



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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