



## Senator the Hon Katy Gallagher

Minister for Finance  
Minister for Women  
Minister for the Public Service  
Acting Attorney-General and Cabinet Secretary  
Senator for the Australian Capital Territory

REF: MS23-001433

Mr Peter Khalil MP  
Chair  
Parliamentary Joint Committee on Intelligence and Security  
Parliament House  
CANBERRA ACT 2600

By email: [pjcis@aph.gov.au](mailto:pjcis@aph.gov.au)

  
Dear Chair

I write to advise that Jama'at Nusrat al-Islam wal-Muslimin and Islamic State Khorasan Province (the organisations) have been re listed as terrorist organisations under the *Criminal Code Act 1995* (the Criminal Code). These re listings will ensure that these organisations continue to be recognised as terrorist organisations for the purposes of the offence provisions in Division 102 of the Criminal Code.

Under subsection 102.1(2) of the Criminal Code, before an organisation is listed as a terrorist organisation the Australian Federal Police (AFP) Minister must be satisfied 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 advice provided by relevant agencies, and after receiving legal advice from the Australian Government Solicitor, the Attorney-General is satisfied that the organisations continue to meet the legislative thresholds for listing.

### 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. The organisations were re-listed as terrorist organisations with effect from 3 November 2023.

Before the regulations were made, the Attorney-General 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 draft Regulations for their consideration, as required under the *Inter-governmental Agreement on Counter Terrorism Laws*. No jurisdiction objected to the listings.

As required under subsection 102.1(2A) of the Criminal Code, the Attorney-General wrote to the Leader of the Opposition advising him of the proposed listings, and invited him to contact the Attorney-General's office if he wished to receive a briefing.

Review by the Parliamentary Joint Committee on Intelligence and Security

Section 102.1A of the Criminal Code provides that the Committee may review listings 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 Regulations and the Explanatory Statement. I also attach the Statements of Reasons that provide information on the ideology and activities of the organisations, and were the basis upon which the Attorney-General made his decision to list the organisations under Division 102 of the Criminal Code.

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

This letter has been copied to the Hon Clare O'Neil MP, the Minister for Home Affairs.

Yours sincerely

  
**Katy Gallagher**

3 / 11 / 2023

**Encl.** *Criminal Code Regulations – JNIM*  
*Criminal Code Regulations – ISKP*  
*Explanatory Statement – JNIM*  
*Explanatory Statement – ISKP*  
*Statement of Reasons – JNIM*  
*Statement of Reasons – ISKP*  
*Process of re-listing – JNIM and ISKP*



## **Criminal Code (Terrorist Organisation— Islamic State Khorasan Province) Regulations 2023**

I, General the Honourable David Hurley AC DSC (Retd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated *26 October* 2023



David Hurley  
Governor-General

By His Excellency's Command



Mark Dreyfus KC  
Attorney-General



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Section 1

**1 Name**

This instrument is the *Criminal Code (Terrorist Organisation—Islamic State Khorasan Province) Regulations 2023*.

**2 Commencement**

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	3 November 2023.	3 November 2023

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

**3 Authority**

This instrument is made under the *Criminal Code Act 1995*.

**4 Schedules**

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

**5 Terrorist organisation—Islamic State Khorasan Province**

- (1) For the purposes of paragraph (b) of the definition of *terrorist organisation* in subsection 102.1(1) of the *Criminal Code*, the organisation known as Islamic State Khorasan Province is specified.
- (2) Islamic State Khorasan Province is also known by the following names:
- (a) Daesh Khorasan;
  - (b) Daesh-Khorasan;
  - (c) IS Khorasan;
  - (d) Islamic State in the Khorasan Province;
  - (e) Islamic State Khorasan;
  - (f) Islamic State-Khorasan;
  - (g) Islamic State of Iraq and al-Sham-Khorasan;

## Section 5

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- (h) Islamic State of Iraq and Syria-Khorasan;
- (i) Islamic State of Iraq and the Levant-Khorasan;
- (j) Wilayat Khorasan.

## **Schedule 1—Repeals**

### ***Criminal Code (Terrorist Organisation—Islamic State Khorasan Province) Regulations 2020***

#### **1 The whole of the instrument**

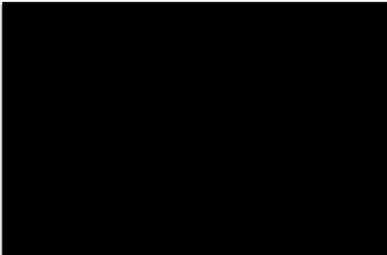
Repeal the instrument.



