



Defence Force Discipline Regulations 2018

I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 15 March 2018

Peter Cosgrove
Governor-General

By His Excellency's Command

Darren Chester
Minister for Defence Personnel

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Part 1—Preliminary

1 Name

This instrument is the *Defence Force Discipline Regulations 2018*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	1 April 2018.	1 April 2018

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *Defence Force Discipline Act 1982*.

4 Schedule 1

Schedule 1 to this instrument sets out forms for the purposes of certain provisions of the Act or this instrument.

5 Schedule 2

Schedule 2 to this instrument specifies places that are prescribed for the purposes of section 101F of the Act.

6 Schedule 3

Each instrument that is specified in Schedule 3 to this instrument is amended or repealed as set out in the applicable items in that Schedule, and any other item in that Schedule has effect according to its terms.

7 Definitions

Note: A number of expressions used in this instrument are defined in the Act, including the following:

- (a) authorized officer;

Section 7

- (b) detainee;
- (c) detention centre;
- (d) officer;
- (e) service chief.

In this instrument:

Act means the *Defence Force Discipline Act 1982*.

approved staff member of a detention centre means a person appointed under subsection 22(1) as an approved staff member of the detention centre.

approved tester means a person appointed under section 31 as an approved tester.

area detention centre means a detention centre that is of a standard that the Chief of Defence Force, service chief or an authorized officer considers suitable for detaining a detainee for a period not exceeding 14 days.

contraband includes any substance or item, other than money, the possession of which by a detainee is not permitted by or under the Act.

conveyance means:

- (a) a vehicle; or
- (b) a vessel; or
- (c) an aircraft; or
- (d) any other means of transport.

corrective detention centre means a detention centre that is of a standard that the Chief of Defence Force, service chief or an authorized officer considers suitable for detaining a detainee for any period.

day of religious observance for a detainee means:

- (a) a day of religious observance for the detainee's religion; or
- (b) Sunday.

designated officer means an officer, a service police warrant officer or a service police non-commissioned officer.

engage in conduct includes omitting to perform an act.

Inspector-General ADF has the same meaning as in the *Defence Act 1903*.

investigating officer has the same meaning as in Part VI of the Act.

letter means a card, document or other form of written communication and includes an envelope containing any of those things.

member of the staff of a detention centre has the same meaning as in Part XA of the Act.

officer cadet means an officer who holds:

- (a) the Navy rank of midshipman; or
- (b) the Army rank of staff cadet or officer cadet; or
- (c) the Air Force rank of officer cadet.

parcel means a package or other similar article.

speed measuring device means a laser-based device for measuring the speed of conveyances.

unit detention centre means a detention centre that is of a standard that the Chief of Defence Force, service chief or an authorized officer considers suitable for detaining a detainee for a period not exceeding 7 days.

vehicle means a motor-powered vehicle, and includes a service vehicle.

visiting officer means an officer appointed under section 17 as a visiting officer for an area detention centre or corrective detention centre.

Part 2—Detainees and detention centres

Division 1—Application

8 Application of Part

- (1) For the purposes of paragraph 178D(b) of the Act, this Part makes provision for, and in relation to, the conduct and administration of detention centres.
- (2) However, the requirements of this Part apply only in relation to a detention centre that is under the control of a part of the Defence Force whose members are on active service if, and to the extent that, the exigencies of service permit.

Division 2—General administration and classification of detention centres

9 Periods of detention

- (1) A person who is sentenced to detention in a detention centre for a period must not be detained:
 - (a) if the period exceeds 7 days—in a unit detention centre; or
 - (b) if the period exceeds 14 days—in an area detention centre.
- (2) For the purposes of subsection (1):
 - (a) if a detainee is sentenced to 2 or more concurrent periods of detention—the period of detention is taken to be the longer or longest of those periods; or
 - (b) if a detainee is sentenced to 2 or more periods of detention to be served consecutively—the period of detention is taken to be equal to the sum of those periods.

10 Duties of officer in charge of detention centre

- (1) The officer in charge of a detention centre is responsible to the officer's immediate superior officer for the management, control and security of the detention centre and the welfare of all detainees in the detention centre.
- (2) The officer in charge of a detention centre must:
 - (a) cause each detainee to be interviewed as soon as practicable after the detainee is admitted to the detention centre; and
 - (b) cause to be brought to the attention of each detainee such of the provisions of this instrument and the general orders as are applicable to the detainee in relation to the detainee's detention in the detention centre.
- (3) The officer in charge of a detention centre must:
 - (a) as far as practicable, visit each part of the detention centre and each detainee in the detention centre every day; and
 - (b) visit and inspect the detention centre at least once each week at night at a time not known in advance by any other person in the detention centre; and
 - (c) ensure that the treatment of detainees in the detention centre is consistent with their rehabilitation for further naval, military or air force service.

