Subsection 197(1) of the Defence Force Discipline Act 1982 (the Discipline Act) provides that the Governor-General may make regulations, not inconsistent with the Discipline Act, prescribing matters required or permitted by the Discipline Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Discipline Act.

The Defence Force Discipline Regulations 1985 (the Principal Regulations) prescribe various matters relating to the administration of the discipline system established by the Discipline Act.

Several offences under the Discipline Act relate to the misuse of service vehicles. In proving these offences, evidence of the speed at which the offender's vehicle was travelling will often be relevant. Currently, regulation 25A of the Principal Regulations permits the admission of evidence of speed, derived from the use of the "Kustom Falcon" radar-based speed measuring device and the “Kustom Prolaser II” laser-based speed measuring device in proceedings.

Since regulation 25A was last amended in 2009, a laser-based speed measuring device known as the "LTI 20-20 TruSpeed" has become available to military and service police.

The Regulations amend regulation 25A to allow the evidence obtained from the use of the "LTI 20-20 TruSpeed” laser speed device to be admitted in proceedings. Existing safeguards relating to the operation and testing of radar and laser speed devices are included in the amended regulation 25A.

Details of the Regulations are set out in the Attachment.

The Discipline Act specifies no conditions that need to be satisfied before the power to make the Regulations may be exercised.

Consultation was considered inappropriate and unnecessary pursuant to section 18 of the Legislative Instruments Act 2003 because the amendment relates to the service of members of the Australian Defence Force. However, the amendment and the Explanatory Statement was cleared by Defence Legal.

The Regulations are a legislative instrument for the purposes of the Legislative Instruments Act 2003.

The Regulations commence on the day after they are registered on the Federal Register of Legislative Instruments.
Detail of the Defence Force Discipline Amendment Regulations 2011 (No. 1)

Regulation 1 – Name of the Regulations

This regulation provides that the title of the Regulations is the Defence Force Discipline Amendment Regulations 2011 (No. 1).

Regulation 2 – Commencement

This regulation provides for the Regulations to commence the day following registration.

Regulation 3 – Amendment of the Defence Force Discipline Regulations 1985

This regulation provides that Schedule 1 amends the Defence Force Discipline Regulations 1985 (the Principal Regulations).

Schedule 1 – Amendments

Item [1] substitutes the existing definition of laser-based device in the Principal Regulations to include the LTI 20-20 TruSpeed device.

Item [2] amends Paragraph 25A (7A) (b) to include the requirements for operating the LTI 20-20 TruSpeed device, in addition to the existing requirements for operating the Kustom Prolaser II device.

Item [3] deletes the word ‘radar’ from Form 7 to allow the form to be used for either a radar-based device or a laser-based device.