## **Criminal Code (Terrorist Organisation— Jama'at Nusrat al-Islam wal-Muslimin) Regulations 2023**


I, General the Honourable David Hurley AC DSC (Retd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated *26 October* 2023



David Hurley  
Governor-General

By His Excellency's Command



Mark Dreyfus KC  
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<b>Schedule 1—Repeals</b>		<b>3</b>
<i>Criminal Code (Terrorist Organisation—Jama'at Nusrat al-Islam wal-Muslimin)</i>		
<i>Regulations 2020</i>		<b>3</b>

Section 1

**1 Name**

This instrument is the *Criminal Code (Terrorist Organisation—Jama’at Nusrat al-Islam wal-Muslimin) Regulations 2023*.

**2 Commencement**

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
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**3 Authority**

This instrument is made under the *Criminal Code Act 1995*.

**4 Schedules**

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

**5 Terrorist organisation—Jama’at Nusrat al-Islam wal-Muslimin**

- (1) For the purposes of paragraph (b) of the definition of *terrorist organisation* in subsection 102.1(1) of the *Criminal Code*, the organisation known as Jama’at Nusrat al-Islam wal-Muslimin is specified.
- (2) Jama’at Nusrat al-Islam wal-Muslimin is also known by the following names:
- (a) al-Mulathamun Battalion;
  - (b) al-Murabitoun;
  - (c) al-Murabitun;
  - (d) Ansar al-Din;
  - (e) Ansar Dine;
  - (f) Force de Libération du Macina;
  - (g) GNIM;

## Section 5

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- (h) Group for Support of Islam and Muslims;
- (i) Group for Supporting Islam and Muslims;
- (j) Group of Support for Islam and All Muslims;
- (k) Group to Support Islam and Muslims;
- (l) GSIM;
- (m) Islam and Muslims' Support Group;
- (n) JNIM;
- (o) Jamaat Nosrat al-Islam wal-Mouslimin;
- (p) Jama'a Nusrah al-Islam wa al-Muslimin;
- (q) Jama'ah Nusrah al-Islam wal-Muslimin;
- (r) Jama'at Nusrat al-Islam wal Muslimeen;
- (s) Jama'at Nusrat al-Islam wal Muslimin;
- (t) Katibat Macina;
- (u) Macina Liberation Front;
- (v) NIM;
- (w) Nusrat al-Islam wal Muslimeen;
- (x) Nusrat al-Islam wal Muslimin;
- (y) the Sentinels;
- (z) Sahara Emirate;
- (za) Union for Supporting Islam and Muslims.

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## Schedule 1—Repeals

### *Criminal Code (Terrorist Organisation—Jama'at Nusrat al-Islam wal-Muslimin) Regulations 2020*

#### 1 The whole of the instrument

Repeal the instrument.



Australian Government  
Department of Home Affairs

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# Statement of Reasons

## Listing Islamic State Khorasan Province as a terrorist organisation under Division 102 of the *Criminal Code Act 1995*

This Statement of Reasons is based on publicly available information about Islamic State Khorasan Province. To the Australian Government's knowledge, this information is accurate, reliable and has been corroborated by classified information where available.

### Name of the organisation

Islamic State Khorasan Province (IS-KP)

### Known aliases

Also known as: Islamic State in the Khorasan Province; Islamic State Khorasan; Islamic State–Khorasan; IS Khorasan; Islamic State of Iraq and the Levant–Khorasan; Islamic State of Iraq and Syria–Khorasan; Islamic State of Iraq and al-Sham–Khorasan; Wilayat Khorasan; Daesh Khorasan; Daesh-Khorasan.

### Legislative basis for listing a terrorist organisation

Division 102 of the *Criminal Code Act 1995* (Criminal Code) provides that for an organisation to be listed as a terrorist organisation, the AFP Minister must be satisfied on reasonable grounds that the organisation:

- a) is directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act; or
- b) advocates the doing of a terrorist act.

For the purposes of listing a terrorist organisation under the Criminal Code, subsection 102.1(2) of the Criminal Code describes the doing of a terrorist act as including the doing of a specific terrorist act, the doing of more than one terrorist act and the doing of a terrorist act, even if a terrorist act does not occur.

### Background to this listing

The Australian Government first listed IS-KP as a terrorist organisation under the Criminal Code on 3 November 2017. IS-KP was re-listed on 3 November 2020.

### Details of the organisation

IS-KP is a transnational Sunni violent extremist group based primarily in Afghanistan. IS-KP adheres to the extreme Salafi jihadist interpretation of Islam promoted by the Islamic State (IS), which seeks to establish a global caliphate and regards all who fail to follow its religious doctrine as apostates and infidels.

