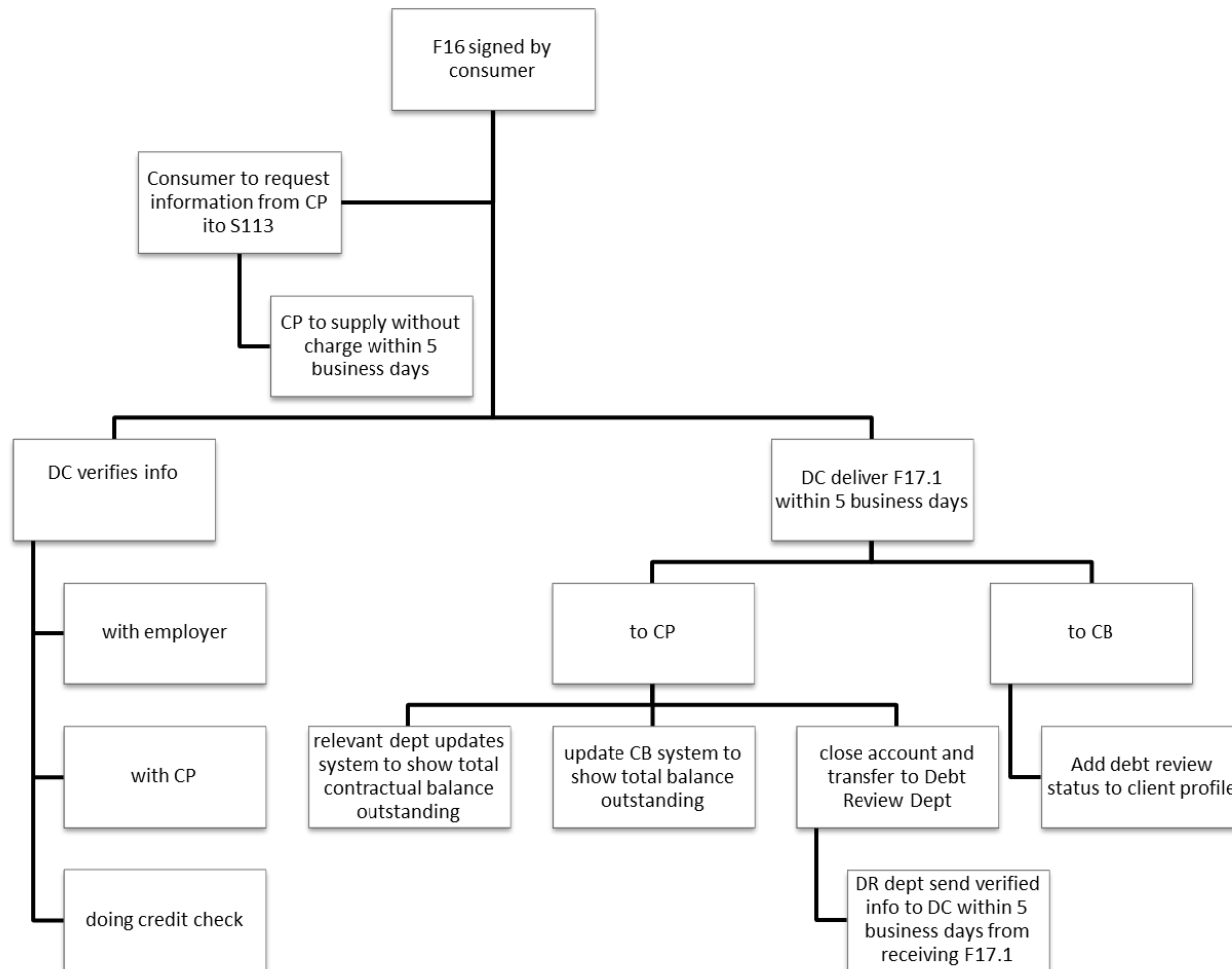


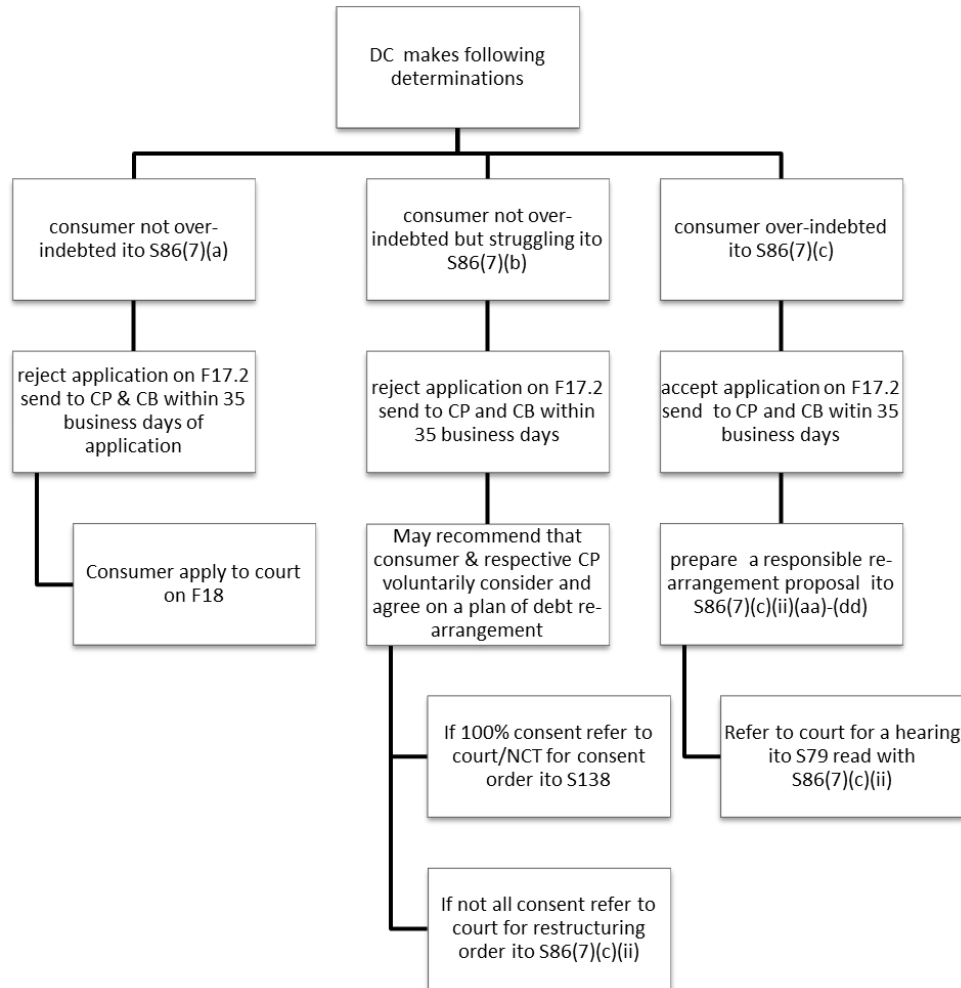
# DEBT REVIEW PROCESS

IN TERMS OF S86 AND R24 OF THE NATIONAL CREDIT ACT,  
