

---

The Parliament of the Commonwealth of Australia

# **Review of the listing of Boko Haram**

# **Review of the re-listing of the Islamic State**

**Parliamentary Joint Committee on Intelligence and Security**

September 2014  
Canberra

---

© Commonwealth of Australia 2014

ISBN 978-1-74366-198-7 (Printed version)

ISBN 978-1-74366-199-4 (HTML version)

This work is licensed under the Creative Commons Attribution-NonCommercial-NoDerivs 3.0 Australia License.



The details of this licence are available on the Creative Commons website:  
<http://creativecommons.org/licenses/by-nc-nd/3.0/au/>.



# Contents

Membership of the Committee .....	v
Terms of reference .....	vii
List of abbreviations .....	viii
List of recommendations .....	ix
<b>1 Introduction .....</b>	<b>1</b>
Boko Haram .....	1
The Islamic State .....	2
<b>The Committee's review .....</b>	<b>2</b>
<b>The Government's procedures .....</b>	<b>3</b>
Boko Haram .....	4
The Islamic State .....	6
<b>Committee comment.....</b>	<b>7</b>
<b>2 The listings .....</b>	<b>9</b>
<b>The criteria for listing an organisation.....</b>	<b>9</b>
<b>The Committee's review .....</b>	<b>10</b>
Boko Haram.....	11
The Islamic State.....	14
<b>Appendix A – List of submissions .....</b>	<b>21</b>
<b>Appendix B – Witnesses appearing at private hearing .....</b>	<b>23</b>





## Membership of the Committee

**Chair** Mr Dan Tehan MP

**Deputy Chair** Hon Anthony Byrne MP

**Members** Mr Andrew Nikolic AM, CSC, MP      Senator David Bushby (from 16/7/14)  
Hon Tanya Plibersek MP      Senator the Hon Stephen Conroy  
(from 16/7/14)  
Hon Philip Ruddock MP      Senator the Hon John Faulkner  
Hon Bruce Scott MP      Senator David Fawcett  
Senator the Hon Joe Ludwig (to  
16/7/14)  
Senator the Hon Penny Wong (from  
16/7/14)





## **Terms of reference**

This inquiry and report is conducted under the following powers:

*Criminal Code Act 1995*

### **Section 102.1A Reviews by Parliamentary Joint Committee on Intelligence and Security**

*Review of listing regulation*

- (1) If a regulation made after the commencement of this section specifies an organisation for the purposes of paragraph (b) of the definition of terrorist organisation in section 102.1, the Parliamentary Joint Committee on Intelligence and Security may:
  - (a) review the regulation as soon as possible after the making of the regulation; and
  - (b) report the Committee's comments and recommendations to each House of the Parliament before the end of the applicable disallowance period.

and

*Criminal Code (Terrorist Organisation – Boko Haram) Regulation 2014, Registered 30 June 2014 (FRLI: F2014L00886)*

*Criminal Code (Terrorist Organisation – Islamic State) Regulation 2014, Registered 10 July 2014 (FRLI: F2014L00979)*



## List of abbreviations

AQI	Al-Qa'ida in Iraq
AQIM	Al-Qa'ida in the Lands of the Islamic Maghreb
ASIO	Australian Security Intelligence Organisation
FRLI	Federal Register of Legislative Instruments
IED	Improvised explosive device
IS	Islamic State
ISIL	Islamic State in Iraq and the Levant
ISIS	Islamic State in Iraq and Syria
UN	United Nations



## **List of recommendations**

### **2 The listings**

#### **Recommendation 1**

The Committee recommends that the regulation, made under the Criminal Code section 102.1, to list the Boko Haram as a terrorist organisation not be disallowed.

#### **Recommendation 2**

The Committee recommends that the regulation, made under the Criminal Code section 102.1, to list the Islamic State as a terrorist organisation not be disallowed.



## Introduction

- 1.1 This review is conducted under section 102.1A of the *Criminal Code Act 1995* (the Criminal Code).
- 1.2 Section 102.1A provides that the Parliamentary Joint Committee on Intelligence and Security may review a regulation specifying an organisation as a terrorist organisation for the purpose of paragraph (b) of the definition of terrorist organisation in section 102.1 of the Criminal Code and report the Committee's comments to each house of the Parliament before the end of the applicable disallowance period.
- 1.3 The regulations under review have specified the following organisations as terrorist organisations for the purposes of section 102.1 of the Criminal code:
  - Boko Haram, and
  - the Islamic State.
- 1.4 This is a review of the initial listing of Boko Haram and the re-listing of the Islamic State.