The organisation first emerged in October 2014, following a pledge of allegiance made by six former senior Tehrik-e-Taliban Pakistan (TTP) members to then IS leader Abu Bakr al-Baghdadi. In the wake of this pledge, IS formally announced the formation of its 'Khorasan' province in January 2015, and appointed Hafiz Saeed Khan as IS-KP's first emir.

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As a historical region, Khorasan encompasses parts of Afghanistan, Pakistan, Turkmenistan, Tajikistan, Uzbekistan Iran and Bangladesh. The group has also conducted operations in Bangladesh. From 2015 to 2019, IS-KP focused on a strategy of gaining and holding territory. However, following the loss of most of its territory in early 2019, IS-KP underwent a significant organisational restructure in March 2019, which included a strategic shift towards urban warfare and the consolidation of its operations to focus on Afghanistan and parts of north-western Pakistan. This shift in strategy away from territory control has resulted in a significant escalation of IS-KP's operations, particularly in Afghanistan, which experienced a 400% rise in IS-KP attacks from 2020 to 2021.

This escalation has coincided with the Taliban's takeover of Afghanistan, with IS-KP buoyed by both the reduction in counter-terrorism operations in Afghanistan and the Taliban's limited experience dealing with urban-counter-insurgency. IS-KP has utilised the February 2020 agreement between the United States (U.S.) and the Taliban to contrast itself to the Taliban. IS-KP projects itself as a globally focused jihadist group committed to rejecting compromise with the West and accusing the Taliban of appealing solely to a narrow nationalistic base. While the Taliban has attempted to position itself within the global system of states, IS-KP commits to a universal Islamic Jihad and seeks to disrupt the global state system .

IS-KP has been increasingly focused on undermining the Taliban regime, with recent attacks targeting Taliban 'allies', including Russia, Pakistan and China; targeting Western organisations (including the UN); and continuing assaults against civilians and Shia minorities to weaken Taliban legitimacy and shatter the regime's narrative it has restored peace and stability. IS-KP has killed four senior Taliban officials since December 2022, and also carried out a suicide attack at the funeral of one of the victims – deputy governor of Badakhshan, Nisar Ahmad Ahmadi. The Taliban has experienced mixed success in its counter-terrorism efforts against IS-KP, relying on extreme methods with little regard for civilian casualties.

Despite the above, the relationship between the Afghan Taliban and IS-KP has not been uniformly hostile. Elements of the Haqqani Network, which has been integrated into the Taliban, have been reported to have previously coordinated with IS-KP between 2019 and 2021 .

### **Leadership**

IS-KP maintains a hierarchical leadership structure, governed by senior leadership in the form of a Shura Advisory Council, and led by an emir. IS-KP also utilises commanders at the provincial level and leaders responsible for various functions of IS-KP's administration, such as logistics. While early leaders of IS-KP largely hailed from the core group of TTP commanders who founded the group, this has since diversified.

Seventh emir: Shahab al-Muhajir (aka Sanaullah Ghafari)

Originally affiliated to the Haqqani network, al-Muhajir joined IS-KP following its emergence in Afghanistan and was appointed as the organisation's seventh emir in June 2020. Described by IS as an urban warfare expert, al-Muhajir is credited with driving IS-KP's urban shift and reinvigorating the organisation following major territorial and leadership losses. Within months of al-Muhajir's leadership, IS-KP staged a suicide attack on the Nagarhar central prison in Jalalabad, resulting in the release of 1000 inmates including around 280 IS-KP prisoners. One of those prisoners was Abdul Rahman al-Logari, who led IS-KP's attack on Kabul Airport in August 2021, resulting in the deaths of 170 Afghan civilians and 13 U.S service members .

Sixth emir: Aslam Farooqi (aka Abdullah Orakzai)

Appointed emir in July 2019, Farooqi was previously in charge of IS-KP operations in Pakistan's Khyber Agency. Captured by Afghanistan security forces in April 2020, Farooqi was one of the IS-KP prisoners freed during the Nagarhar central prison attack. In January 2022, Pakistan media reported that Farooqi was killed during a shootout in northern Afghanistan.

Fifth emir: Abu Omar al-Khorasani (aka Zia ul-Haq)

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Initially a spokesperson for IS-KP, Khorasani was appointed as the organisation's fourth emir in August 2018 following the death of his predecessor. In 2019, Khorasani was reportedly demoted following ISKP setbacks throughout 2018. In May 2020, Khorasani was arrested by Afghan security forces in Kabul.

Fourth emir: Abu Saad Orakzai (aka Abu Saad Erhabi)

Originally from the Orakzai agency, Abu Saad Orakzai led IS-KP from July 2017 to August 2018 when he was killed in a drone strike in the Jangal Keli village in Nangarhar.

