



THE HON PETER DUTTON MP
MINISTER FOR HOME AFFAIRS
MINISTER FOR IMMIGRATION AND BORDER PROTECTION

Ref No: MS18-000382

The Hon Andrew Hastie MP
Chair

Parliamentary Joint Committee on Intelligence and Security
Parliament House
CANBERRA ACT 2600


Dear Chair

I write to advise that I have decided to re-list Islamic Movement of Uzbekistan, Jaish-e-Mohammad and Lashkar-e Jhangvi, and not re-list Ansar al-Islam as terrorist organisations under the *Criminal Code*.

The Attorney-General, the Hon Christian Porter MP, who has administrative responsibility for Division 102 of the Criminal Code, has authorised me to exercise his powers and functions in respect to this Division.

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 terrorist act.

Following careful consideration of information provided by the Australian Security Intelligence Organisation (ASIO) in consultation with the Department of Foreign Affairs and Trade, and after receiving legal advice from the Australian Government Solicitor, I am satisfied that Islamic Movement of Uzbekistan, Jaish-e-Mohammad and Lashkar-e Jhangvi each satisfy that legal threshold.

The re-listing of these organisations will ensure that the offence provisions under Division 102 of the Criminal Code will continue to apply to conduct in relation to these organisations.

I am advised by the Acting Director-General of Security that there is insufficient contemporaneous information from classified and open sources to demonstrate that Ansar al-Islam satisfies the legislative criteria for either making or repealing regulations listing that organisation under the Criminal Code. I have therefore decided to allow the regulations giving effect to this listing to lapse on 3 March 2018.

This decision does not prevent me from re-listing Ansar al-Islam if information becomes available in the future that supports its listing as a terrorist organisation under the Criminal Code.

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. Islamic Movement for Uzbekistan, Jaish-e-Mohammad and ~~Lashkar-e Jhangvi were previously re-listed as a terrorist organisations with effect~~ from 3 March 2015. To ensure there is no gap in the coverage of the offences in relation to these organisations, these regulations will commence immediately and will not be delayed until after the disallowance period. As such, these regulations will ~~commence the day after registration on the Federal Register of Legislative~~ Instruments.

Before the Regulations were made, I wrote on behalf of the Commonwealth to all state and territory First Ministers, advising them of the proposed re-listings, and provided them with a copy of the Statements of Reasons with respect to each organisation. The states and territories did not object to the re-listing 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 decisions to re-list these organisations. I provided the Leader of the Opposition with a copy 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 Parliamentary Joint Committee on Intelligence and Security 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 a copy of each of the Criminal Code Regulations and Explanatory Statements. Attached to each of 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 each organisation, and are the basis upon which I made my decision to re-list each organisation under Division 102 of the Criminal Code.

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

Yours sincerely

PETER DUTTON

21/02/18