### Boko Haram

- 1.5 On 7 July 2014, the Attorney-General advised the Committee that Boko Haram would be listed as a terrorist organisation for the purposes of paragraph (b) of the definition of terrorist organisation in section 102.1 of the Criminal Code
- 1.6 The regulation for the listing of Boko Haram was made by the Federal Executive Council on 26 June 2014 and came into effect on 1 July, the day

after it was registered on the Federal Register of Legislative Instruments (FRLI). This is contrary to usual practice for new listings.<sup>1</sup>

- 1.7 The regulations were tabled in the Senate on 7 July 2014 and the House of Representatives on 8 July 2014. The disallowance period of 15 sitting days will expire in the Senate on 4 September 2014 and House of Representatives on 25 September 2014.

## The Islamic State

- 1.8 The Islamic State was first listed for proscription purposes in 2005 under its former Arabic name, *Tanzim Qa'idat al-Jihad fi Bilad al-Rafidayn*. It has also been listed as al-Qa'ida in Iraq and as the Islamic State of Iraq and the Levant (ISIL).
- 1.9 In June 2014, the group changed its name to *Dawla al-Islamiya* (the Islamic State) and proclaimed an Islamic caliphate in areas under its control in Iraq and Syria. The re-listing supports its continued proscription under this new name.
- 1.10 The regulation for the re-listing of the Islamic State was made by the Federal Executive Council on 10 July 2014 and came into effect on 11 July 2014, the day after it was registered on the FRLI. It was then tabled in the House of Representatives and the Senate on 14 July 2014. The disallowance period of 15 sitting days will expire on in the Senate on 25 September 2014 and in the House of Representatives on 30 September 2014.

## The Committee's review

- 1.11 Statements of reasons for the listing or re-listing of each organisation and outlining the process of listing undertaken by the Attorney-General's Department were accepted as submissions to the review and can be found on the Committee's website.

---

1 In 2007, the Government agreed in response to a recommendation by the Committee that when an organisation is listed for the first time, commencement of regulations would be delayed until after the Parliamentary disallowance period had expired. Flexibility was maintained, however, so that in circumstances where the Attorney-General considered a listing should commence immediately, this could occur. Parliamentary Joint Committee on Intelligence and Security, *Inquiry into the proscription of 'terrorist organisations' under the Australian Criminal Code*, September 2007, available at: [www.aph.gov.au/pjcis](http://www.aph.gov.au/pjcis)

- 1.12 Notice of the review was placed on the Committee website and a media release for the listing of Boko Haram was issued on 22 July 2014. No public submissions were received.
- 1.13 A private hearing with representatives of the Attorney-General's Department and the Australian Security Intelligence Organisation was held in Canberra on 28 August 2014.
- 1.14 It is the practice of the Committee to conduct classified hearings with agencies so that evidence presented can be interrogated in more detail, as required. Some unclassified statements from the hearing may be included in this report to support the Committee's findings.
- 1.15 In its first report, *Review of the listing of the Palestinian Islamic Jihad (PIJ)*, the Committee established procedures for reviewing terrorist listings. It also decided that it would test the validity of the listing of a terrorist organisation under the Criminal Code on both the procedures and the merits.<sup>2</sup> The Committee has again adopted this approach in this report.
- 1.16 Where an organisation is to be listed for the first time, the Committee will assess the adequacy and appropriateness of the evidence presented in the statement of reasons as well as the procedures followed by the Government. Where an organisation is to be relisted, the Committee expects the evidence presented to demonstrate a continuation of activities.
- 1.17 The remainder of this chapter will examine the Government's procedures for listing Boko Haram and re-listing the Islamic State as a terrorist organisation. Chapter two will consider the merits of the listing, based on the evidence provided to the Committee.

## The Government's procedures

- 1.18 The Attorney-General's Department advised the Committee in a letter dated 7 July 2014 of the procedures followed by the Attorney-General's Department, with input from other agencies, for the listing of Boko Haram. A similar letter advising procedures for the re-listing of the Islamic State was received on 12 August 2014. The procedures are included below.

---

2 Parliamentary Joint Committee on ASIO, ASIS and DSD, *Review of listing of the Palestinian Islamic Jihad (PIJ) as a Terrorist Organisation under the Criminal Code Amendment Act 2004*, June 2004.