Third emir: Abu Sayed (aka Abdul Rahman Ghaleb)

Taking over as IS-KP leader in April 2017, Abu Sayed's tenure was short-lived after he was killed in a U.S. drone strike on 11 July 2017.

Second emir: Abdul Hasib (Abdul Haseeb Logari)

Initially IS-KP's deputy leader, Abdul Hasib led IS-KP for nine months until his death during a U.S. raid in the eastern Afghan province of Nangarhar on 27 April 2017.

First emir: Hafiz Saeed Khan

A former commander of the TTP, Khan first pledged allegiance to IS in October 2014. Previously responsible for TTP's operations in Orakzai in Pakistan's Federally Administered Tribal Areas (FATA), Khan possessed access to a wealth of recruitment networks in Pakistan, helping IS-KP secure an early foothold in the strategic Pakistan/Afghanistan border area.

Khan was killed in a U.S. drone strike on 26 July 2016.

### **Membership**

The number of IS-KP militants in Afghanistan is estimated to include around 4,000 to 6000 members, including family members.

### **Recruitment and funding**

IS-KP recruits primarily from Pakistan and Afghanistan-based Salafists, and foreign sympathisers. Following territorial losses leading into 2019, IS-KP has shifted its recruitment to focus on disaffected, urban, non-Pashtun youth.

IS-KP's transfer of funds is heavily reliant on a network of hawalas – an informal method of transferring money – and the use of cryptocurrency. Afghanistan's informal financial sector. IS-KP utilises several different revenue streams for finance, including a combination of local donations, exploitation of timber and mineral black markets, kidnapping, extortion, and financial support from IS .

### **Links to other terrorist organisations**

IS-KP remains ideologically aligned with IS and continues to receive support and guidance from IS senior leadership.

### **Terrorist activity**

IS-KP fighters frequently conduct attacks against civilian and military targets utilising a combination of weaponry, including firearms and explosives. IS-KP terrorist acts have involved beheadings, violent abductions, and suicide bomb attacks.

IS-KP has also celebrated violent attacks against Western targets and frequently published material in support of terrorist acts.

### ***Directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act***

The following acts can be attributed to IS-KP:

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- 27 March 2023, IS-KP carried out a suicide attack that killed six people and wounded 12 others near the Foreign Ministry in Kabul.
- 9 March 2023, IS-KP killed three people during an attack in Herat Province, Afghanistan.
- 12 December 2022, two IS-KP fighters carried out an attack at the Kabul Langan Hotel, killing three people and injuring 18 others.
- 4 October 2022, IS-KP launched a suicide attack in front of the Russian embassy in Kabul, killing four people.
- 2 December 2022, IS-KP attempted to assassinate Pakistani Chargé d'affaires, Ubaid-ur-Rehman Nizamani, by opening fire from a neighbouring building while Nizamani was taking a walk inside the Pakistani embassy compound.
- 30 September 2022, IS-KP launched a suicide attack against an education centre for Hazara girls in Western Kabul, which killed 54 people .
- 18 June 2022, IS-KP detonated a car bomb outside a Sikh temple in Kabul, killing two people and injuring three others.
- 21 April 2022, IS-KP members detonated a bomb at a mosque during prayers in Balkh Province, Afghanistan. The bomb killed 50 people and wounded 100 others.
- 19 April 2022, an IS-KP suicide bomber blew himself up at a high school in Dasht-e Barchi, west Kabul, which killed or injured 20 students and teachers.
- 4 March 2022, IS-KP conducted a suicide bombing at a Shia mosque in Pakhtunkhwa Province, Pakistan that killed over 56 people and injured another 190.
- 2 November 2021, five IS-KP fighters attacked the Sardar Mohammad Daul Khan military hospital, killing 19 people and wounding 43 others.
- 26 August 2021, IS-KP were responsible for a bomb blast at Kabul's Hamid Karzai International Airport, which killed 170 Afghan civilians and 13 U.S. service members.
- 14 May 2021, IS-KP bombed a Kabul mosque during Friday prayers as worshippers gathered for the Eid al-Fitr holiday, killing 12 people.
- 7 July 2022, Al-Azaim Media Foundation produced an 11-minute, 39-second video in Dari, titled "Flames of Revenge". The video discusses IS-KP's 'revenge' attack in Kabul against a Sikh temple on 18 June 2022. In the video, IS-KP shows clips of the attack and Sikh community members mourning, and warns that the group will target Hindus and Sikhs.
- 10 March 2022, Al-Azaim Media Foundation produced a 14-minute, 29-second video in Pashto, titled "Rafidites Not Safe Anywhere". Utilising a derogatory name for Shi'ite Muslims, IS-KP states that Shi'ites are not safe anywhere and warns that "we will kill them without any hesitation because they are polytheists and are murderers of Sunnis".

