



THE HON PETER DUTTON MP
MINISTER FOR HOME AFFAIRS

Ref No: MS19-001989

Mr Andrew Hastie MP
Chair
Parliamentary Joint Committee on Intelligence and Security
Parliament House
CANBERRA ACT 2600

Dear *Andrew,*
Chair

I write to advise that, as the rule-maker for the purpose of regulations made under Part 5.3 of the *Criminal Code Act 1995* (the Criminal Code), I am satisfied that al-Qa'ida in the Arabian Peninsula, al-Qa'ida in the Indian Subcontinent, Islamic State in Libya and Islamic State Sinai Province meet the legal threshold for listing as terrorist organisations under Division 102.

The respective listings will ensure that the offence provisions under Division 102 of the Criminal Code will apply to conduct in relation to al-Qa'ida in the Arabian Peninsula, al-Qa'ida in the Indian Subcontinent, Islamic State in Libya and Islamic State Sinai Province.

Under subsection 102.1(2) of the Criminal Code, before listing an organisation as a terrorist organisation, I 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, or advocates the doing of a terrorist act.

Following careful consideration of information provided by the Australian Security Intelligence Organisation (ASIO) in consultation with national security agencies, and after receiving legal advice from the Australian Government Solicitor, I am satisfied that al-Qa'ida in the Arabian Peninsula, al-Qa'ida in the Indian Subcontinent, Islamic State in Libya and Islamic State Sinai Province meet that legal threshold.

Subsection 102.1(3) of the Criminal Code provides that a regulation listing a terrorist organisation ceases to have effect on the third anniversary of the day on which it takes effect. Al-Qa'ida in the Arabian Peninsula was previously re-listed as terrorist organisation with effect from 26 November 2016, and al-Qa'ida in the Indian Subcontinent, Islamic State in Libya and Islamic State Sinai Province were previously re-listed with effect from 29 November 2016.

To ensure there is no gap in the coverage of the terrorist organisation offences in relation these organisations, the regulations will commence on the day that the previous regulations listing these organisations are due to expire. As such, the regulations listing al-Qa'ida in the Arabian Peninsula will commence on 26 November 2019, and the regulations listing al-Qa'ida in the Indian Subcontinent, Islamic State in Libya and Islamic State Sinai Province will commence on 29 November 2019.

Before the Regulations were made, I wrote on behalf of the Commonwealth to all state and territory First Ministers advising them of the proposed listings, and provided them with copies of the Statements of Reasons with respect to each organisation. The states and territories did not object to the respective listings of these organisations.

As required under subsection 102.1(2A) of the Criminal Code, I also wrote to the Leader of the Opposition advising him of the proposed listings. I provided the Leader of the Opposition with copies of the Statements of Reasons with respect to each organisation and invited him to contact my office if he wished to receive a further briefing.

Section 102.1A of the Criminal Code provides that the PJCIS may review regulations listing an organisation as a terrorist organisation as soon as possible after they are made, and report the Committee's comments and recommendations to each House of Parliament before the end of the applicable disallowance period for each House.

To assist the Committee, I attach copies of the Criminal Code Regulations and Explanatory Statements. Attached to the Explanatory Statements are the Statements of Reasons prepared by ASIO with respect to each organisation. The Statements of Reasons provide information on the history, ideology, leadership and terrorist activities of these organisations, and are the basis upon which I made my decision to list these organisations under Division 102 of the Criminal Code.

I also attach a document outlining the process for listing these organisations. I understand that this document may be considered as a separate submission should the Committee decide to conduct a review into the listings, and I consent to its publication for that purpose.

Yours sincerely



PETER DUTTON