11 Accommodation of detainees

- (1) Each detainee must, as far as practicable, be accommodated in a separate cell.
- (2) If it is not practicable to provide each detainee with a separate cell, there must be at least 3 detainees accommodated in each cell containing more than one detainee.
- (3) Each detainee must be provided with a separate bed.
- (4) Each cell in a detention centre must:

Section 12

- (a) be of such a size, and have such heating, lighting, ventilation and equipment, as is necessary for the preservation of the physical and mental health of a detainee; and
- (b) have a means of enabling a detainee to express at any time a wish to communicate with a member of the staff of the detention centre.

12 Cleanliness

A detainee must be provided with facilities to enable the detainee to maintain proper standards of cleanliness and clothing.

13 Meals

- (1) A detainee must be provided each day with food of such type and in such quantities as is ordinarily provided to other defence members.
- (2) A detainee may, subject to any relevant general order, purchase food in addition to that provided in accordance with subsection (1).

14 Purchases

A detainee in a detention centre may make such purchases, in addition to any purchases made by the detainee in accordance with section 13, as the officer in charge of the detention centre thinks fit.

15 Exercise

A detainee who:

- (a) is under punishment of segregated confinement; or
- (b) is under punishment of confinement to cell; or
- (c) who is directed to work indoors within a detention centre in which the detainee is detained;

must, if practicable, be permitted to exercise daily in open air.

16 Newspapers etc.

A detainee in a detention centre must be permitted to have access to such newspapers, and to view or listen to such daily television or radio broadcasts, as the officer in charge of the detention centre thinks reasonable.

17 Visiting officers

An authorized officer must in writing appoint, in respect of each area detention centre or corrective detention centre, at least one officer to be a visiting officer for the area detention centre or corrective detention centre.

18 Duties of visiting officers

A visiting officer for an area detention centre or corrective detention centre must:

- (a) visit and inspect the area detention centre or corrective detention centre at such times, or at such intervals, as an authorized officer directs; and

- (b) as far as practicable, visit all detainees in the area detention centre or corrective detention centre and hear any complaints or requests those detainees wish to make; and
- (c) give a report to the proper authority after each visit and inspection made in accordance with paragraph (a); and
- (d) do the following in relation to any complaint made to the visiting officer by a detainee in the area detention centre or corrective detention centre:
 - (i) make a record of the complaint;
 - (ii) make such inquiries into the complaint as are reasonable;
 - (iii) report the complaint and the result of those inquiries to the proper authority.

19 Visits

- (1) Subject to this section, a detainee in a detention centre must be permitted, at reasonable times, to receive visits from any of the following:
 - (a) if the detention centre is an area detention centre or corrective detention centre—a visiting officer for that centre;
 - (b) a medical officer;
 - (c) a chaplain;
 - (d) a legal practitioner;
 - (e) a police member;
 - (f) a constable.
- (2) Subject to this section, the detainee must be permitted, at reasonable times, to receive visits from persons other than persons referred to in subsection (1).
- (3) A permission given under subsection (2) may be given subject to such reasonable conditions as the officer in charge of the detention centre thinks fit.
- (4) A visit to a detainee in a detention centre permitted under this section must take place out of the hearing, but within the sight, of a member of the staff of the detention centre.
- (5) If the officer in charge of a detention centre reasonably believes that a visitor to a detention centre is likely to endanger or interfere with the security or discipline of the detention centre, the officer in charge may:
 - (a) refuse the visitor entry to the detention centre; or
 - (b) cause the visitor to be removed from the detention centre.
- (6) The officer in charge of a detention centre may use such reasonable force as is necessary to give effect to a refusal or removal under subsection (5).

20 Religion

A detainee in a detention centre must, as far as is reasonable, be permitted to:

- (a) engage in the normal activities of his or her religion; and
- (b) have in his or her possession, or have access to, books and objects used in the practice of his or her religion.

Section 21

21 Performing work

- (1) Subject to this section, the officer in charge of a detention centre may direct a detainee in the detention centre to perform work of a kind that it is reasonable to expect the detainee to perform.
- (2) A direction under subsection (1) must, if practicable, require the detainee to perform at least 6 hours of work each day but must not require the detainee to perform more than 9 hours of work each day.
- (3) In directing the detainee to perform particular work, the officer in charge of the detention centre must take into account:
 - (a) the religion of the detainee; and
 - (b) the mental and physical capacity of the detainee.
- (4) The detainee must not be directed to perform work:
 - (a) that, in the opinion of a medical practitioner, would be likely to be detrimental to the physical or mental health of the detainee; or
 - (b) on Christmas Day, Good Friday or a day of religious observance for the detainee, other than such work as is necessary for the continued daily operation of the detention centre; or
 - (c) otherwise than for the benefit of the Commonwealth.