34 OF 2005

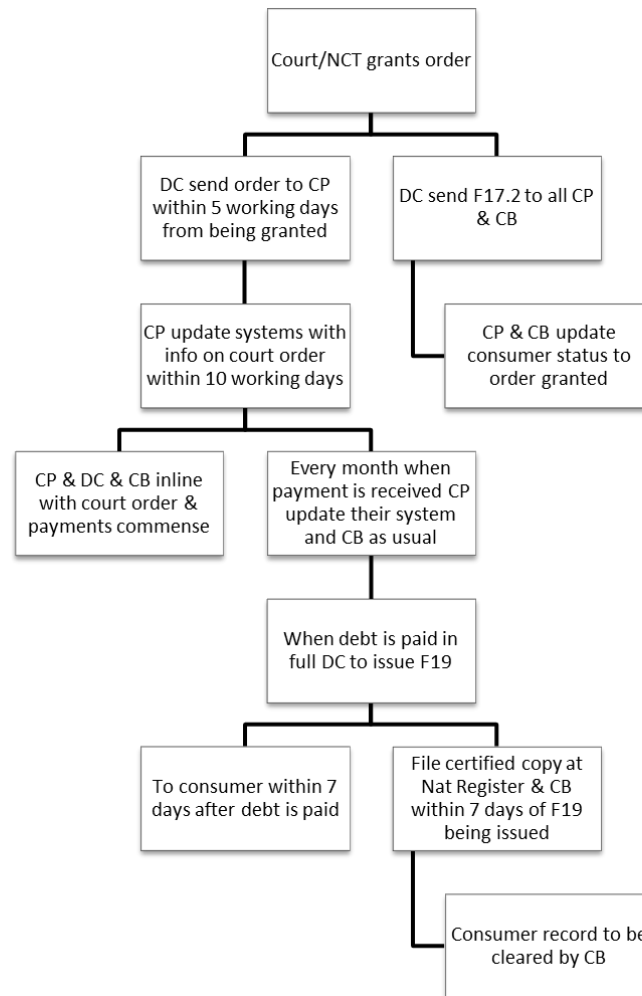
# Detailed organogram – 1<sup>st</sup> Phase



# Detailed Organogram – 