

Defence Certificate of Compliance Guidance Materials

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1. Purpose of the Guidance Materials

The purpose of the Guidance Materials is to explain to Heads (“Heads”) and GFOs (or equivalent) of the following organisational entities (“entities”) the approach to completing their Certificates of Compliance for the reporting period:

Defence
Army
Navy
Air Force
Intelligence and Security Group
Defence Support Group
Joint Logistics Group
Chief Information Officer Group
Defence Science and Technology Organisation
Inspector-General
Vice Chief of Defence Force/ Chief Joint Operations
Capability Development Executive
Strategy Executive
Finance Executive
Personnel Executive
Chief of Staff Australian Defence Headquarters
Military Justice Organisations

2. Introduction to the Certificate of Compliance

In 2006, the Government introduced a new reporting requirement called the Certificate of Compliance. The Certificate requires the Chief Executive of all *Financial Management and Accountability Act 1997* agencies to attest that their agency has (except to the extent known in the Appendix to the Certificate):

- a) complied with the Australian Government’s financial management framework and other specified Commonwealth policies; and
- b) operated within the agreed resources for the current year and has adopted, or will adopt the appropriate management strategies for all known risks that may affect the financial sustainability of their agency.

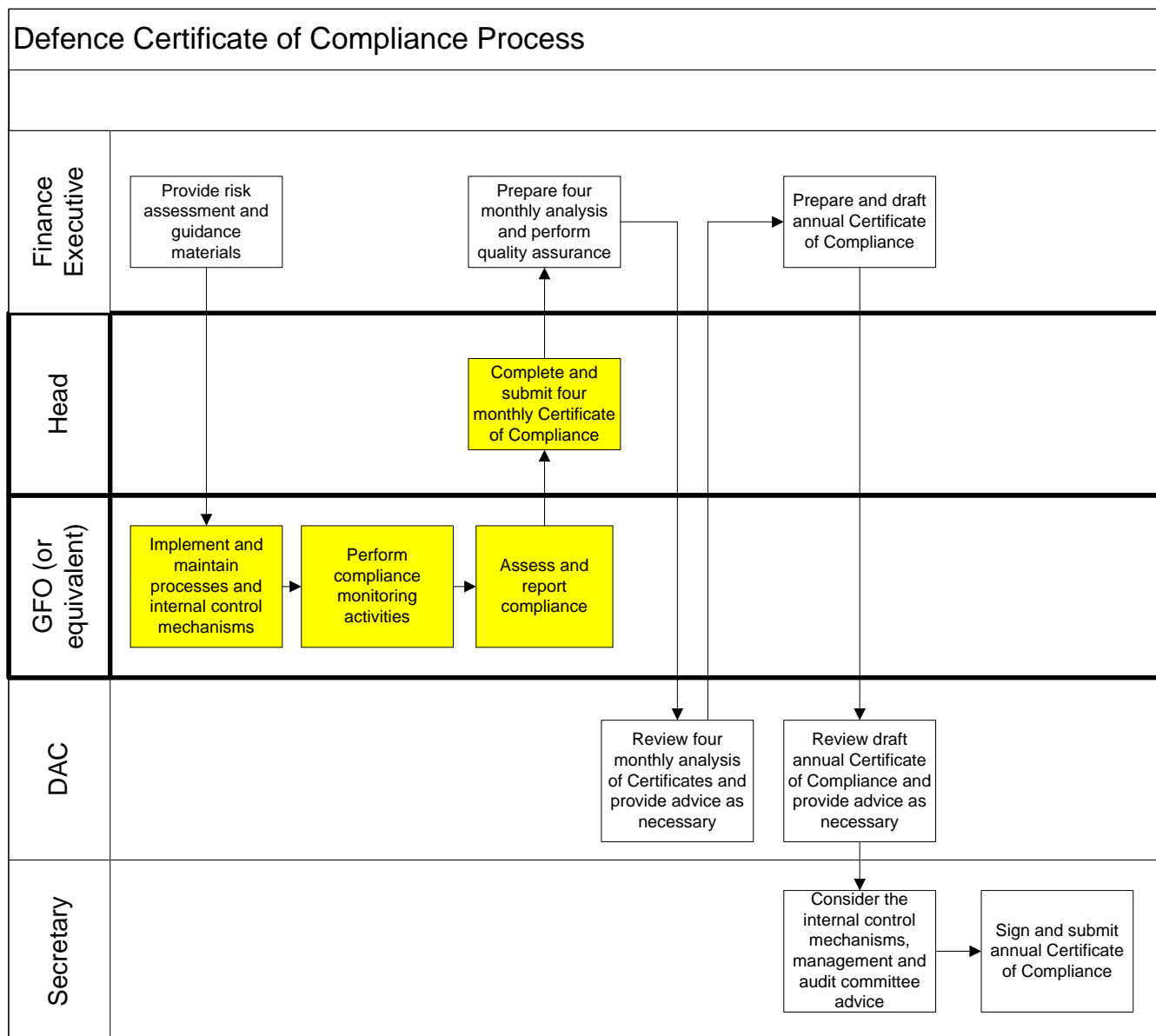
It also requires the Chief Executive to list:

- a) known instances of non compliance and the corrective action that has been, or will be undertaken and when it will be undertaken;
- b) reasons why the Agency is not operating within agreed resources (if applicable); and
- c) details of each proposal authorised by a delegate under FMA Regulation 10.

One of the Secretary's considerations before signing the Defence Certificate of Compliance is management advice. In order to provide such advice the Certificate will be cascaded down to the Heads of each entity that has an allocated budget.

From September 2006, each Head will need to complete their own Certificate of Compliance 3 times a year in four monthly reporting periods. Information collected through these Certificates will be collated and form the basis of Defence's Annual Certificate of Compliance that the Secretary must sign off by 15 October each year.

Details on the approach to be adopted by Defence to complete the Annual Certificate of Compliance are as follows:



3. Role and Responsibility of the Head

As per the Process Map above, the role and responsibility of the Head is to complete and sign the certificates of compliance each reporting period.

The Head's Certificate of Compliance is attached at Annex A.

As the Head of the Entity what am I certifying?

You are certifying with **reasonable confidence** that based on the entities processes, internal control mechanisms and compliance monitoring activities, the entity has

- 1) complied with the requirements of the legislation and policies under the certificate (except for **known** instances detailed in the Compliance Requirements Template); and
- 2) operated within the agreed resources for the current financial year (except for **known** instances detailed in Compliance Requirements Template) and adopted, or will adopt, appropriate management strategies for all known risks that may affect the financial sustainability of the entity

What are the requirements of the legislation and policies under the certificate and which ones are applicable to my entity?

The Certificate's scope includes the financial management legislative framework (FMA Act, FMA Regulations, FMA Orders and FMA Delegation) and 10 other specific Commonwealth policies as detailed in Annex B.

Finance Executive has reviewed the legislation and Commonwealth policies under the Certificate to determine the number of applicable requirements for Defence. These applicable requirements are detailed at Annex B, Compliance Requirements Template, and sorted by legislation and Commonwealth policy name.

There are 172 requirements applicable to Defence. Not all requirements are applicable to each entity, as such the Finance Executive has allocated requirements to specific entities as deemed appropriate. The table below can be used to calculate the maximum number of requirements against which you will be certifying compliance.

Allocated to:	Number of requirements
Portfolio	84
All Entities	55
Defence Support Group	30
Inspector General	3
Total	172

Finance Executive will certify compliance with requirements in the "Portfolio" category. Every entity will certify compliance with requirements allocated to the "All Entities" category. Defence Support Group will certify compliance with requirements in the

“Defence Support Group” and “All Entities” category. Inspector General will certify compliance with requirements in the “Inspector General” and “All Entities” category.