## Boko Haram

- 1.19 The Attorney-General's Department informed the Committee that the following processes were undertaken for the purpose of listing Boko Haram:
- An unclassified Statement of Reasons was prepared by ASIO, and endorsed by the Department of Foreign Affairs and Trade, detailing the case for listing Boko Haram.
  - On 14 May 2014 the Prime Minister, the Hon Tony Abbott MP, made a statement in the House of Representatives announcing that the Government was taking steps to proscribe Boko Haram as a terrorist organisation under the Criminal Code. The Prime Minister wrote to the Leader of the Opposition to this effect. This proposal received support from the Leader of the Opposition.
  - The Director-General of Security wrote to the Attorney-General on 15 May 2014, outlining the background, training activities, terrorist activities, and relevant statements of Boko Haram.
  - On 14 May 2014, the Australian Government Solicitor provided written advice with respect to the Statement of Reasons for Boko Haram, 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.
  - A submission was provided to the Attorney-General on 21 May 2014, providing the following documents:
    - ⇒ a copy of the Statement of Reasons received from ASIO with respect to Boko Haram, and
    - ⇒ advice from the Australian Government Solicitor.
  - Having considered the information provided in the submission, the Attorney-General approved the making of a Statement on 23 May 2014 confirming that he is satisfied on reasonable grounds that Boko Haram is directly or indirectly engaged in, preparing, planning, assisting in, fostering or advocates the doing of a terrorist act whether or not the act has occurred or will occur. The Attorney-General signed the Statement on 16 June 2014.
  - On 23 May 2014, the Attorney-General wrote to the Prime Minister advising of his intention to list Boko Haram as a terrorist organisation.

- On 23 May 2014, the Attorney-General advised the Leader of the Opposition of the proposed listing of Boko Haram as a terrorist organisation by letter, and offered a briefing in relation to the listing.
- On 23 May 2014, 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 Boko Haram 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 27 May 2014.
- The following responses were received from the Premiers and Chief Ministers of the States and Territories:
  - ⇒ Northern Territory - response dated 3 June 2014
  - ⇒ Victoria - response dated 5 June 2014
  - ⇒ New South Wales - response dated 6 June 2014
  - ⇒ South Australia - response dated 8 June 2014
  - ⇒ Western Australia - response dated 10 June 2014
  - ⇒ Queensland - response dated 23 June 2014
  - ⇒ Tasmania - response not received in time

These responses did not object to the proposed listing.

- On 16 June 2014 the Attorney-General signed the *Criminal Code (Terrorist Organisation - Boko Haram) Regulation 2014* 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 26 June 2014.
- On 26 June 2014 the Federal Executive Council made the *Criminal Code (Terrorist Organisation- Boko Haram) Regulation 2014*.
- The Regulation was registered with the Federal Register of Legislative Instruments (FRLI) on 30 June 2014 with the FRLI Reference Number F2014L00886.
- The Regulation came into effect on 1 July 2014, the day after it was registered on FRLI.
- The Attorney-General issued a Media Release announcing the listing of Boko Haram and attached a copy of the Statement of Reasons. The Australian Government's National Security website was also updated.

## The Islamic State

1.20 The following processes were undertaken for the listing of the Islamic State:

- An unclassified Statement of Reasons was prepared by ASIO, and endorsed by the Department of Foreign Affairs and Trade, detailing the case for listing the Islamic State.
- On 2 July 2014, the Australian Government Solicitor provided written advice with respect to the Statement of Reasons for the Islamic State, stating that the Attorney-General could, on the basis of the statement, be satisfied on reasonable grounds that the matters specified in section 102.1(2) of the Criminal Code have been met.
- The Director-General of Security wrote to the Attorney-General on 3 July 2014, outlining the background, training activities, terrorist activities, and relevant statements of the Islamic State.
- A submission was provided to the Attorney-General on 3 July 2014, providing the following documents:
  - ⇒ a copy of the Statement of Reasons received from ASIO with respect to the Islamic State, and
  - ⇒ advice from the Australian Government Solicitor.
- Having considered the information provided in the submission, the Attorney-General approved the making of a Statement on 3 July 2014 confirming that he is satisfied on reasonable grounds that the Islamic State is directly or indirectly engaged in, preparing, planning, assisting in, fostering or advocates the doing of a terrorist act (whether or not the act has occurred or will occur). The Attorney-General signed the Statement on 3 July 2014.
- On 3 July 2014, the Attorney-General wrote to the Prime Minister advising of his intention to list the Islamic State as a terrorist organisation.
- On 3 July 2014, the Attorney-General wrote to the Leader of the Opposition of the proposed listing of the Islamic State as a terrorist organisation, and offered a briefing in relation to the listing.
- On 3 July 2014, 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 the Islamic State as a terrorist organisation and requested their comments on the proposed

listing. State and territory officials were also advised of the proposed listing by email dated 4 July 2014.

