



Armed Forces Act 2016

2016 CHAPTER 21

Offenders assisting investigations and prosecutions

PROSPECTIVE

12 Supplementary provision

After section 304E of AFA 2006 insert—

“304F Sections 304C to 304E: statements in open court

- (1) Subsections (2) and (3) apply if, in accordance with section 304C or 304D, a court passes or substitutes a lesser sentence than it would have passed if the assistance mentioned in those sections had not been given or offered (a “discounted sentence”).
- (2) The court must state in open court—
 - (a) that it has passed or substituted a discounted sentence; and
 - (b) what the greater sentence would have been.
- (3) If the court thinks that it would not be in the public interest to disclose that the sentence is a discounted sentence—
 - (a) subsection (2) does not apply;
 - (b) the court must give written notice of the matters specified in paragraphs (a) and (b) of that subsection to both the prosecutor and the defendant; and
 - (c) section 252 (duty to give reasons and explain sentence) does not apply to the extent that it would require the court to disclose that it has passed or substituted a discounted sentence.
- (4) Subsection (5) applies if a court—
 - (a) substitutes a sentence in accordance with section 304E; and

Status: This version of this provision is prospective.

Changes to legislation: There are currently no known outstanding effects for the Armed Forces Act 2016, Section 12. (See end of Document for details)

(b) thinks that it would not be in the public interest to disclose that the person received a discounted sentence under section 304C or 304D.

(5) Section 252 (duty to give reasons and explain sentence) does not apply to the extent that it would require the court to disclose that the person received a discounted sentence.

304G Sections 304D and 304E: exclusion of public from review proceedings

(1) This section applies to—

- (a) proceedings relating to a referral made under section 304D or 304E; and
- (b) any other proceedings arising in consequence of such proceedings.

(2) The court in which the proceedings will be or are being heard may make such order as it thinks appropriate—

- (a) to exclude a person from the proceedings;
- (b) to give such directions as it thinks appropriate prohibiting the publication of any matter relating to the proceedings (including the fact that the referral has been made).

(3) The power under subsection (2)(a) does not include power to exclude—

- (a) a member or officer of the court;
- (b) a party to the proceedings;
- (c) a prosecuting officer dealing with the proceedings;
- (d) counsel or a solicitor for a party to the proceedings;
- (e) a person otherwise directly concerned with the proceedings.

(4) An order under subsection (2) may be made only to the extent that the court thinks—

- (a) that it is necessary to do so to protect the safety of any person; and
- (b) that it is in the interests of justice.

(5) This section does not affect any other power which the court has by virtue of any rule of law or other enactment—

- (a) to exclude a person from proceedings; or
- (b) to restrict the publication of matters relating to proceedings.

304H Meaning of “sentence”

In this Part—

- (a) “sentence” includes any order made by a court when dealing with an offender in respect of an offence; and
- (b) a reference to a greater or lesser sentence must be interpreted accordingly.”

Status:

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Changes to legislation:

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