

Code
Submission 1



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

Ref No: MS18-002577

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

Andrew,
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 Al-Shabaab, Hamas' Izz al-Din al-Qassam Brigades, Kurdistan Workers' Party, Lashkar-e-Tayyiba and Palestinian Islamic Jihad as terrorist organisations under Division 102.

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 Al-Shabaab, Hamas' Izz al-Din al-Qassam Brigades, Kurdistan Workers' Party, Lashkar-e-Tayyiba and Palestinian Islamic Jihad.

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 these organisations satisfy 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. These organisations were previously re-listed as a terrorist organisations with effect from 11 August 2015. To ensure there is no gap in the coverage of the offences in relation to these organisations, 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.

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 copies 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 decision to re-list Al-Shabaab, Hamas' Izz al-Din al-Qassam Brigades, Kurdistan Workers' Party, Lashkar-e-Tayyiba and Palestinian Islamic Jihad. 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 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 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 re-list these organisations under Division 102 of the Criminal Code.

I also attach a document outlining the process of re-listing Al-Shabaab, Hamas' Izz al-Din al-Qassam Brigades, Kurdistan Workers' Party, Lashkar-e-Tayyiba and Palestinian Islamic Jihad. I understand that this document may be considered as a separate submission should the Committee decide to conduct a review into the re-listings, and I consent to its publication for that purpose.

Yours sincerely

PETER DUTTON 30/07/18