- The Premiers and Chief Ministers of the states and territories responded on the dates recorded below:
  - ⇒ Western Australia - response dated 3 July 2014
  - ⇒ New South Wales - response dated 7 July 2014
  - ⇒ Victoria - response dated 7 July 2014
  - ⇒ South Australia - response dated 7 July 2014
  - ⇒ Tasmania - response dated 7 July 2014
  - ⇒ Northern Territory- response dated 7 July 2014
  - ⇒ ACT- response dated 9 July 2014
  - ⇒ Queensland - response dated 10 July 2014.

These responses did not object to the proposed listing.

- On 3 July 2014, the Attorney-General signed the Criminal Code (Terrorist Organisation – Islamic State) Regulation 2014 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 10 July 2014.
- On 10 July 2014, the Federal Executive Council made the *Criminal Code (Terrorist Organisation – Islamic State) Regulation 2014*.
- The Regulation was registered with the FRLI on 10 July 2014 with the FRLI Reference Number F2014L00979.
- The Regulation came into effect on 11 July 2014, the day after it was registered on FRLI.
- The Attorney-General issued a Media Release on 12 July 2014 announcing the listing of the Islamic State and attached a copy of the Statement of Reasons. The Australian Government's National Security website was also updated.

## Committee comment

- 1.21 The Committee has reviewed the process of listing for each organisation and is satisfied with the appropriateness and adequacy of the procedures undertaken by the Government. The Committee notes that responses were

received from all State and Territory governments, with the exception of Tasmania for Boko Haram, and that none objected to the listings.



## The listings

### The criteria for listing an organisation

- 2.1 To be specified as a terrorist organisation for the purposes of paragraph (b) of the definition of terrorist organisation in section 102.1 of the Criminal Code, the Minister must be satisfied on reasonable grounds that the organisation:
- is directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act (whether or not a terrorist act has occurred or will occur); or
  - advocates the doing of a terrorist act (whether or not a terrorist act has occurred or will occur).<sup>1</sup>
- 2.2 In addition to these legislative criteria, ASIO may also have regard to non-legislative factors, including:
- engagement in terrorism
  - ideology and links to other terrorist groups or networks
  - links to Australia
  - threats to Australian interests
  - proscription by the UN or like-minded countries, and

---

1 Subsection 102.1(2) of Division 102, Subdivision A of the Criminal Code. A full list of proscribed terrorist organisations is available at the Australian Government's National Security website at: [www.nationalsecurity.gov.au/Listedterroristorganisations/Pages/default.aspx](http://www.nationalsecurity.gov.au/Listedterroristorganisations/Pages/default.aspx).

- engagement in peace/mediation processes.
- 2.3 The Committee was first advised of ASIO's evaluation process, including its use of these non-legislative factors, at a private hearing in 2005. Since then, the Committee has used these criteria as the basis for its reviews of listings of terrorist organisations under the Criminal Code.
- 2.4 The Committee has again used these criteria to assess the appropriateness and adequacy of evidence provided to it in this review.

## **The Committee's review**

- 2.5 As in previous Committee reports, this report identifies issues relating to the current nature and reach of each listed organisation, with particular emphasis, in the case of re-listings, on developments since the previous review. The Committee has previously stated that:

The Committee believes that it is important that the Parliament seek to establish as accurate a picture as possible of the nature, size, reach, and effectiveness of organisations that are subject to section 102.1 of the Criminal Code and that these reviews should reflect the most current information available about the organisations under review.<sup>2</sup>

- 2.6 In reviewing the listings, the Committee has taken into account the Attorney-General's statement of reasons, evidence provided at a private hearing, and other publicly available information. The Committee's evaluation of the appropriateness and adequacy of the evidence it has received is then presented against the criteria listed in paragraph 2.2.

---

2 Parliamentary Joint Committee on Intelligence and Security, *Review of the re-listing of Al-Qa'ida and Jemaah Islamiyah as terrorist organisations under the Criminal Code Act 1995*, Canberra, October 2006, p. 10.

## Boko Haram

### Background

- 2.7 This is the initial listing of Boko Haram<sup>3</sup>, a Salafi Islamist movement committed to the implementation of Sharia law in Nigeria.
- 2.8 According to Jane's Terrorism and Insurgency Intelligence Centre (Jane's), Boko Haram coalesced around a popular Islamic scholar named Mohammed Yusuf who preached in Maiduguri, the capital of Borno State in north-eastern Nigeria in the early 2000s.<sup>4</sup> Although Boko Haram initially pursued its goals via peaceful means, increasing conflict with the Nigerian government culminated in an uprising in 2009, which led to the arrest and extrajudicial killing of Yusuf by security forces in July 2009.<sup>5</sup>
- 2.9 Remaining members of the group released a statement in August 2009 entitled *We Speak as Boko Haram* which declared its respect and support for al-Qa'ida, and announced a formal jihad to Islamise Nigeria. In the years since, the group has launched attacks of increasing violence and sophistication against a growing list of targets.<sup>6</sup>
- 2.10 Estimates of Boko Haram's membership vary from the high hundreds to several thousand. While officially under the command of a new leader, Abubakar Shekau, there are indications the group has split into several factions, controlled by Yusuf's former deputies, which operate under the Boko Haram banner.<sup>7</sup>