Division 3—Letters and parcels

22 Staff members approved to open letters and parcels

- (1) The officer in charge of a detention centre may, in writing, appoint a member of the staff of the detention centre to be an approved staff member of the detention centre for the purposes of this Division.
- (2) The officer in charge of a detention centre or an approved staff member of a detention centre may, subject to this Division:
 - (a) open, inspect and read letters sent to, or proposed to be sent by, a detainee in the detention centre; and
 - (b) open and inspect parcels sent to, or proposed to be sent by, a detainee in the detention centre.

23 Receiving and sending letters and parcels

- (1) Subject to this section, a detainee may send letters or parcels to, and receive letters or parcels from, persons who are not detained on agreeing, in the case of letters or parcels sent by post, to the opening or inspection of those letters or parcels in accordance with this Division.
- (2) A detainee in a detention centre must be permitted to send:
 - (a) immediately on being admitted to the detention centre—2 letters; and
 - (b) in every week of detention in the detention centre—2 letters; and
 - (c) such additional letters as the officer in charge of the detention centre permits.
- (3) If a detainee delivers to the officer in charge of a detention centre, or an approved staff member of the detention centre, a letter addressed by the detainee to the Defence Force Ombudsman, the Inspector-General ADF, a member of Parliament, a legal practitioner or an authorized officer:
 - (a) the officer in charge must cause the letter to be sent to the addressee; and
 - (b) the letter must not be opened, inspected or read other than by the person to whom it is addressed or some other person authorised by that person.
- (4) A letter from the Defence Force Ombudsman or Inspector-General ADF that has been, or purports to have been, addressed to a detainee must not be opened, inspected or read other than by the detainee or another person authorised by the detainee.
- (5) Subject to subsection (6), if:
 - (a) a member of Parliament or a legal practitioner sends a detainee a letter in a sealed envelope (the *first letter*); and
 - (b) the first letter is accompanied by a letter addressed to the officer in charge of the detention centre indicating that privilege is claimed in respect of the first letter;the first letter must not be opened and inspected, or read, by any person other than the detainee or another person authorised by the detainee.

Section 24

- (6) If the officer in charge of a detention centre or an approved staff member of the detention centre reasonably believes that the first letter may contain money, contraband or any item or matter that is likely to adversely affect the security, discipline or good order of the detention centre:
 - (a) the detainee may be required to open the first letter in the presence of the officer in charge or the approved staff member; and
 - (b) if the first letter contains money, contraband or any item or matter of that kind—the officer in charge or the approved staff member may impound the money, contraband or that other item or matter.

24 Letters and parcels to be opened in certain cases

- (1) This section applies if the officer in charge of a detention centre or an approved staff member of the detention centre reasonably believes that the security, discipline or good order of the detention centre is likely to be adversely affected by the delivery to, or despatch from, a detainee of any letter or parcel.
- (2) Subject to section 23, the officer in charge or the approved staff member may:
 - (a) open, inspect and read the letter, or open and inspect the parcel, as the case may be; and
 - (b) impound any money, contraband or any item or matter found in the letter or parcel that, in the opinion of the officer in charge, may adversely affect the security, discipline or good order of the detention centre.
- (3) The officer in charge must inform the detainee if any money, contraband or any item or matter of that kind is impounded under paragraph (2)(b).

25 Impounded articles

Anything impounded under subsection 23(6) or 24(2) may be dealt with in accordance with such directions as may be given by the Chief of the Defence Force or a service chief.

Part 3—Remission and release

26 Application of Part

For the purposes of section 178D of the Act, this Part makes provision for and in relation to:

- (a) the remission of punishments of detention of detainees; and
- (b) the conduct and administration of detention centres.

27 Remission

- (1) Subject to this section, a detainee who is serving a period of detention of not less than 28 days is entitled to a remission of one-quarter of the period of detention.
- (2) If the remission of a period of detention would, apart from this subsection, reduce the period of detention to less than 24 days, the period of detention is to be remitted to a period of 24 days.
- (3) If a custodial punishment is imposed on a detainee, the period of remission to which the detainee would, apart from this subsection, be entitled, must be reduced:
 - (a) for each day of the punishment of segregated confinement served by the detainee—by 3 days; or
 - (b) for each day of the punishment of confinement to a cell served by the detainee—by 2 days; or
 - (c) for each day of the punishment of extra drill served by the detainee—by 1 day; or
 - (d) for continuous or discontinuous periods of the punishment of restriction of custodial privileges which in the aggregate amount to more than 7 days—by 1 day for each such period of not less than 7 days.
- (4) If a punishment of a period of detention is imposed on a detainee in respect of an offence committed during a period of detention, the detainee is not entitled to remission in respect of the latter period of detention.