2<sup>nd</sup> Phase



# Detailed Organogram – 3<sup>rd</sup> Phase



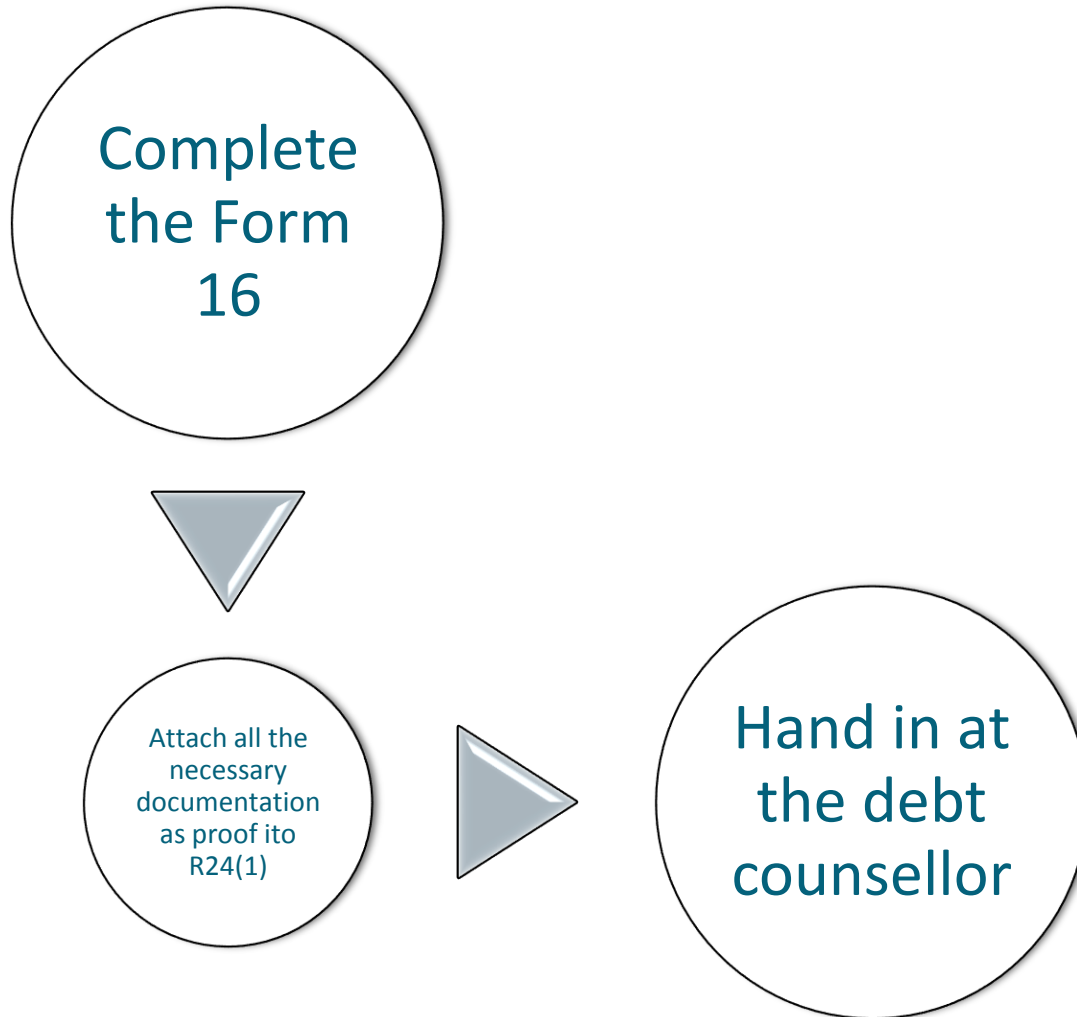
# Why does the consumer apply for debt review?