Each of the four allocations will report compliance on a separate template, which will contain only the requirements that must be addressed by that entity.

What is reasonable confidence?

Reasonable confidence is a level of confidence which is not absolute but an assertion that except for the **known** instances of non compliance reported, there is a fairly remote chance that a significant compliance failing has been overlooked. A compliance failing is significant if:

- It is systemic in nature;
- Has an associated penalty (Annex B);
- It will affect the sustainability of Defence; or
- It may result in negative public perception of Defence.

As the Head how do I become reasonably confident?

To become reasonably confident you must be satisfied after making relevant enquiries with GFO’s (or equivalent), that officials within your entity have:

- implemented and maintained sufficient processes and internal control mechanisms to assess compliance;
- assessed and reported compliance; and
- performed the required compliance monitoring activities based on the risk assessment performed by the Finance Executive as detailed in Section 4.2.

4. Role and Responsibility of the GFO (or equivalent)

As per the Process Map above, the role and responsibility of the GFO (or equivalent) is to facilitate the Head signing the entities' Certificate of Compliance each reporting period by:

- 1) implementing and maintaining processes and internal control mechanisms;
- 2) performing compliance monitoring activities; and
- 3) assessing and reporting compliance.

4.1 Implementing/maintaining processes and internal control mechanisms

Officials must implement and maintain sufficient processes and internal control mechanisms to help the entity assess reasonable confidence of compliance. Internal control mechanisms are internal controls implemented to either prevent or detect instances of non compliance.

4.2 Performing compliance monitoring activities

It is recognised by the Department of Finance and Administration that:

“any internal control system, no matter how well operated is unlikely to prevent and detect all errors and misstatements. Such systems are limited by the realities that judgment in decision making can be faulty and systems can fail. A reasoned judgment and a balanced risk based approach to the compliance monitoring process is required”¹.

As such, the Finance Executive has performed a risk assessment of all the requirements of the legislation and Commonwealth policies under the Certificate to determine the extent of compliance monitoring required. The following table details the required compliance monitoring activities based on the assessed level of risk of the requirement.

High Risk	Medium Risk	Low Risk
<u>Independent assessment</u> of compliance with each requirement in each reporting period.	<u>Independent assessment</u> of compliance with each requirement sampled across the year. <u>Certification by GFO (or equivalent)</u> for reporting periods where independent assessment is not performed.	<u>Certification by GFO (or equivalent)</u> following review of the requirement.

¹ Finance Circular No. 2006/08 Certificate of Compliance – FMA Act Agencies, Attachment C paragraph 6.

Each financial year the risk assessment will be endorsed by the Defence Audit Committee. The risk assessment for Financial Year 06/07 is available from the Compliance page on FIND
(<http://intranet.defence.gov.au/find/compliance/index.html>)

The table below is a summary of the risk assessment for 06/07 financial year, and splits the requirements by allocation and assessed risk.

Allocated to:	High Risk	Medium Risk	Low Risk	Number of requirements
Portfolio	9	20	55	84
All Entities	18	13	24	55
Defence Support Group	1	7	22	30
Inspector General	0	3	0	3
Total	28	43	101	172

This risk assessment will guide each entity in implementing and maintaining their individual compliance monitoring activities. Each entity will need to annually adjust their compliance monitoring activities based on the endorsed risk assessment.

Independent Assessment

Independent assessment is the formal assessment of compliance with a requirement performed by a person independent to the process and controls surrounding the requirement. This person does not need to be independent from the Group or organisation, but does need to be separate from the person actually performing the work being certified. (For example, a person managing a loss register should not be certifying that their own work is compliant. The independent assessment could be undertaken by someone else in the branch who is not directly involved in managing the register.)

At a minimum, entities must independently assess compliance with high risk requirements each reporting period and medium risk requirements at least once during the financial year. Independent assessment is designed to review and question how reasonable confidence has been assessed and if necessary perform additional activities to confirm reasonable confidence.