28 Release

- (1) If, apart from this section, a period of punishment of a detainee in a detention centre by remission or otherwise would expire on a Sunday or public holiday (the *expiry day*), the officer in charge of the detention centre may remit so much of the unexpired period of detention as would enable the detainee to be released on the last day preceding the expiry day that is not a Sunday or public holiday.
- (2) A detainee may be released at any time during the period of 24 hours immediately preceding the expiration of the detainee's period of detention.

Part 4—Rules of evidence

Division 1—Evidence of speed of conveyances

29 Application of Division

For the purposes of subsection 146(2) of the Act, this Division makes rules of evidence to be applied in relation to trials by a court martial or Defence Force magistrate.

30 Evidence of speed of conveyances—use of speed measuring devices

- (1) This section applies in relation to proceedings before a court martial or Defence Force magistrate for an offence against section 40A of the Act.
- (2) Evidence of the speed of the conveyance as measured at a particular time by means of a speed measuring device is evidence of the speed of the conveyance at that time if the court martial or Defence Force magistrate, as the case may be, is satisfied that:
 - (a) the speed measuring device was tested, not more than 12 months before that time, by an approved tester in accordance with:
 - (i) Australian Standard AS 4691.2-2003 *Laser-based speed detection devices, Part 2: Operational procedures*, as in force when this instrument commenced; and
 - (ii) any specifications of the manufacturer of the device that applied when this instrument commenced; and
 - (b) the device was, upon completion of that test, sealed by an approved tester in accordance with:
 - (i) Australian Standard AS 4691.1-2003 *Laser-based speed detection devices, Part 1: Definitions and device requirements*, as in force when this instrument commenced; and
 - (ii) any specifications of the manufacturer of the device that applied when this instrument commenced; and
 - (c) at that time the device was operated by a police member in accordance with Australian Standard AS 4691.2-2003 *Laser-based speed detection devices, Part 2: Operational procedures*, as in force when this instrument commenced.
- (3) For the purposes of subsection (2), the production to a court martial or Defence Force magistrate of a certificate in accordance with Form 1, 2 or 3 in Schedule 1 to this instrument is prima facie evidence of the facts stated in the certificate.

31 Approved tester

An authorized officer who holds at least the Navy rank of captain, the Army rank of colonel or the Air Force rank of group captain may appoint, by instrument in accordance with Form 1 in Schedule 1 to this instrument, an electrical engineer or an electronic technician as an approved tester for the purposes of this Division.

32 Certificates

- (1) If an approved tester tests a speed measuring device, the approved tester must complete a certificate in relation to the test in accordance with Form 2 in Schedule 1 to this instrument.
- (2) If a police member operates a speed measuring device, the police member must complete a certificate in relation to the operation in accordance with Form 3 in Schedule 1 to this instrument.

33 Offence in relation to speed measuring devices

A person commits an offence if:

- (a) the person engages in conduct; and
- (b) the person's conduct damages, or tampers or interferes with, a sealed speed measuring device.

Penalty: 2 penalty units.

Division 2—Other rules of evidence

34 Admissibility of evidence adduced before summary authority

- (1) For the purposes of subsection 111A(2) of the Act, evidence in relation to a charge adduced in proceedings before a summary authority for the purposes referred to in subsection 111A(1) of the Act is admissible in evidence if:
 - (a) the summary authority is satisfied that it would not be unfair to the person charged to admit that evidence; and
 - (b) that person consents to the evidence being admitted.
- (2) For the purposes of subsection 111A(2) of the Act, in proceedings before a summary authority in relation to a charge, a record of the evidence adduced in proceedings in relation to that charge before a summary authority for the purposes referred to in subsection 111A(1) of the Act is admissible in evidence if:
 - (a) the summary authority is satisfied that it would not be unfair to the person charged to admit that record; and
 - (b) that person consents to the record being admitted.

35 Evidence of general orders

For the purposes of subsection 146(2) of the Act, in proceedings before a court martial or Defence Force magistrate, a document certified by an authorized officer to be a copy of a general order is prima facie evidence of the order.

36 Modification of the *Evidence Act 1995* in its application to proceedings before a court martial or Defence Force magistrate

For the purposes of subsection 146(2) of the Act, clause 1 of Part 2 of the Dictionary in the *Evidence Act 1995* has effect, in relation to proceedings before a court martial or Defence Force magistrate, as if the following paragraph were added at the end of subclause (1) of that clause:

- (g) the control, operation and administration of the Defence Force.

Part 5—Miscellaneous

37 Calculation of daily rate of pay of convicted person

For the purposes of paragraph 3(9)(a) of the Act, the amount that is to be taken, for the purposes of the Act, to be the amount of daily rate of pay applicable in relation to a class of persons in which a convicted person is included is:

- (a) if, on the day on which the person is convicted, a determination is in force under section 58H of the *Defence Act 1903* in relation to that class of persons—the amount of daily rate of pay payable, in accordance with that determination, to a person included in that class of persons on that day; or
- (b) otherwise—the amount of daily rate of pay payable, in accordance with a determination in force under section 58B of the *Defence Act 1903*, to a person included in that class of persons on that day.