On the basis of these examples, IS-KP is assessed to have directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act. The 7 July 2022 and 10 March 2022 videos are assessed to be IS-KP threats to conduct terrorist acts, which fall within the definition of 'terrorist act' in s 100.1 of the Criminal Code.

### Other considerations

#### *Links to Australia and threats to Australian interests*

A successful terrorist attack directed or inspired by IS-KP could result in harm to Australians, and the group's activities and propaganda have the potential to inspire Australian violent extremists.

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### ***Listings by likeminded countries or the United Nations***

The United Nations Security Council includes IS-KP in its ISIL (Da'esh) and al-Qa'ida Sanctions List. The United States designated IS-KP as a foreign terrorist organisation on 14 January 2016. Canada listed IS-KP as a terrorist entity on 23 May 2018. New Zealand designated IS-KP as a terrorist entity on 14 April 2019.

### ***Engagement in peace or mediation processes***

IS-KP is not involved in any peace or mediation process.

### **Conclusion**

On the basis of the information above, the Australian Government assesses that the organisation known as Islamic State Khorasan Province is directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of terrorist acts.



Australian Government  
Department of Home Affairs

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# Statement of Reasons

## Listing Jama'at Nusrat al-Islam wal-Muslimin as a terrorist organisation under Division 102 of the *Criminal Code Act 1995*

This Statement of Reasons is based on publicly available information about Jama'at Nusrat al-Islam wal-Muslimin. To the Australian Government's knowledge, this information is accurate, reliable and has been corroborated by classified information where available.

### Name of the organisation

Jama'at Nusrat al-Islam wal-Muslimin (JNIM).

### Known aliases

Also known as: JNIM; Jama'at Nusrat al-Islam wal Muslimeen; Jama'at Nusrat al-Islam wal Muslimin; Nusrat al-Islam wal Muslimeen; Nusrat al-Islam wal Muslimin; Jama'ah Nusra al-Islam wal-Muslimin; Jamaat Nosrat al-Islam wal-Mouslimin; Jama'a Nusra al-Islam wa al-Muslimin; Islam and Muslims' Support Group; Group for Support of Islam and Muslims; Group to Support Islam and Muslims; Group of Support for Islam and All Muslims; Group for Supporting Islam and Muslims; Union for Supporting Islam and Muslims; NIM; GSIM; GNIM; Ansar al-Din; Ansar Dine; al-Murabitun; al-Murabitoun; al-Mulathamun Battalion; the Sentinels; Sahara Emirate; Macina Liberation Front; Katibat Macina; Force de Libération du Macina.

### Legislative basis for listing a terrorist organisation

Division 102 of the *Criminal Code Act 1995* (Criminal Code) provides that for an organisation to be listed as a terrorist organisation, the AFP Minister must be satisfied on reasonable grounds that the organisation:

- a) is directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act; or
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For the purposes of listing a terrorist organisation under the Criminal Code, subsection 102.1(2) of the Criminal Code describes the doing of a terrorist act as including the doing of a specific terrorist act, the doing of more than one terrorist act and the doing of a terrorist act, even if a terrorist act does not occur.

### Background to this listing

The Australian Government first proscribed JNIM as a terrorist organisation on 3 November 2020. Al-Murabitun (since merged into JNIM) was listed on 5 November 2014, and re-listed on 3 November 2017.

### Details of the organisation

JNIM is an al-Qa'ida aligned Salafi-Jihadist organisation that strives to build a Salafi-Islamist state in West Africa. The organisation is primarily based in Mali but active across much of West Africa, including Burkina Faso, Niger, and Togo.

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JNIM was formed on 2 March 2017, when a coalition of jihadist groups operating in the Sahel region of West Africa – Ansar al-Din, the Macina Liberation Front (FLM), al-Murabitun and the Sahara Emirate subgroup of al-Qa’ida in the Lands of the Islamic Maghreb (AQIM) – announced they had merged into one entity under one Emir, formalising the longstanding alliance between the member groups.

JNIM’s goal to eliminate Western influences in the region has brought the organisation into conflict with the United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA), and partner states – predominantly France through its regional counter-terrorism effort, Operation Barkhane, which concluded in August 2022. Over the past decade, more than 300 peacekeepers associated with MINUSMA have been killed as a result of targeted insurgent attacks. The danger posed to UN personnel by JNIM, combined with tensions between MINUSMA and host country authorities, has resulted in a security situation described as ‘dire’ by a UN Security Council report.