The independent assessment may include:

- interviewing relevant personnel;
- reviewing processes and internal control mechanisms in place;
- testing controls to assess their operating effectiveness; and/or
- compliance audits.

NOTE: Each entity must retain supporting documentation of their independent assessments for quality assurance purposes.
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Certification by GFO (or equivalent)

If a requirement is low risk, Finance Executive has assessed that the requirement is

- restricted to specific personnel or well defined group in Defence;
- limited by a number of transactions or activities per Financial Year;
- simple and needs little or no clarification or explanation; and
- well understood by users and there are well documented procedures to enable users understand the requirement.

As such, the Finance Executive do not require the performance of independent assessments. It is sufficient for the GFO (or equivalent) to review the requirement (where applicable) and certify whether the requirement has been complied with during the quarter (except for the **known** instances as detailed).

4.3 Assessing and reporting compliance

Officials within the entity must determine each reporting period whether they have

- reasonable confidence of compliance with applicable requirements of legislation and policies; and
- operated within the agreed resources for the quarter and have adopted appropriate management strategies for all currently known risk that may affect the financial sustainability of the entity.

Based on the processes, internal control mechanisms and control monitoring activities performed, officials within the entity will assess and report the entities compliance by completing the applicable Compliance Requirements Template, which can be accessed from the FIND website (<http://intranet.defence.gov.au/find/compliance/index.html>).

There are 4 Compliance Requirements Templates available on FIND –

- All Entities
- Defence Support Group
- Inspector General
- Portfolio

In this template there are guiding questions to assist entities interpret, scope and assess compliance with requirements.

Step by Step Instructions for completing the Compliance Requirements Template are found in Section 5 of these guidelines.

5. Step by Step Instructions to completing the Compliance Requirements Template

The Compliance Requirements Templates are made up of the following worksheets:

1. Summary worksheet – this will list all of the applicable financial legislation and policy for that entity, and the number of applicable compliance requirements broken down by risk rating.
2. Financial legislation and policy – each piece of legislation or policy has its own worksheet to be completed to certify applicability and compliance.
3. Financial Sustainability – this worksheet contains 3 questions related to Financial Sustainability to be completed by all entities.

NOTE: Do not amend the structure of the Compliance Requirements Template by adding or deleting worksheets, cells, columns, rows as these templates have been designed for automatic upload into a Database. Finance Executive will not accept templates which have been structurally changed.

Completing the Financial Legislation and Policy Worksheets

These worksheets detail the applicable requirements of the legislation and policies for Defence. The completion of these worksheets enables you to answer question 1) of your Certificate of Compliance Report at Annex A. Please use the following guidance for completing the Financial Legislation and Policy worksheets.

Step 1: Determine if the requirement is applicable to your Entity (Column H)

Finance Executive recognises that not all requirements are applicable to each entity. There are some requirements which can be clearly identified as applicable to one entity and the allocation of these requirements can be found in Column G. For example, the requirements allocated to Portfolio are the responsibility of the Finance Executive and compliance must be certified by the Finance Executive only. Other requirements that could not be specifically allocated to an entity, will have “All” in Column G. These requirements will need to be considered by all entities.

To assist each entity in interpreting and determining the applicability of each requirement, the Finance Executive has included guiding questions in Column J. The guiding questions in Column J are their to assist entities

- 1) interpret in “plain english” what is required and
- 2) determine whether the requirement is in scope for the entity.

Column B also contains a list of CEIs that are applicable to that requirement. These CEIs will be useful as guidance when interpreting the requirement and the processes that need to be in place to assist with certifying compliance.

When you deem a requirement not applicable you **must** detail in Column I why this is the case.

Step 2: For the applicable requirements identified in Step 1, the entity must certify, based on the entities processes and internal control mechanisms and any compliance monitoring activities performed, whether they have reasonable confidence of compliance with the requirement during the quarter. (Column K)

Reasonable confidence is defined as not absolute assurance but a confidence level whereby you can conclude there is a fairly remote chance that a significant compliance failing has been overlooked.