- ❑ Because he can no longer afford to pay all his monthly commitments in full (debt as well as living expenses)

*Netto income – (living expenses + monthly debt repayments) = **shortfall***

- ❑ Because informal arrangements are short term and will not solve his financial problem.
- ❑ Because he wants to make use of his legal right to apply to be **declared over-indebted** and have the **debt repayments rearranged**.

# How do you apply for debt review?



# Where does a consumer find information of his debt?

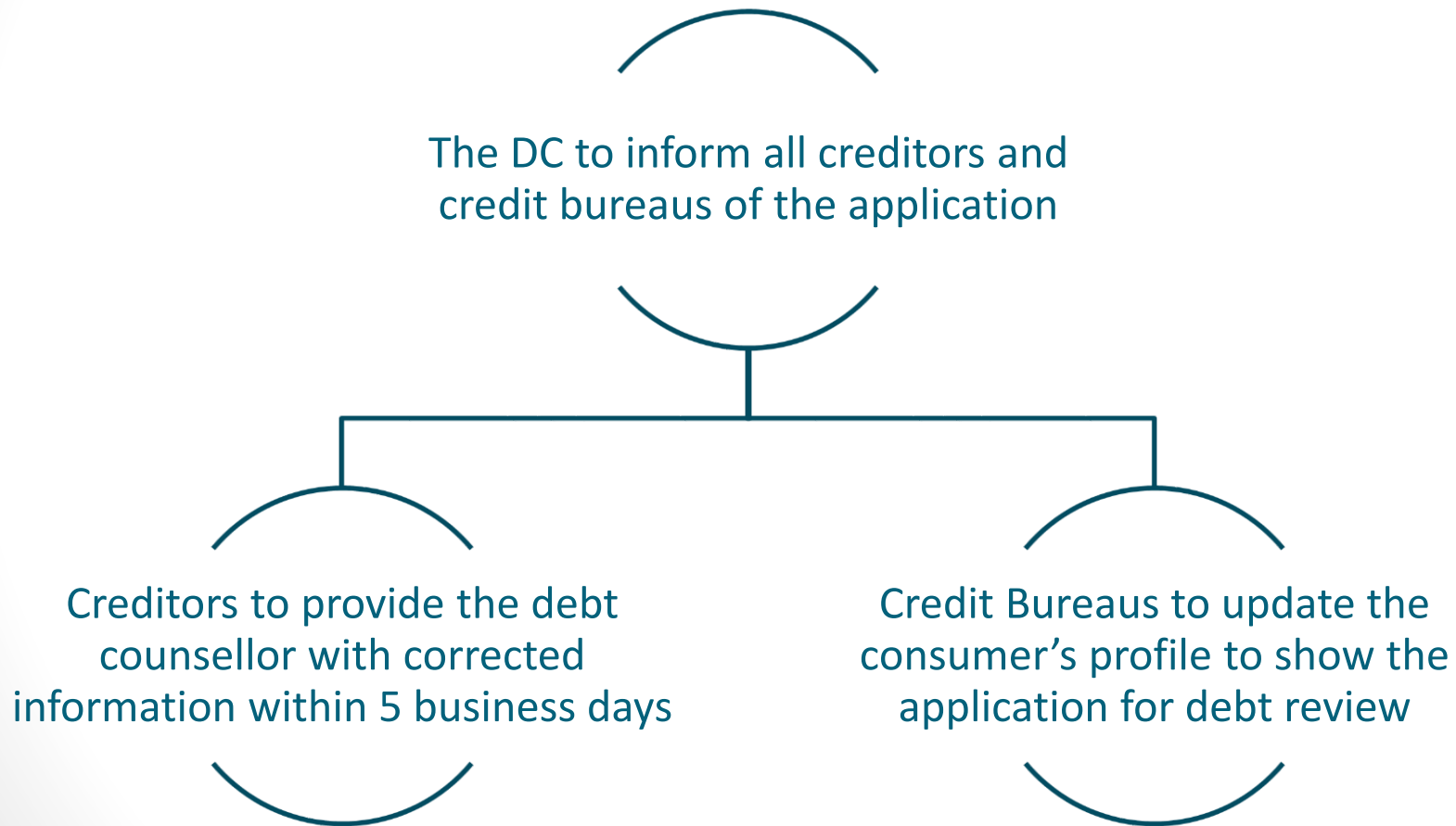
- **Regulation 24(1)(b)(iv) states that the consumer must provide the debt counsellor with:**
  - A list of all debts disclosing –
    - Monthly commitment
    - Total balance outstanding
    - Original amount and
    - Amount in arrears
- **Where can a consumer find this information?**
  - A settlement statement has to be requested from the creditors as the monthly statements does not always provide the correct information. (do not confuse with early settlement statement)
- **How can the Act help the creditor to provide such info?**
  - S113 read with S125 provides guidance to the creditors on the procedure of providing a settlement statement and how to calculate it.
- **Where else can a consumer find a summary of his debt profile?**
  - By obtaining a credit check or ITC report from any credit bureau.

# What is a settlement statement?

- **In terms of S113 the creditor must –**
  - Provide the consumer without charge
  - Within 5 business days
  - With a settlement statement calculated in accordance with S125
  - As of a date specified by the consumer (last day of the contractual agreement)
- **In accordance with S125 means –**
  - The amount required to settle a credit agreement is the TOTAL of the following:
    - Unpaid balance of the principle debt AT THE TIME
    - Unpaid interest charges and all other fees and charges payable by the consumer UP TO THE SETTLEMENT DATE (last day of the contractual agreement)
- **Why does the debt counsellor need a settlement statement with a settlement value/total balance outstanding in it?**
  - Because the Act does not give the debt counsellor the power to recalculate the debt or a method to work out the total balance outstanding. Only to rearrange the monthly payments, extend the term or postpone payments.



# What happens after the F16 is handed in?



# What if the consumer/debt counsellor does not receive the settlement statement or corrected information from the creditor?