### Engagement in terrorism

- 2.11 The statement of reasons lists 29 terrorist attacks conducted between 2011 and 2014 which have been claimed by or reliably attributed to Boko Haram.<sup>8</sup>

---

3 Also known as Western Education is Forbidden; Jama'atu Ahlis Sunna Lidda'awati Wal-Jihad; People Committed to the Propagation of the Prophet's Teachings and Jihad; Jama'atu ahlu-Sunnah Lidda' Awati Wal Jihad; Group of the Followers of the Prophet for Propagation and Holy Struggle; Nigerian Mujahideen; Nigerian Taliban; Yusuffiya movement; Yusuffiya sect.

4 Jane's Terrorism and Insurgency Centre, *Boko Haram*, viewed 28 July 2014, <<http://janes.ihs.com>>.

5 International Crisis Group, *Curbing Violence in Nigeria (II): The Boko Haram Insurgency*, April 2014, p. 13.

6 Jane's Terrorism and Insurgency Centre, *Boko Haram*, viewed 28 July 2014, <<http://janes.ihs.com>>.

7 Statement of Reasons, Boko Haram, *Submission 1*, p. 12.

8 Statement of Reasons, Boko Haram, *Submission 1*, pp. 13-15.

- 2.12 According to Jane's, Boko Haram's attacks were initially limited to small arms assaults, but have grown to include remotely detonated improvised explosive devices (IEDs), vehicle-borne IEDs, and suicide attacks. Boko Haram has targeted Nigerian government facilities and personnel, police and armed forces, state and secular schools, media groups, and Christians.<sup>9</sup>
- 2.13 In recent years Boko Haram has conducted assassinations of political, military and religious figures and has increasingly targeted non-combatants, including attacks on schools, markets, churches, residential areas and bus interchanges which have killed hundreds of civilians.<sup>10</sup> It has also turned to kidnapping, including the April 2014 kidnapping of more than 200 girls from a secondary school in Borno State which gained worldwide attention.<sup>11</sup>
- 2.14 Boko Haram has also advocated the doing of terrorist acts. Members of the group have released videos claiming responsibility for and threatening future attacks.<sup>12</sup>

### **Ideology and links to other terrorist groups/networks**

- 2.15 Boko Haram's stated objective is the establishment of an Islamic state under Sharia law in Nigeria. Its secondary objective is to spread Islamic rule, and Sharia law, beyond Nigeria.<sup>13</sup>
- 2.16 The Nigerian and Algerian governments have alleged that Boko Haram has links with the western African terrorist group al-Qa'ida in the Lands of the Islamic Maghreb (AQIM).<sup>14</sup> Boko Haram members have allegedly received weapons training and financial support from AQIM, and news reports have quoted AQIM's leader pledging support and weapons to Boko Haram.<sup>15</sup> Media reports have also linked Boko Haram with the eastern African terrorist group Harakat al-Shabaab al-Mujahideen (al-Shabaab).<sup>16</sup>

---

9 Jane's Terrorism and Insurgency Centre, *Boko Haram*, viewed 28 July 2014, <<http://janes.ihs.com>>.

10 Statement of Reasons, Boko Haram, *Submission 1*, pp. 13-14.

11 Jane's Terrorism and Insurgency Centre, *Boko Haram*, viewed 28 July 2014, <<http://janes.ihs.com>>.

12 Statement of Reasons, Boko Haram, *Submission 1*, p. 15.

13 Statement of Reasons, Boko Haram, *Submission 1*, p. 11.

14 Jane's Terrorism and Insurgency Centre, *Boko Haram*, viewed 28 July 2014, <<http://janes.ihs.com>>.

15 Statement of Reasons, Boko Haram, *Submission 1*, p. 12, p. 16.

16 Statement of Reasons, Boko Haram, *Submission 1*, p. 12.

## Links to Australia

2.17 There are no known links between Boko Haram and Australia.<sup>17</sup>

## Proscription by the UN or like-minded countries

2.18 Boko Haram has been designated as a terrorist organisation by the United Nations, Nigeria, the United Kingdom, the United States, Canada, and New Zealand.<sup>18</sup>

## Engagement in peace/mediation processes

2.19 Boko Haram has not engaged in substantive peace negotiations. The statement of reasons notes that although one faction of Boko Haram is reportedly prepared to enter into negotiations with the Nigerian government, there has been no announcement of a peace agreement, and Abubakar Shekau has repeatedly denied taking part in talks.<sup>19</sup>

## Committee comment

2.20 The Committee has used ASIO's criteria to assess the information provided to support the listing of Boko Haram as a terrorist organisation. The Committee is satisfied that Boko Haram is engaged in terrorist activities.