JNIM’s activities in West Africa have also brought the organisation into competition with Islamic State (IS) affiliates operating in the region. Between 2017 and 2019, engagements between JNIM and IS were largely cooperative, and reported as a “Sahelian exception” to the wider conflict between al-Qa’ida affiliates and IS. Since 2019 this relationship has degraded, as JNIM and IS have repeatedly come into violent conflict over territory. Since fighting first broke out in mid-2019, there have been reports of nearly 200 clashes between the groups resulting in the deaths of more than 1100 combatants.

### **Leadership**

Current emir: Iyad ag Ghaly

The founder of Ansar al-Din, Iyad Ag Ghaly was named as JNIM’s overall emir shortly following the organisation’s formation in March 2017. Following his appointment, Ag Ghaly affirmed JNIM’s allegiance to AQIM, al-Qa’ida, and the Afghan Taliban.

Ag Ghaly, a Tuareg, originates from the Kidal Region of northern Mali. A participant in the Tuareg rebellions during the 1990s, Ag Ghaly also led a short-lived Tuareg revolt in 2006 before joining the Malian High Council of Territorial Collectivities – a constitutionally enshrined institution of Mali that advises the government – in 2007.

Ag Ghaly operated as a hostage negotiator for the Malian Government until 2010. During this time, Ag Ghaly formulated several close contacts within AQIM, with Ag Ghaly eventually encouraged by AQIM officials to form Ansar al-Din as a way to assist AQIM’s efforts to expand its activities into northern Mali.

Ag Ghaly was included in the United Nations’ ISIL (Da’eash) and al-Qaida Sanctions List on 25 February 2013 and listed by the United States as a ‘Specially Designated Global Terrorist’ a day later.

Senior Leader: Amadou Kouffa

Born in Niafunke, Mali, Amadou Kouffa founded FLM in January 2015. Alongside Ag Ghaly, Kouffa was one of the co-founders of JNIM. Since JNIM’s formation, Kouffa’s FLM faction has been responsible for more violent activities and associated fatalities than any other JNIM-affiliated faction. Kouffa’s FLM faction has also targeted civilians at a higher rate than any other JNIM faction.

Kouffa was included in the United Nations’ ISIL (Da’eash) and al-Qa’ida Sanctions List on 4 February 2020.

### **Membership**

JNIM is estimated to boast approximately 2000 fighters in central and northern Mali.

### **Recruitment and funding**

JNIM follows the wider al-Qa’ida blueprint of appealing to local communities, seeking to exploit the frustrations of vulnerable and underrepresented peoples, such as the Tuareg and Fulani, and presenting itself as an alternative to existing West African governments. Amadou Kouffa’s FLM faction in particular has found success by weaponising local and ethnic grievances for broader Salafi-Islamist ends.

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JNIM finances itself through kidnappings-for-ransom, extortion and the levying of taxes, such as zakat, to fund the recruitment of its fighters. It has also been reported that JNIM taxes smugglers and traffickers seeking transit through JNIM-controlled areas. JNIM has also equipped itself with arms captured from military barracks and local militia forces .

### ***Links to other terrorist organisations***

JNIM holds close links to al-Qa'ida. Immediately following the formation of JNIM in 2017, Iyad ag Ghaly affirmed the organisation's allegiance to Abdelmalek Droukdel, the emir of AQIM, Ayman al-Zawahiri, the emir of al-Qa'ida, and Haibatullah Akhundzada, the then leader of the Afghan Taliban.

### **Terrorist activity**

JNIM regularly conducts attacks against both foreign and state security forces, typically through the use of hit and run attacks, kidnappings, improvised explosive devices, roadside bombings and mortar attacks. JNIM has also frequently conducted attacks against civilian targets and villages.

JNIM has also celebrated violent attacks against Western targets and frequently published material in support of terrorist acts.

### ***Directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act***

The following acts can be reliably attributed to JNIM:

- 8 May 2023, JNIM fighters killed six soldiers in an ambush near Kita town, Mali.
- 22 April 2023, JNIM launched several suicide attacks in Sevare town, Mali, leaving 10 civilians dead and 60 injured.
- 24 November 2022, JNIM fighters killed 12 soldiers after ambushing security forces in Kpendjal, north Togo.
- 26 September 2022, JNIM fighters killed 11 soldiers and injured 28 others during an ambush on a military convoy taking supplies to a town in Gaskinde, northern Burkina Faso.
- 11 August 2022, JNIM detonated an explosive device in Niamey, Niger's capital. Two people were killed.
- 1 August 2022, JNIM fighters conducted an attack in Barbougna village, northwest Niger. Three civilians were killed.
- 25 June 2022, JNIM militants killed 132 people across several villages in the Bankass area of Central Mali.
- 23 December 2021, JNIM gunmen killed 41 civilians during an attack on a convoy of market traders in the nord region, Burkina Faso.
- 18 August 2021, JNIM gunmen killed 59 civilians and 15 security forces in an attack on a military convoy on the road between Arbinda and Gorgadji in Burkina Faso.
- 8 April 2021, JNIM kidnapped French journalist Olivier Dubois in Mali's Gao area. Dubois was released 711 days later on 20 March 2023.

