



THE HON PETER DUTTON MP
MINISTER FOR HOME AFFAIRS

Ref No: MS19-000679

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


Dear 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 have decided to re-list Abu Sayyaf Group, al-Qa'ida, al-Qa'ida in the Lands of the Islamic Maghreb, Jabhat Fatah al-Sham and Jemaah Islamiyah as terrorist organisations under Division 102. I have also decided to list for the first time Islamic State-Somalia as a terrorist organisation under the Criminal Code.

The respective listings will ensure that the offence provisions under Division 102 of the Criminal Code will apply to conduct in relation to Abu Sayyaf Group, Jemaah Islamiyah, Jabhat Fatah al-Sham, al-Qaida, al-Qa'ida in the Lands of the Islamic Maghreb, and Islamic State-Somalia.

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 Abu Sayyaf Group, al-Qa'ida, al-Qa'ida in the Lands of the Islamic Maghreb, Jabhat Fatah al-Sham, Jemaah Islamiyah and Islamic State-Somalia meet that legal threshold.

Terrorist Organisation Regulations

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. Abu Sayyaf Group, al-Qa'ida, al-Qa'ida in the Lands of the Islamic Maghreb, Jabhat Fatah al-Sham and Jemaah Islamiyah were previously re-listed as terrorist organisations with effect from 28 June 2016. To ensure there is no gap in the coverage of the offences in relation to the organisations being re-listed, the Regulations will commence immediately and will not be delayed until after the disallowance period. As such, the Regulations will commence the day after registration on the Federal Register of Legislation.

In keeping with the Parliamentary Joint Committee on Intelligence and Security's (PJCIS') previous recommendations, the Regulations listing Islamic State-Somalia, will not commence immediately and will be delayed until after the applicable disallowance period. This will allow the PJCIS to review and table its report on the new listing prior to the regulations commencing.

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 of my decision to list these organisations. 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.

PJCIS Review

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 respectively 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.

Jamiat ul-Ansar

I am advised by the Director-General of Security that there is currently insufficient contemporaneous information from classified and open sources to demonstrate that Jamiat ul-Ansar satisfies the legislative criteria for either making or repealing regulations listing that organisation under the Criminal Code. I will continue to keep the listing of Jamiat ul-Ansar under active review prior to the listing lapsing on 28 June 2019.

Jamiat ul-Ansar remains listed on the Consolidated List of entities designated under the United Nations Security Council Resolution and is subject to targeted financial sanctions, transit bans and an arms embargo.

Yours sincerely

PETER DUTTON

14/03/19