



Contravention of Orders under the Family Law Act 1975

Instruction Number: 7

Last Update: 6 March 2015

This instruction relates to the conduct of proceedings under section 112AD and section 112AH of the *Family Law Act 1975* ('the Act').

Sanctions for failure to comply with orders

1. Section 112AD of the Act empowers a court having jurisdiction under the Act to impose penalties against persons who contravene orders made under the Act. The penalties available include:
 - imprisonment for up to 12 months¹
 - a maximum fine of 60 penalty units² for a natural person³ or (5 x 60) penalty units for a corporation⁴
 - release on bond in accordance with section 112AF of the Act
 - if available another sentence under section 112AG such as a community service order

Failure to comply with sentence passed, or order made

2. Section 112AH of the Act empowers a court having jurisdiction under the Act to penalise a person who has failed to comply with a sentence imposed, or an order made, pursuant to section 112AG. The court has the option under section 112AH of:
 - without prejudice to the continuance of the sentence or order, imposing a fine not exceeding 10 penalty units on the person, or
 - re-sentencing the person pursuant to section 112AD.

Referrals

3. Regulation 3(1)(d) of the *Director of Public Prosecutions Regulations 1984* allows the CDPP to institute or carry on proceedings under section 112AH of the *Family Law Act 1975*. Proceedings under section 112AD and section 112AH are not criminal offences, and in the majority of cases will not be related to proceedings for criminal contraventions of the Act. Where such matters are referred to the CDPP the matter should be referred to the PGL for IASA for consideration as to whether it would be appropriate for the CDPP to take action.

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¹ See section s112AE of the *Family Law Act 1975*

² The value of a penalty unit is prescribed by section 4AA of the *Crimes Act 1914*

³ See section 112AD(2)(c) of the *Family Law Act 1975*

⁴ Pecuniary penalties applying to bodies corporate are contained in section 4B of the *Crimes Act 1914*