On the basis of these examples, JNIM is assessed to have directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act.

## OFFICIAL

### Other considerations

#### ***Links to Australia and threats to Australian interests***

JNIM has previously targeted Australian citizens. On January 2016, Dr Kenneth Elliot was abducted by the Saharan Emirate subgroup of AQIM, one of the founding organisations that merged to form JNIM in March 2017. Dr Elliot was held for seven years before being released in May 2023.

A successful terrorist attack directed or inspired by JNIM could result in harm to Australians, and the group's activities and propaganda have the potential to inspire Australian violent extremists.

#### ***Listings by likeminded countries or the United Nations***

The UN Security Council included JNIM in its ISIL (Da'esh) and al-Qa'ida Sanctions List. JNIM was designated as a foreign terrorist organisation by the United States in 2018, was listed as a proscribed terrorist organisation by the United Kingdom in 2019, and was listed as a terrorist entity by Canada in 2021.

#### ***Engagement in peace or mediation processes***

JNIM is not involved in any peace or mediation process.

### Conclusion

On the basis of the information above, the Australian Government assesses that the organisation known as Jama'at Nusrat Al-Islam Wal-Muslimin is directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of terrorist acts.

## **EXPLANATORY STATEMENT**

Issued by the authority of the Attorney-General

*Criminal Code Act 1995*

Criminal Code (Terrorist Organisation – Islamic State Khorasan Province)

Regulations 2023

The purpose of the Criminal Code (Terrorist Organisation – Islamic State Khorasan Province) Regulations 2023 (the Regulations) is to specify the organisation known as Islamic State Khorasan Province for the purposes of paragraph (b) of the definition of ***terrorist organisation*** in subsection 102.1(1) of the *Criminal Code Act 1995* (the Criminal Code).

Section 5 of the Criminal Code provides that the Governor-General may make regulations prescribing matters required or permitted by the Criminal Code to be prescribed, or necessary or convenient to be prescribed, for carrying out or giving effect to the Criminal Code.

Paragraph (b) of the definition of ***terrorist organisation*** in subsection 102.1(1) of the Criminal Code provides that regulations can specify organisations for the purposes of the definition of ***terrorist organisation***.

Subsection 102.1(2) of the Criminal Code provides that before the Governor-General makes regulations specifying an organisation for the purposes of paragraph (b) of the definition of ***terrorist organisation*** in subsection 102.1(1), the ***AFP Minister*** 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. Subsection 100.1(1) provides that, for Part 5.3 of the Criminal Code, the ***AFP Minister*** is the Minister administering the *Australian Federal Police Act 1979*. Under the Administrative Arrangements Order made by the Governor-General on 23 June 2022, and which commenced on 1 July 2022, this is the Attorney-General.

The AFP Minister is satisfied on reasonable grounds that the organisation Islamic State Khorasan Province is directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act. In coming to this position, the AFP Minister has taken into consideration unclassified information provided by the relevant agencies (the Statement of Reasons at [Attachment C](#)).

### *Effect of the instrument*

Division 102 of Part 5.3 of the Criminal Code sets out the following offences relating to terrorist organisations:

- Directing the activities of a terrorist organisation
- Being a member of a terrorist organisation
- Recruiting persons to a terrorist organisation
- Receiving training from, providing training to or participating in training with a terrorist organisation
- Getting funds to, from or for a terrorist organisation
- Providing support to a terrorist organisation, and

- Associating with a terrorist organisation.

The Regulations enable Islamic State Khorasan Province to continue to be recognised as a terrorist organisation for the purposes of the offence provisions in Division 102 of Part 5.3 of the Criminal Code.

The Regulations repeal the Criminal Code (Terrorist Organisation – Islamic State Khorasan Province) Regulations 2020, which would otherwise cease to have effect on 3 November 2023 by operation of subsection 102.1(3) of the Criminal Code. Making new regulations ensures that the organisation Islamic State Khorasan Province continues to be specified for the purposes of paragraph (b) of the definition of **terrorist organisation**.

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

The Regulations commence on 3 November 2023. Subsection 102.1(3) of the Criminal Code provides that regulations for the purposes of paragraph (b) of the definition of **terrorist organisation** cease to have effect on the third anniversary of the day on which they take effect.

A Statement of Compatibility with Human Rights has been completed in accordance with the *Human Rights (Parliamentary Scrutiny) Act 2011*. The overall assessment is that the Regulations are compatible with human rights. A copy of this Statement is at [Attachment A](#).

