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Process for the 2019 re-listing of al-Qa'ida in the Arabian Peninsula, al-Qa'ida in the Indian Subcontinent, Islamic State in Libya and Islamic State Sinai Province as terrorist organisations under the Criminal Code

The Counter-Terrorism Strategic Policy Branch in the Department of Home Affairs (the Department) facilitates the process by which the Minister for Home Affairs is satisfied that an organisation meets the threshold for listing or re-listing as a terrorist organisation under the *Criminal Code Act 1995* (the Criminal Code).

This includes obtaining a written Statement of Reasons from the Australian Security Intelligence Organisation (ASIO) that assesses the organisation, and seeking the advice of the Australian Government Solicitor (AGS) in relation to ASIO's assessment. This information and advice is included in a submission to the Minister for Home Affairs to assist in deciding whether an organisation meets the threshold for listing or re-listing under the Criminal Code.

The following processes were undertaken for the purpose of re-listing al-Qa'ida in the Arabian Peninsula (AQAP), al-Qa'ida in the Indian Subcontinent (AQIS), Islamic State in Libya (IS-Libya) and Islamic State Sinai Province (IS-Sinai) as terrorist organisations:

1. Unclassified Statements of Reasons outlining the case for the re-listing of AQAP, AQIS, IS-Libya and IS-Sinai were provided to the Department by ASIO.
2. On 19 June 2019, the Statements of Reasons were considered by the Department and then provided to AGS.
3. On 5 July, 14 August and 27 August 2019, AGS provided written advice to the Department in relation to these organisations and the Criminal Code requirements.
4. On 4 September 2019, the Director-General of Security wrote to the Minister for Home Affairs providing the Statements of Reasons for AQAP, AQIS, IS-Libya and IS-Sinai.
5. On 25 September 2019, the Department provided a submission to the Minister for Home Affairs advising him that he could be satisfied on reasonable grounds that the legislative criteria for re-listing AQAP, AQIS, IS-Libya and IS-Sinai as terrorist organisations under the Criminal Code were satisfied.
6. On 25 September 2019, the Department sought approval from the Minister for Home Affairs of the Regulations and associated Federal Executive Council (ExCo) documentation, for consideration by the Governor-General at a meeting of ExCo.
7. On 1 and 2 October 2019, the Department emailed state and territory officials advising them of the Minister's consideration of AQAP, AQIS, IS-Libya and IS-Sinai for re-listing as terrorist organisations, and provided copies of the Statements of Reasons.
8. On 2 October 2019, having considered the information provided in the Department's submission, including grounds to re-list AQAP, AQIS, IS-Libya and IS-Sinai, the Minister for Home Affairs was satisfied that the organisations met the threshold for re-listing.
9. On 2 October 2019, the Minister for Home Affairs approved the Regulations and associated ExCo documentation.
10. On 2 October 2019, the Minister for Home Affairs wrote to the Prime Minister, advising of his satisfaction that AQAP, AQIS, IS-Libya and IS-Sinai met the threshold for re-listing. The Minister for Home Affairs notified the Prime Minister that he had written,

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on the Prime Minister's behalf, to the First Ministers of each state and territory regarding the proposed re-listings.

11. On 2 October 2019 the Minister for Home Affairs wrote to the Leader of the Opposition, advising of his satisfaction that AQAP, AQIS, IS-Libya and IS-Sinai met the threshold for re-listing, attaching the Statements of Reasons and offering a briefing in relation to these organisations.
12. On 2 October 2019, the Minister for Home Affairs wrote to First Ministers on behalf of the Prime Minister, advising of his satisfaction that AQAP, AQIS, IS-Libya and IS-Sinai met the threshold for re-listing, and attaching copies of the Statements of Reasons. The letters requested that a response be provided by 25 October 2019, advising whether the First Minister approved of, or objected to, the re-listings.
13. The Department received the following responses to the Minister for Home Affairs' correspondence to First Ministers:
 - South Australia – responded 16 October 2019
 - Northern Territory – responded 17 October 2019
 - Tasmania – responded 18 October 2019
 - Victoria – responded 18 October 2019
 - Queensland – responded 23 October 2019
 - Australian Capital Territory – responded 24 October 2019
 - Western Australia – responded 24 October 2019
 - New South Wales – responded 28 October 2019

No objections were made to the re-listing of AQAP, AQIS, IS-Libya and IS-Sinai as terrorist organisations.

14. On 31 October 2019, the Governor-General made the Regulations.
15. On 1 November 2019, the *Criminal Code (Terrorist Organisation—Al-Qa'ida in the Arabian Peninsula) Regulations 2019* were registered on the Federal Register of Legislation (FRL). These Regulations will come into effect on 26 November 2019.
16. On 1 November 2019, the *Criminal Code (Terrorist Organisation—Al-Qa'ida in the Indian Subcontinent) Regulations 2019*, *Criminal Code (Terrorist Organisation—Islamic State in Libya) Regulations 2019* and *Criminal Code (Terrorist Organisation—Islamic State Sinai Province) Regulations 2019* were registered on FRL. These Regulations will come into effect on 29 November 2019.
17. On 13 November 2019, the Minister for Home Affairs wrote to the Chair of the Parliamentary Joint Committee on Intelligence and Security advising of the re-listing of AQAP, AQIS, IS-Libya and IS-Sinai as terrorist organisations, and attaching the Regulations, Explanatory Statements and Statements of Reasons.

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