A compliance failing is significant if:

- 1) It is systemic in nature;
- 2) Has an associated penalty or fine;
- 3) It will affect the sustainability of Defence; or
- 4) It may result in negative public perception of Defence.

To assist you in determining reasonable confidence, Finance Executive has included guiding questions in Column J. These have been included to ensure that each entity is considering compliance with a requirement in a consistent manner. **Please do not answer the guiding questions in the template. The guiding questions are included only to assist you in interpreting the requirement and assessing whether you have complied with the requirement.**

When you assess compliance with a requirement you should always consider the processes and controls you have in place to prevent and detect instances of non-compliance. Knowing about and relying on these processes and controls will assist you in answering the guiding questions. If you cannot rely on processes and controls or you do not have any in place, you will need to make additional enquiries to gain the required confidence to report compliance.

NOTE: If you reply “Yes” in Column K, you are certifying that

- 1. You are reasonably confident that there is a fairly remote chance that a significant compliance failing has been overlooked; and**
- 2. There are no known instances of non-compliance with the requirement.**

Step 3: If your response is “No” in Step 2 (Column K), you must detail in Column L all known instances of non-compliance. The detail must include the circumstances in which the terms were not complied with.

Where there are multiple instances on non-compliance of the same nature, it is sufficient to describe the problem in Column L and then provide the number of instances which have occurred in Column M.

Step 4: If you have completed Step 3 (Column L and M), you must detail any corrective action that has been, or will be, taken in Column N.

Step 5: If you have completed Step 4 you must detail in Column O when the corrective action was taken or when it will be taken.

Insert date as dd/mm/yy (e.g. 28/02/07)

Completing the Financial Sustainability Worksheet

In this worksheet you are required to state whether the entity is operating within the agreed resources (cash) for current and future commitments and has adopted appropriate management strategies for all currently known risks that may affect the financial sustainability of the entity.

Once you have completed this worksheet you will be able to certify part 2) in your Certificate at Annex A.

6. Submission of the Template and Certificate

Certificates are due at the end of the month following the close of the reporting period.

To submit your Certificate you must:

1. Rename your template to <Insert Entity Name>Requirements Template <Insert reporting period and Year>. (e.g. *Army Requirements Template March 07*);
2. Send your completed template electronically to Michael.John@defence.gov.au ; and
3. Send via internal mail a signed Certificate of Compliance to Michael John R1-2-C008.

7. Quality Assurance

During the year, quality assurance on your quarterly certificates will be performed by Finance Executive. This may include interviews with the Heads, review of documentation supporting your certification, and/or audits. Quality Assurance is designed to assess whether each entity has performed sufficient monitoring activities to complete their certificates and to achieve reasonable confidence with their certification.

If you certify that you are reasonably confident of compliance with a requirement you should be prepared to answer how you came to that conclusion, including details of any processes and controls you have in place to prevent or detect instances of non compliance, certifications obtained and independent assessments performed.

NOTE: Each entity must retain supporting documentation of their independent assessments for quality assurance purposes.

Quality assurance will also enable the Finance Executive to compare the extent of the monitoring activities performed by each entity to ensure as an agency we have a balanced approach to our control monitoring activities.

8. Contacts, References and Feedback

Contacts

Please direct all questions to Michael.John@defence.gov.au.

Finance Executive will respond to your questions in a prompt manner.

References

Further information on the Certificate of Compliance and links to the appropriate Legislation and Commonwealth Policies can be found on the Finance in Defence (FinD) website at: <http://intranet.defence.gov.au/find/>

Feedback

Your constructive feedback on the Certificate of Compliance process is welcome.

Please forward your feedback to Michael.John@defence.gov.au

Annex A Certificate of Compliance

Annex B Penalties associated with the FMA Act