38 Chaplains—notional ranks

For the purposes of subsection 6(2) of the Act, in matters relating to the discipline of a member of the Defence Force who is a chaplain of a kind referred to in column 1 of an item of the table, the chaplain is notionally taken to hold:

- (a) the rank in the Navy specified in column 2 of the table for that item; and
- (b) the rank in the Army specified in column 3 of the table for that item; and
- (c) the rank in the Air Force specified in column 4 of the table for that item.

Chaplains and corresponding ranks				
Item	Column 1 Chaplain	Column 2 Navy rank	Column 3 Army rank	Column 4 Air Force rank
1	Chaplain Division 5	Commodore	Brigadier	Air Commodore
2	Chaplain Division 4	Captain	Colonel	Group Captain
3	Chaplain Division 3	Commander	Lieutenant Colonel	Wing Commander
4	Chaplain Division 2	Lieutenant Commander	Major	Squadron Leader
5	Chaplain Division 1	Lieutenant	Captain	Flight Lieutenant

39 Members receiving instruction or training

- (1) For the purposes of paragraph 6(2)(b) of the Act, Schedule 3 to the Act is modified as set out in subsections (2) to (6) of this section to the extent that the Schedule relates to members of the Defence Force referred to in that paragraph receiving instruction or training.
- (2) Column 1 of item 1 of Table B in Schedule 3 to the Act is modified by inserting “(other than an officer cadet)” after “squadron leader”.
- (3) Table B in Schedule 3 to the Act is modified by inserting after item 1:

Section 40

1A	Officer cadet	Fine exceeding the amount of the convicted person's pay for 7 days but not exceeding the amount of the convicted person's pay for 14 days	Fine not exceeding the amount of the convicted person's pay for 7 days Severe reprimand Restriction of privileges for a period not exceeding 14 days Stoppage of leave for a period not exceeding 7 days Extra duties for a period not exceeding 3 days Extra drill for not more than 2 sessions of 30 minutes each per day for a period not exceeding 3 days Reprimand
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(4) Column 1 of item 1 of Table C in Schedule 3 to the Act is modified by inserting “(other than an officer cadet)” after “Officer”.

(5) Table C in Schedule 3 to the Act is modified by inserting after item 1:

1A	Officer cadet	Fine exceeding the amount of the convicted person's pay for 7 days but not exceeding the amount of the convicted person's pay for 14 days	Fine not exceeding the amount of the convicted person's pay for 7 days Severe reprimand Restriction of privileges for a period not exceeding 14 days Stoppage of leave for a period not exceeding 7 days Extra duties for a period not exceeding 3 days Extra drill for not more than 2 sessions of 30 minutes each per day for a period not exceeding 3 days Reprimand
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(6) Column 1 of item 2 of Table D in Schedule 3 to the Act is modified by omitting “Member below non-commissioned rank” and substituting “Officer cadet or member below non-commissioned rank”.

40 Form of oath or affirmation

For the purposes of subsections 86A(2) and 101AA(2) of the Act, the prescribed form of oath or affirmation is Form 4 in Schedule 1 to this instrument.

41 Service of summonses and notices

For the purposes of subsections 87(2), 88(2), 98(6) and 99(3) of the Act, a summons or notice must be served on a person (the *first person*):

- (a) by delivering the summons or notice to the first person personally; or
- (b) in the case of a notice—by leaving it at, or by sending it by pre-paid post to, the address of the place of residence or business of the first person last known to the person serving the notice; or
- (c) by leaving the summons or notice at the last known place of residence of the first person with some person apparently resident at that place and apparently not less than 16 years of age; or
- (d) by leaving the summons or notice at:
 - (i) if the first person is carrying on business at 2 or more places—at one of those places with some person apparently in the service of the first person and apparently not less than 16 years of age; or
 - (ii) otherwise—the last known place of business of the first person; or
- (e) by personally delivering the summons or notice to a legal officer or legal practitioner who represents the first person; or
- (f) if the first person has an email address provided to the first person as a member of the Defence Force—by sending the summons or notice to that address.