2.21 The Committee notes the substantial number of attacks attributed to Boko Haram, that the organisation has been listed as a terrorist organisation by the United Nations, the United States, the United Kingdom, Canada and New Zealand, and that it is not engaged in any meaningful peace negotiations.

2.22 The Committee also notes that, contrary to the Government's agreed practice for first-time listings as noted earlier, the listing of Boko Haram came into effect immediately following registration. The Committee is of the view that, where there is no pressing risk to Australia's national security, listings should not come into effect until the parliamentary disallowance period has expired and the Committee has concluded its review.

---

17 Statement of Reasons, Boko Haram, *Submission 1*, p. 16.

18 Statement of Reasons, Boko Haram, *Submission 1*, p. 16.

19 Statement of Reasons, Boko Haram, *Submission 1*, p. 16.

## Recommendation 1

**The Committee recommends that the regulation, made under the Criminal Code section 102.1, to list the Boko Haram as a terrorist organisation not be disallowed.**

## The Islamic State

### Background

- 2.23 The Islamic State is an Iraq and Syria-based Sunni extremist group and former affiliate of al-Qa'ida.
- 2.24 The Islamic State<sup>20</sup> was first listed in 2005 under the name *Tanzim Qa'idat al'Jihad fi Biiad al-Rafidayn* and re-listed in 2007 under the same name. Subsequent listings used al-Qa'ida in Iraq and then the Islamic State of Iraq and the Levant (ISIL) as the commonly recognised names for the group. The group is also referred to as ISIS, reflecting differences in the translation of its Arabic name, *Dawlat al-Islamiyah fil 'Iraaq wa Shaam*.<sup>21</sup> Since 2005, the Committee has used the same name for the group as that used for proscription by the Australian Government.
- 2.25 The group proclaimed an Islamic Caliphate in areas it controls and changed its name to *Dawla al-Islamiya* (the Islamic State) on 29 June 2014<sup>22</sup>, stating:

20 Also known as Al-Qa'ida in Iraq, Al-Qa'ida in Iraq-Zarqawi, Al-Qa'ida of Jihad in the Land of the Two Rivers, Al-Qa'ida of Jihad Organization in the Land of the Two Rivers, Al-Tawhid, Al-Tawhid and al-Jihad, Brigades of Tawhid, Islamic State of Iraq, Dawla al-Islamiya fi Iraq wa as-Sham, Islamic State of Iraq and al-Sham, Jama'at al-Tawhid wa'al-Jihad, Kateab al-Tawhid, Mujahidin Shura Council, Qaida of the Jihad in the Land of the Two Rivers, Tanzeem Qa-idad al-Jihad Bilad al Raafidaini, Tanzim Qa'idat al-Jihad fi Bilad al-Rafidayn, The al-Zarqawi network, The Islamic State of Iraq and the Levant; The Islamic State of Iraq and al-Sham; The Islamic State of Iraq and Syria; The Islamic Caliphate; The Islamic Caliphate State; The Islamic State of Iraq and Greater Syria; The Monotheism and Jihad Group, The Organisation Base of Jihad Mesopotamia, The Organisation of Jihad Country of the Two Rivers, Unity and Holy Struggle, Unity and Holy War, Unity and Jihad Group.

21 The Committee was informed that the term 'Shaam' can be translated in two ways, either as the literal translation (to Syria) or to reflect, not the nation state of Syria, but the broader region the group refers to, including Syria, northern Iraq, Lebanon, parts of Jordan and part of Israel (an area previously called in English, the Levant). *Classified transcript*, 28 August 2014, p. 2.

