

Process for the 2013 proscription of Islamic State of Iraq and the Levant as a terrorist organisation under the Criminal Code

The Security Law Branch of the Attorney-General's Department facilitates the process by which the Attorney-General makes a decision to list, re-list or de-list a terrorist organisation under the Criminal Code. This includes obtaining products from ASIO that assess organisations and seeking the advice of the Chief General Counsel of the Australian Government Solicitor in relation to the assessments. These are included in a package of information that is submitted to the Attorney-General to assist him to make a decision as to whether or not a particular organisation will be listed under the Criminal Code.

The following processes were undertaken for the purpose of listing the Islamic State of Iraq and the Levant (ISIL):

1. An unclassified Statement of Reasons was prepared by ASIO, and endorsed by the Department of Foreign Affairs and Trade, detailing the case for listing ISIL.
2. The Director-General of Security wrote to the Attorney-General on 29 November 2013, outlining the background, training activities, terrorist activities, and relevant statements of ISIL.
3. On 29 November 2013, the Australian Government Solicitor provided written advice with respect to the Statement of Reasons for AQAP, stating that the Attorney-General could, on the basis of the statement, be satisfied on reasonable grounds that matters specified in s102.1(2) of the Criminal Code have been met.
4. A submission was provided to the Attorney-General on 29 November 2013, providing the following documents:
 - a. a copy of the Statement of Reasons received from ASIO with respect to ISIL and
 - b. advice from the Australian Government Solicitor
 - c. the regulation and Federal Executive Council documentation for the listing of ISIL.
5. Having considered the information provided in the submission, the Attorney-General signed a statement on 4 December 2013 confirming that he is satisfied on reasonable grounds that ISIL is directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act whether or not the act has occurred or will occur.
6. On 4 December 2013, the Attorney-General wrote to the Prime Minister advising of his intention to list ISIL as a terrorist organisation.
7. On 4 December 2013, the Attorney-General wrote on behalf of the Prime Minister, to the Premiers of the States and Chief Ministers of the Territories, advising them of his decision to list ISIL as a terrorist organisation and requesting their comments on the proposed listing. State and Territory officials were also advised of the proposed listing by e-mail dated 4 December 2013.

The following responses were received from the Premiers and Chief Ministers of the States and Territories:

New South Wales – response dated 6 December 2013

Victoria – response dated 18 December 2013
Queensland – response dated 9 December 2013
Western Australia – response dated 16 December 2013
South Australia – response dated 6 December 2013
Tasmania – response dated 11 December 2013
Northern Territory – response dated 7 December 2013
ACT – response dated 10 December 2013

These responses did not object to the proposed listing.

8. On 4 December 2013 the Attorney-General signed the *Criminal Code (Terrorist Organisation — Islamic State of Iraq and the Levant) Regulation 2013* and approved associated Federal Executive Council documentation including an explanatory memorandum, executive council minute and explanatory statement, in preparation for the Federal Executive Council meeting on 12 December 2013.
9. On 4 December 2013, the Attorney-General advised the Leader of the Opposition of the proposed listing of ISIL as a terrorist organisation by letter, and offered a briefing in relation to the listing.
10. On 12 December 2013 the Federal Executive Council made the *Criminal Code (Terrorist Organisation—Islamic State of Iraq and the Levant) Regulation 2013*.

The Regulation was registered with the Federal Register of Legislative Instruments (FRLI) on 13 December 2013 with the FRLI Reference Number F2013L02097.

The Regulation came into effect on 14 December 2013, the day after it was registered on FRLI.

11. The Attorney-General issued a Media Release on 18 December 2013 announcing the listing of ISIL and attaching a copy of the Statement of Reasons.

The Australian Government's National Security website was also updated.