42 Power of arrest

- (1) For the purposes of paragraph 89(2)(d) of the Act:
 - (a) a police member who is not an officer; or
 - (b) a person, who is not an officer, lawfully exercising authority under or on behalf of a service police officer;does not have a power of arrest over an officer in relation to a service offence unless one or more of the conditions specified in subsection (2) are satisfied.
- (2) The following conditions are specified:
 - (a) the service offence involves disorderly or violent behaviour;
 - (b) the service offence is an offence under Division 1 or 2 of Part III of the Act (other than section 23 or 24 of the Act);
 - (c) the reason for the arrest is the exigencies of service.
- (3) For the purposes of paragraph 89(2)(d) of the Act:
 - (a) a police member who is not a designated officer; or
 - (b) a person, who is not a designated officer, lawfully exercising authority under or on behalf of a service police officer;does not have a power of arrest over a defence civilian.

43 Form of caution

A caution under paragraph 101D(1)(a) of the Act must be in the form set out in Form 5 in Schedule 1 to this instrument.

Section 44

44 Prescribed places for purposes of subsection 101F(1) of the Act

For the purposes of subsection 101F(1) of the Act, each of the places specified in Schedule 2 to this instrument is prescribed.

45 Form of acknowledgement of record of interview

For the purposes of paragraph 101K(3)(a) of the Act, a record of interview of an accused is acknowledged in the prescribed manner if:

- (a) if the record of interview is not more than one page—the accused signs an acknowledgement endorsed at the bottom of that page that the record is a full and correct record; or
- (b) otherwise—the accused signs an acknowledgement endorsed at the bottom of the last page of the record that the record is a full and correct record and signs at the bottom of each other page.

46 Form of certificate for purposes of sub-subparagraph 101K(4)(d)(ii)(B) of the Act

For the purposes of sub-subparagraph 101K(4)(d)(ii)(B) of the Act, the prescribed form of certificate is Form 6 in Schedule 1 to this instrument.

47 Form of explanation for purposes of paragraph 101K(4)(e) of the Act

For the purposes of paragraph 101K(4)(e) of the Act, the prescribed form of explanation is Form 7 in Schedule 1 to this instrument.

48 Prescribed class of persons for purposes of paragraph 101K(14)(a) of the Act

For the purposes of paragraph 101K(14)(a) of the Act, a prescribed class of persons is members of the Defence Force who:

- (a) are not police members; and
- (b) hold at least the Navy rank of petty officer or the Army or Air Force rank of sergeant; and
- (c) hold a rank that is at least equal to the rank of the relevant investigating officer referred to in subsection 101K(1) of the Act.

49 Form of acknowledgement for purposes of subsection 101N(2) of the Act

For the purposes of subsection 101N(2) of the Act, the prescribed form of acknowledgement is Form 8 in Schedule 1 to this instrument.

50 Form of acknowledgement for purposes of subsection 101ZA(2) of the Act

For the purposes of subsection 101ZA(2) of the Act, the prescribed form of acknowledgement is Form 9 in Schedule 1 to this instrument.

51 Prescribed service offences for purposes of paragraph 104(b) of the Act

For the purposes of paragraph 104(b) of the Act, each of the following service offences is prescribed:

- (a) a service offence that is punishable by imprisonment for more than 2 years, other than:
 - (i) an offence against subsection 43(1), or section 47C, 47P, 47Q, 48 or 52, of the Act; or
 - (ii) an offence that is an ancillary offence in relation to an offence referred to in subparagraph (i) of this paragraph;
- (b) an offence against section 18, 36, 39 or 58 of the Act.

52 Prescribed class of officers for the purposes of paragraph 108(4)(a) of the Act

For the purposes of paragraph 108(4)(a) of the Act, the class of officer cadets is prescribed.

53 Record of previous convictions

- (1) For the purposes of facilitating compliance with subsection 70(2) of the Act, the service chief of each arm of the Defence Force must, in respect of each member of the Defence Force in that arm, cause to be kept a record of the convictions of the member for service offences, civil court offences and overseas offences.
- (2) The service chief of an arm of the Defence Force must, at the request of a member of the Defence Force serving in that arm, cause to be made available to the member a copy of any record kept under this section in respect of that member.

Part 6—Transitional provision

54 Things done under the *Defence Force Discipline Regulations 1985*

- (1) If:
 - (a) a thing was done for a particular purpose under the *Defence Force Discipline Regulations 1985*, as in force immediately before the commencement of this instrument; and
 - (b) the thing could be done for that purpose under this instrument;
the thing has effect for the purposes of this instrument as if it had been done under this instrument.
- (2) Without limiting subsection (1), a reference in that subsection to a thing being done includes a reference to a notice, approval or other instrument being given or made.

Schedule 1—Forms

Form 1—Appointment of approved tester

Note: See section 31.

Commonwealth of Australia

Defence Force Discipline Act 1982

I,
(full name) a
.....
(rank) in the
.....
(force)
acting under section 31 of the *Defence Force Discipline Regulations 2018*, hereby appoint
(full name)
.....
an electrical engineer* /electronic technician*, as an approved tester for the purposes of that
instrument.

(Signature)

.....
(Rank)

.....
(Date)

*Strike out whichever is inapplicable.