- **Debt Counsellor must make use of the information provided by the consumer as per Regulation 24(4) –**
  - Statements
  - ITC Reports
- **The legislator understood that the information provided by the consumer will in all probability be the –**
  - Principle debt
  - Current balance
  - Capital balance
- **Why then make provision for R24(4)?**
  - The process is suppose to be a fast paced, very simple process that must be referred to court after 35 business days of application date and within 60 business days before a creditor may terminate. The fast pace is to ensure that the consumer nor the credit provider drags out the process to benefit financially by delaying it.

# Lets compare the information required by the Act and the information provided by the creditor?

- Monthly Commitment
- Total (contractual) balance outstanding
- Original amount (capital)
- Amount in arrears



REG 24(1)(b)(iv)

{CONSUMER TO SUBMIT  
TO THE DC}

- Account nr
- Account discription
- Linked insurance policy description
- NCA Account type Code
- Debt Restructuring Account Type Code
- Goods Description
- Inceptiondate of loan/facility/policy
- Expiry date of loan/facility
- Original Repayment Term
- Date of Default
- Outstanding Balance (as dte of default)
- Credit Limit
- Outstanding balance (Incl Ballon payment, Arrears, exl future interest
- Gross Monthly Instalment (incl Capital, interest, fees and insurance)
- Insurance and or Assurance Premiums
- Interest Rate
- Method of payment
- Included/Excluded in debt Review
- Reason Code if Excluded
- Banking details of account



COB - TASK TEAM  
AGREEMENTS

{NOT IN THE NCA OR  
REGULATIONS}

# Can a DC use the COB as the point of departure?

- **NO for the following reasons –**
  - A COB is not a registered document in terms of the Regulations to the NCA;
  - There is no mention of a certificate of balance in the sections of the Act that pertains to debt review;
  - The information on the COB is not in line with R24(1)(b)(iv) nor with S113 read with S125;
  - The DC has no proof that the information provided is in line with the original contract and the DC does not have the ink on paper copy of the contract to verify such information;
  - The Act is clear, if the DC does not receive the corrected information from the creditor, the DC may use the information as provided by the consumer.
  - The DC may not calculate the settlement value/total balance outstanding.
  - The Magistrate Court is a creature of stature and may not adjudicate over a matter where the “point of departure” is part of a parallel process that was not “an act of Parliament.

# What happens after the DC has received all the relevant information?



Dc must evaluate the consumer's financial position and determine if they are over-indebted or not



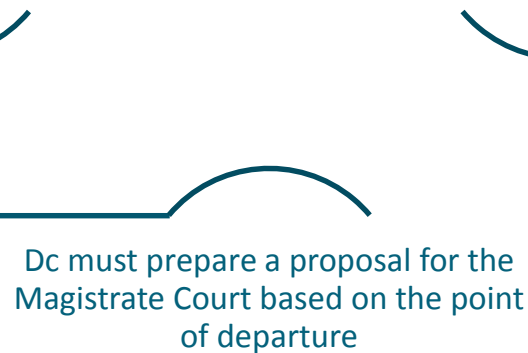
Court holds a hearing to determine if the consumer is over-indebted and to grant the rearrangement order



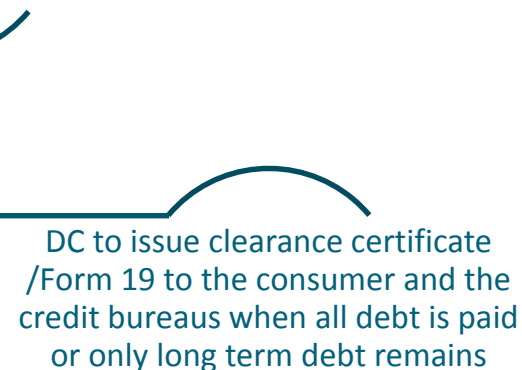
DC must submit a Form 17.2 to all credit providers and credit bureaus



Consumer repays the debt into the rearrangement order until paid up



Dc must prepare a proposal for the Magistrate Court based on the point of departure



DC to issue clearance certificate /Form 19 to the consumer and the credit bureaus when all debt is paid or only long term debt remains