

Practice Directions - No. 5 of 1999

Operation of s.13A of the Penalties and Sentences Act 1992

The following Practice Direction is intended to establish a more certain framework for the practical operation of s. 13A of the *Penalties and Sentences Act* 1992. The following procedure will ordinarily apply, subject necessarily to the discretion of the Judge in any particular case.

1. If any party to sentencing proceedings wishes to activate s. 13A, that party should prior to the hearing advise the sentencing Judge's Associate accordingly.
2. The material establishing the matters referred to in s. 13A is to be placed in an unsealed envelope addressed to the sentencing Judge and handed up after the administration of the allocutus, in open court
3. Any submissions relevant to s. 13A should be made in writing and handed up to the Judge during the hearing, although copies may if desired be provided in advance.
4. If any further oral submissions need be made, or evidence given, with relation to matters involved in s. 13A, that is to occur in-camera. Otherwise all proceedings are to take place in open court.
5. If, at the conclusion of submissions, the sentencing Judge is ready to pass sentence the Judge will do so and that sentence will be endorsed on the indictment
6. Having imposed the sentence, the Judge will then close the court and comply with the requirements of s. 13A(3)(a) and (b) by:
 - a. stating that the sentence just passed was reduced under s. 13A, and
 - b. stating the sentence which would otherwise have been imposed, and
 - c. directing that written submissions handed up be placed in a sealed envelope with the other s. 13A material previously tendered, together with a revised copy of the transcript of the in-camera hearing, to be opened only by order of the Court.

Paul de Jersey
Chief Justice
March 1999