Form 2—Certificate of testing of speed measuring device (valid for 12 months)

Note: See subsection 32(1).

Commonwealth of Australia

Defence Force Discipline Act 1982

(full name)

I,

certify that:

- (a) I have been appointed as an approved tester for the purposes of section 31 of the *Defence Force Discipline Regulations 2018*, and to the best of my knowledge and belief that appointment has not been revoked; and
- (b) I have this day tested a speed measuring device of the following type:

(type of device)

..... and
bearing the following identification number or symbols:

(identification number or symbols)

-; and
- (c) I tested the speed measuring device in accordance with paragraph 30(2)(a) of that instrument; and
- (d) upon completion of the test, I sealed the speed measuring device in accordance with paragraph 30(2)(b) of that instrument.

(Signature)

.....
Approved tester

(Date)

.....

Form 3—Certificate of having operated a speed measuring device

Note: See subsection 32(2).

Commonwealth of Australia

Defence Force Discipline Act 1982

(full name)

I,,

certify that:

- (a) I am a police member for the purposes of the above Act; and
(time of day)
- (b) I have this day at.....at
(place of operation)
-
operated a speed measuring device within the meaning of section 7 of the *Defence Force Discipline Regulations 2018*, bearing identification number or symbols
(identification number or symbols)
....., in accordance with paragraph 30(2)(c) of that instrument; and
- (c) while I so operated the speed measuring device I measured the speed of a conveyance of the make
(make of conveyance)

.....
(registration number)

and bearing registration number.....
and that the speed at which that conveyance was then moving, as displayed on the digital speed

(speed)

display of the device, was.....
kilometres per hour; and

- (d) as soon as was practicable I recorded that speed and that make and registration number, and the speed, make and registration number stated in this certificate conform with the speed, make and registration number that I so recorded.

(Signature)

.....
Police member

(Date)
.....

Form 4—Form of oath and affirmation

Note: See section 40.

1 Form of oath

I swear by Almighty God that the information I am about to give shall be the truth, the whole truth and nothing but the truth.

2 Form of affirmation

I do solemnly, sincerely and truly declare and affirm that the information I am about to give shall be the truth, the whole truth and nothing but the truth.

Form 5—Caution to person charged or summoned

Note: See section 43.

Commonwealth of Australia

Defence Force Discipline Act 1982

Pursuant to section 101D of the *Defence Force Discipline Act 1982*, you are cautioned that:

- (a) you are not obliged to, but you may if you wish, answer any questions, or do anything, asked of you by an investigating officer, and anything said or done by you may be used in evidence; and
- (b) you may communicate with a legal practitioner and have, as provided by Part VI of that Act, the assistance of a legal practitioner while you are being questioned; and
- (c) you may, as provided in Part VI of that Act, communicate with a relative or friend.

Form 6—Certificate of appropriate witness

Note: See section 46.

Commonwealth of Australia

Defence Force Discipline Act 1982

I, of
(Name of appropriate witness) (Residential address of appropriate witness)

in the , being ,
(State or Territory) (qualification of appropriate witness under subsection 101K(14) of the Act)

certify that paragraphs 101K(4)(b) and (c) of the Act were complied with in my presence and that the record of what was said by and to
(Name of accused)

as a result of compliance with paragraph 101K(4)(c) of the Act is a full and correct record.

Dated 20

.....
(Signature of appropriate witness)

Form 7—Explanation to accused

Note: See section 47.

Commonwealth of Australia

Defence Force Discipline Act 1982

The following is the form of explanation to be given to an accused person of the procedure that will be followed for the purpose of compliance with paragraphs 101K(4)(b), (c) and (d) of the *Defence Force Discipline Act 1982* in respect of a record made of an interview with the accused:

1. You have been given a copy of the record of the interview with you. The record will be read to you in the language used by you during the interview.
2. You may interrupt the reading of the record of interview at any time for the purpose of drawing attention to any error or omission that you claim has been made in or from the record and, at the end of the reading, you will be given an opportunity of stating whether you claim that there are any errors in or omissions from the record, in addition to any to which you have drawn attention during the reading.

Where a sound recording is made:

3. Two sound recordings of the reading referred to in paragraph 1 will be made by the one multiple sound recording apparatus and of everything said by and to you as a result of compliance with the matters raised in paragraph 2.
4. You will be handed one of the sound recordings.
5. The other recording will be retained by the Defence Force and may be used in evidence.
6. You should make arrangements for the safe-keeping of the recording handed to you so that it will be available for comparison with the sound recording retained by the Defence Force and, if you so request, you will be afforded an opportunity to make arrangements for the safe-keeping of your recording on your behalf.
7. If you or your legal practitioner so request, you or your legal practitioner will, as soon as practicable, be provided with reasonable facilities to enable the sound recording to be reproduced in sound.

