

UNCLASSIFIED

Process for the 2017 proscription of Islamic State Khorasan Province and al-Murabitun as 'terrorist organisations' under the Criminal Code

The Counter Terrorism Division of the Attorney-General's Department (the department) facilitates the process by which the Attorney-General makes a decision to list, re-list or de-list an organisation 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 is included in a package of information submitted to the Attorney-General to assist him in deciding whether or not to list, re-list or de-list an organisation as a terrorist organisation under the Criminal Code.

The following processes were undertaken for the purpose of listing Islamic State Khorasan Province (IS Khorasan Province) and re-listing al-Murabitun as terrorist organisations.

1. Unclassified Statements of Reasons outlining the case for the listing of IS Khorasan Province and the re-listing of al-Murabitun as terrorist organisations were prepared by ASIO.
2. On 14 June 2017, the Statements of Reasons were considered by the Department of Foreign Affairs and Trade and the department and then provided to AGS.
3. On 1 July 2017, AGS provided written advice in relation to IS Khorasan Province and al-Murabitun.
4. Following a hearing of the Parliamentary Joint Committee on Intelligence and Security on 17 August 2017, the department sought revised Statements of Reasons from ASIO to include further information on the organisations' links to Australia and/or Australian interests.
5. On 11 September 2017, the Director-General of Security wrote to the Attorney-General providing the Statements of Reasons.
6. On 13 September 2017, the department provided a submission to the Attorney-General advising him that he could be satisfied on reasonable grounds that the legislative criteria for listing IS Khorasan Province and re-listing al-Murabitun have been satisfied. The submission also sought the Attorney-General's approval of the draft Regulations and supporting documentation for the Federal Executive Council.
7. On 22 September 2017, having considered the information provided in the submission, including grounds to list IS Khorasan Province and re-list al-Murabitun, the Attorney-General approved the Regulations and associated Federal Executive Council (ExCo) documentation, including an ExCo Minute, Regulations and Explanatory Memorandums for consideration by the Governor-General at a meeting of ExCo.
8. On 22 September 2017, the Attorney-General wrote to the Prime Minister advising of his decision to list IS Khorasan Province and re-list al-Murabitun as terrorist organisations. The Attorney-General notified the Prime Minister that he had written, on the Prime Minister's behalf, to the First Ministers of each state and territory regarding the proposed listing and re-listing.

UNCLASSIFIED

UNCLASSIFIED

9. On 22 September 2017, the Attorney-General wrote to the Leader of the Opposition advising of his decision to list IS Khorasan Province and re-list al-Murabitun attaching the Statements of Reasons, and offering a briefing in relation to the organisations.
10. On 27 September 2017, the Attorney-General wrote to First Ministers on behalf of the Prime Minister, advising of his decision to list IS Khorasan Province and re-list al-Murabitun as terrorist organisations, and attached copies of the Statements of Reasons. The letters requested that a response be provided by 6 October 2017, advising whether the First Minister approved of, or objected to, the listing and re-listing.
11. On 27 September 2017, the department emailed State and Territory officials and members of the Australia-New Zealand Counter-Terrorism Committee (ANZCTC) advising them of the proposal to list IS Khorasan Province and re-list al-Murabitun, and provided copies of the Statements of Reasons.
12. The following responses to the Attorney-General's letters to First Ministers were received by the department:
 - Victorian Premier – response received 6 October 2017
 - Western Australian Premier – response received 6 October 2017
 - Australian Capital Territory – response received 9 October 2017
 - Queensland Premier – response received 10 October 2017
 - Tasmanian Premier – response received 12 October 2017
 - South Australian Premier – response received 16 October 2017
13. No objections were made to the listing of IS Khorasan Province or re-listing of al-Murabitun.
14. On 2 November 2017, the Governor-General made the Regulations.
15. On 2 November 2017, the Australian Government's National Security website was updated to reflect the making of the Regulations listing IS Khorasan Province and re-listing al-Murabitun as terrorist organisations.
16. On 2 November 2017, the Attorney-General issued a media release announcing the listing and re-listing of the organisations under the Criminal Code.
17. On 2 November 2017, the Criminal Code (Terrorist Organisation—Al-Murabitun) Regulations 2017 were registered on the Federal Register of Legislative Instruments (FRLI) [reference: F2017L01419]. The Regulations came into effect on 3 November 2017.
18. On 2 November 2017, the Criminal Code (Terrorist Organisation—Islamic State Khorasan Province) Regulations 2017 were registered on the Federal Register of Legislative Instruments (FRLI) [reference: F2017L01420]. The Regulations came into effect on 3 November 2017.
19. On 13 November 2017 the Attorney-General wrote to the Chair of the Parliamentary Joint Committee on Intelligence and Security advising of the listing and re-listing, attaching the Regulations, Explanatory Statements and Statements of Reasons.