22 Statement of Reasons, Islamic State, *Submission 1*, p. 1.

Accordingly, the “Iraq and Shām” in the name of the Islamic State is henceforth removed from all official deliberations and communications, and the official name is the Islamic State from the date of this declaration.<sup>23</sup>

- 2.26 The Australian Government re-listed the group under the name Islamic State on 11 July 2014. The listing as the Islamic State does not reflect a change in the leadership, membership or methods of the group, but does reflect the expansion of its operating area and announcement of an Islamic caliphate.<sup>24</sup>
- 2.27 Lands claimed by the Islamic State extend from Aleppo in Syria to Diyala in Iraq, the Sunni-dominated areas of both countries.<sup>25</sup>
- 2.28 The Islamic State was affiliated with al-Qa’ida between 2004 and June 2013 and originally established operations in Syria through its former subordinate organisation, Jabhat al-Nusra. The group now operates in both Syria and Iraq as one consolidated organisation separate from Jabhat al-Nusra.<sup>26</sup>
- 2.29 The Islamic State has several thousand members in both Iraq and Syria. In Iraq, its membership is largely drawn from young Iraqi Sunni men, while in Syria, its members are drawn from Syrian nationals and foreign fighters.<sup>27</sup>

### Engagement in terrorism

- 2.30 According to the statement of reasons, the Islamic State is:
- one of the world’s deadliest and most active terrorist organisations and conducts daily attacks on security forces and civilians. It targets crowds and public gatherings during holidays and religious festivals to maximise casualties and publicity. It also conducts public executions and violent punishments in areas it controls.<sup>28</sup>
- 2.31 In Iraq, the Islamic State aims to undermine efforts to contain the group, destroy public confidence and provoke widespread revolt against the government by targeting security forces, Shia civilians in public areas,

---

23 *Classified transcript*, 28 August 2014, p.2.

24 Attorney-General’s Department, *Submission 2*, p. 3.

25 Statement of Reasons, Islamic State, *Submission 1*, p. 2.

26 Statement of Reasons, Islamic State, *Submission 1*, p. 2.

27 Statement of Reasons, Islamic State, *Submission 1*, p. 3.

28 Statement of Reasons, Islamic State, *Submission 1*, p. 3.

political figures, community and tribal leaders who condemn the Islamic State, and anti-Islamic State militias.<sup>29</sup> The group uses its control of infrastructure, such as bridges and dams, to cause major damage through flooding and restrict freedom of movement for Iraqi security forces.<sup>30</sup>

2.32 In Syria, the group attacks the regime of Bashar al-Assad, some armed opposition groups, Turkish and Kurdish militants, Syrian refugees and Kurdish organisations in Turkey, and Hizballah-related targets in Lebanon. It has also threatened attacks against the Turkish Government.<sup>31</sup>

2.33 The statement of reasons lists eight significant attacks by the Islamic State since the group was last proscribed under the name ISIL in December 2013, including:

- the capture of Fallujah and other areas of Anbar Province in Iraq,
- the capture of Fallujah Dam,
- the capture of Mosul, Tikrit and other areas in the Ninewa and Salah ad-Din Provinces in Iraq,
- public and other executions,
- car bombings, and
- an attack on the Turkish Consulate in Mosul in which 49 Turks were taken hostage.<sup>32</sup>

2.34 The Islamic State also issues media statements advocating the doing of terrorist acts. Statements were released on 28 April and 23 May 2014 claiming responsibility for attacks and issuing further threats.<sup>33</sup>

### **Ideology and links to other terrorist groups/networks**

2.35 Led by Ibrahim Awwad Ibrahim Ali al-Badri, the Islamic State adheres to the global jihadist ideology, following an extreme interpretation of Islam which is anti-Western, promotes sectarian violence and 'targets those that do not agree with its interpretations as infidels and apostates'.<sup>34</sup>

---

29 Statement of Reasons, Islamic State, *Submission 1*, pp. 3-4.

30 Statement of Reasons, Islamic State, *Submission 1*, p. 4.

31 Statement of Reasons, Islamic State, *Submission 1*, p. 4.

32 Statement of Reasons, Islamic State, *Submission 1*, p. 4.

33 Statement of Reasons, Islamic State, *Submission 1*, pp. 4-5.

34 Statement of Reasons, Islamic State, *Submission 1*, p. 2.

- 2.36 The group's eventual goal is to establish a salafist-oriented Islamist state spanning Iraq, Syria and other parts of the Levant.<sup>35</sup>
- 2.37 Since January 2014, the group has sought to capture and consolidate its control over Fallujah in Anbar Province and most of Ninawa Province in Iraq, including Iraq's second largest city, Mosul.<sup>36</sup>
- 2.38 The statement of reasons describes the recruitment of members by the Islamic State:
- The Islamic State uses a combination of threats, incentives and ideology to recruit new members, including a sophisticated social media campaign in several languages. It mostly targets young Sunni men worldwide, exploiting anger at the Iraqi and Syrian government's perceived mistreatment of Sunni Muslims and encouraging them to join it in restoring an Islamic caliphate. It also aims to recruit Iraqi security force members to gather intelligence and undermine the performance of its enemies.<sup>37</sup>
- 2.39 The group's effective social media messaging and willingness to accept members rejected by Jabhat al-Nusra, together with its highly publicised military successes, are considered factors in the group continuing to attract large numbers of foreign fighters.<sup>38</sup>
- 2.40 The Islamic State has attracted support from other terrorist organisations, including al-Qa'ida in the Arabian Peninsula, salafists in Gaza and al-Shabaab.<sup>39</sup>
- 2.41 The Islamic State is also increasingly providing a focus point to coalesce independent regional groups towards a single global jihadist narrative, with many groups now making a choice between al-Qa'ida, which controlled the global jihadist narrative and established itself as the reference point and inspiration, and the Islamic State.<sup>40</sup>