OR, where a sound recording is not made but an appropriate witness is present:

3. An appropriate witness will be present during the reading of the record of interview referred to in paragraph 1 or when anything is said by or to you as a result of compliance with paragraph 2 and a record in writing will be made of everything said by and to you as a result of compliance with paragraph 2 while it is being said or as soon as practicable thereafter (persons who can be appropriate

Schedule 1 Forms

Form 7 Explanation to accused

witnesses include a legal practitioner advising you, or a relative or friend present at your request).

4. The appropriate witness will sign a prescribed form of certificate certifying that the requirements of paragraphs 101K(4)(b) and (c) of the Act have been complied with in the presence of the witness and that the record is a full and correct record.

Form 8—Acknowledgement of suspect in relation to the holding of an identification parade

Note: See section 49.

Commonwealth of Australia

Defence Force Discipline Act 1982

I,..... of.....

(Name of suspect)

(Residential address of suspect)

in the, acknowledge that I was informed, on

(State or Territory)

..... at..... that:

(Date)

(Time)

- (a) I am entitled to refuse to agree to the holding of an identification parade for the purpose of ascertaining whether a witness to a relevant act in relation to a service offence can identify me as a relevant person in relation to that act; and
- (b) if I do not agree to the holding of the parade and to take part in the parade, evidence may be given, in any proceedings with respect to the service offence, of any identification of me by a witness as a result of:
 - (i) having seen a photograph or series of photographs; or
 - (ii) having seen me otherwise than during an identification parade; and
- (c) if I do take part in the identification parade, evidence may be given, in any proceedings with respect to the service offence:
 - (i) of any identification made by the witness;
 - (ii) of any doubts expressed by the witness, during or immediately following the holding of the parade; and
 - (iii) of any unfairness in the conducting of the parade; and
- (d) I may have present, during the holding of the parade, a legal practitioner or other person of my choice if arrangements can be made for the legal practitioner or other person to be present within a reasonable time.

Dated 20

.....

(Signature of suspect giving
this acknowledgement)

Form 9—Acknowledgement of consent to search

Note: See section 50.

Commonwealth of Australia

Defence Force Discipline Act 1982

I, (full name) acknowledge that:

- (a) I have been informed that I may refuse to give my consent, in relation to the investigation of a service offence:
- *(i) to be searched;
 - *(ii) to the search of the clothing worn by me;
 - *(iii) to the search of property under my immediate control;
 - *(iv) as the occupier, to the entry and search of the *land/ *premises known as (*address or location of land/premises*);
 - *(v) as the person in charge, to the entry and search of the *ship/ *aircraft/ *vehicle, being (*name, registration number or other means of identification of the ship, aircraft or vehicle; if appropriate, describe the part to be searched*) and now located at (*present location of ship, aircraft or vehicle*); and
- (b) I have, on (*date*) at (*place and time*) voluntarily given my consent, in relation to the investigation of a service offence:
- *(i) to be searched;
 - *(ii) to the search of the clothing worn by me;
 - *(iii) to the search of the property under my immediate control;
 - *(iv) to the entry and search of the *land/ *premises described in subparagraph (a)(iv);
 - *(v) to the entry and search of the *ship/ *aircraft/ *vehicle described in subparagraph (a)(v).

Dated 20

.....
(*Signature of person giving this
acknowledgement*)

**Omit if inapplicable*

Schedule 2—Prescribed places for purposes of subsection 101F(1) of the Act

Note: See section 44.

New South Wales

Albury
Balmoral
Concord
Garden Island
Georges Heights
Glenbrook
Holsworthy
Ingleburn
Kingswood
Lismore
Liverpool
Manly
Moorebank
Neutral Bay
Newcastle
Nowra
Paddington
Parkes
Parramatta
Penrith
Pymble
Quaker's Hill
Randwick
Regents Park
Richmond
Singleton
Wagga Wagga
Watson's Bay
Waverton
Williamtown

Victoria

Crib Point
Laverton
Melbourne City
Point Cook
Port Melbourne
Puckapunyal
Queenscliff
Sale
Sorrento
South Melbourne
Tottenham
Williamstown

Wodonga

Queensland

Amberley
Brisbane City
Cairns
Canungra
Enoggera
Oakey
Rockhampton
Toowoomba
Townsville

South Australia

Adelaide City
Edinburgh
Port Adelaide
Woodside

Western Australia

Exmouth
Fremantle
Garden Island
Karrakatta
Northam
Pearce
Perth City
Swanbourne

Tasmania

Hobart
Launceston

Northern Territory

Darwin

Australian Capital Territory

Canberra
Jervis Bay

Schedule 3—Repeals

Defence Force Discipline Regulations 1985

1 The whole of the instrument

Repeal the instrument.