### **Links to Australia / Threats to Australian interests**

- 2.42 Reported links to Australia include Australians who have travelled to fight with the Islamic State as well as people in Australia actively supporting the group. On 27 August 2014, the Director-General of

---

35 Statement of Reasons, Islamic State, *Submission 1*, p. 2.

36 Statement of Reasons, Islamic State, *Submission 1*, p. 2.

37 Statement of Reasons, Islamic State, *Submission 1*, p. 3.

38 Statement of Reasons, Islamic State, *Submission 1*, p. 3.

39 Statement of Reasons, Islamic State, *Submission 1*, p. 5.

40 *Classified transcript*, 28 August 2014, p. 7.

Security, Mr David Irvine AO, stated that ASIO believed there are about 60 Australians fighting with either Jabhat al-Nusra or the Islamic State in Syria and Iraq. Another 100 people in Australia are believed to be providing active support, such as recruiting fighters or supplying funding and equipment.<sup>41</sup>

- 2.43 As the Committee noted in its previous report, these individuals not only potentially breach Australian laws, they also pose a significant national security risk.

### **Proscription by the UN or like-minded countries**

- 2.44 The Islamic State is listed as ISIL on the United Nations Security Council 1267 (al-Qa'ida) Sanctions Committee's consolidated list and as a proscribed terrorist organisation by Canada, New Zealand and the United States.<sup>42</sup>

### **Engagement in peace/mediation processes**

- 2.45 The Islamic State is not engaged in any peace or mediation processes.<sup>43</sup>

### **Committee comment**

- 2.46 The Committee has used ASIO's criteria to assess the information provided to support the listing of the Islamic State as a terrorist organisation and is satisfied that the Islamic State continues to engage in and advocate terrorist activities. The group is particularly active, with numerous attacks attributed to the Islamic State since its re-listing in December 2013. The Islamic State has been listed by the UN and proscribed by other governments. It is not engaged in any peace discussions.
- 2.47 While not a requirement for proscription, the Committee maintains the view expressed in its February 2014 report on the listing of ISIL that the strong links to Australia are a significant additional factor in the proscription of this group. The Committee supports the listing of the Islamic State as a terrorist organisation under section 102.1 of the Criminal Code.

---

41 Mr David Irvine AO, *Address to National Press Club*, viewed 1 September 2014, <<http://australianpolitics.com/2014/08/27/asio-director-general-david-irvine-addresses-the-national-press-club.html>>.

42 Statement of Reasons, Islamic State, *Submission 1*, pp. 5-6.

43 Statement of Reasons, Islamic State, *Submission 1*, p. 6.

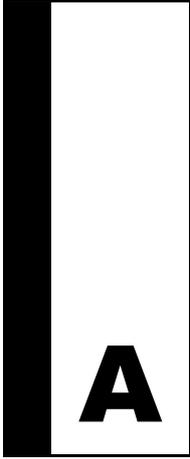
**Recommendation 2**

**The Committee recommends that the regulation, made under the Criminal Code section 102.1, to list the Islamic State as a terrorist organisation not be disallowed.**

**Dan Tehan MP**  
Chair

September 2014





## **Appendix A – List of submissions**

### **Review of the listing of Boko Haram**

1. Attorney-General

### **Review of the re-listing of the Islamic State**

1. Attorney-General
2. Attorney-General's Department





## **Appendix B –Witnesses appearing at private hearing**

### **Canberra**

**Thursday 28 August 2014**

#### ***Attorney-General's Department***

Ms Anna Harmer, Assistant Secretary, National Security Law and Policy Branch

Ms Jamie Lowe, A/g First Assistant Secretary, National Security Law and Policy Division

Mr Geoffrey McDougall, Principal Legal Officer, National Security Law and Policy Division

#### ***Australian Security Intelligence Organisation***

Ms Kerri Hartland, Deputy Director-General

First Assistant Director-General, Security Advice and Assessments

Director, National Threat Assessment Centre, Middle East and Africa