Further details of the Regulations are set out in [Attachment B](#).

### *Consultation*

The *Intergovernmental Agreement on Counter-Terrorism Laws* (IGA) requires that the Commonwealth Government consult with the governments of the States and Territories prior to making regulations specifying an organisation for the purposes of paragraph (b) of the definition of **terrorist organisation** in subsection 102.1(1) of the Criminal Code. The IGA provides that if a majority of States and Territories object to the making of such a regulation within a timeframe nominated by the Commonwealth, and provide reasons for their objections, the Commonwealth will not make the regulation at that time.

The Attorney-General wrote, on behalf of the Prime Minister, to the Premiers and Chief Ministers of the States and Territories. A majority of States and Territories did not object to the making of the Regulations within the timeframe nominated by the AFP Minister.

Subsection 102.1(2A) of the Criminal Code provides that before the Governor-General makes a regulation specifying an organisation for the purposes of paragraph (b) of the definition of **terrorist organisation** in subsection 102.1(1) of the Criminal Code, the AFP Minister must arrange for the Leader of the Opposition in the House of Representatives to be briefed in relation to the proposed regulation. The Attorney-General wrote to the Leader of the Opposition, enclosing the information upon which he was satisfied that Islamic State Khorasan Province meets the legislative requirements for listing.



## **ATTACHMENT A**

### **Statement of Compatibility with Human Rights**

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

#### **Criminal Code (Terrorist Organisation – Islamic State Khorasan Province) Regulations 2023**

This Disallowable Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

#### **Overview of the Disallowable Legislative Instrument**

The Criminal Code (Terrorist Organisation— Islamic State Khorasan Province) Regulations 2023 (the Regulations) specify Islamic State Khorasan Province for the purposes of paragraph (b) of the definition of ‘terrorist organisation’ in subsection 102.1(1) of the Criminal Code.

The object of the Regulations is to identify that Islamic State Khorasan Province is a terrorist organisation under Australian law, and put the organisation and members of the public on notice of that fact. Notification is important to help people avoid engaging in activities which might constitute an offence under Division 102 of the Criminal Code in relation to Islamic State Khorasan Province.

The Regulations, which are part of Australia’s terrorist organisation listing regime, support the application of the offences in Division 102 of the Criminal Code, the object of which is to protect national security, public safety and the rights and freedoms of persons within and outside of Australia. In particular, the offence of associating with a terrorist organisation in section 102.8 of the Criminal Code applies in relation to associating with Islamic State Khorasan Province as a listed terrorist organisation.

Terrorist organisations, including Islamic State Khorasan Province, present a threat to the security of Australia and often seek to harm Australians and our democratic institutions. The statutory definition of a ‘terrorist organisation’ requires that an organisation directly or indirectly engages in, prepares, plans, assists in or fosters the doing of a terrorist act or, in relation to a listed terrorist organisation, that the organisation advocates the doing of a terrorist act.

#### **Human rights implications**

The Regulations promote the following human rights contained in the International Covenant on Civil and Political Rights (ICCPR):

- the inherent right to life in Article 6.

The Regulations limit the following human rights contained in the ICCPR:

- the right to freedom of expression in Article 19, and

- the right to freedom of association in Article 22.

### ***The inherent right to life in Article 6***

Article 6 of the ICCPR provides that countries have a duty to take appropriate steps to protect the right to life and to investigate arbitrary or unlawful killings and punish offenders. The Regulations, and the terrorist organisation listing regime more broadly, ensure that the offence provisions in Division 102 of the Criminal Code apply to certain conduct in relation to listed terrorist organisations. These offence provisions operate to penalise conduct that presents a significant risk to life, both in Australia and overseas, and, in conjunction with the terrorist organisation listing regime, also act as a deterrent to that conduct. Deterring the conduct, and thereby preventing the risk to life, promotes the inherent right to life expressed in Article 6 of the ICCPR.

### ***The right to freedom of expression in Article 19***

Article 19(2) of the ICCPR provides that everyone shall have the right to freedom of expression. However, Article 19(3) provides that freedom of expression may be limited if it is necessary to achieve a legitimate purpose, including for the protection of national security. The Regulations, and the terrorist organisation listing regime more broadly, limit the right to freedom of expression to the extent that persons are prohibited from directing the activities of, recruiting for, providing support to or associating with terrorist organisations, including Islamic State Khorasan Province. The restrictions on freedom of expression are justified on the basis that such conduct could jeopardise the security of Australia, the personal safety of its population and its national interests and the restrictions are reasonable, necessary and proportionate to the objective of protecting Australia's national security.

### ***The right to freedom of association in Article 22***

Article 22 of the ICCPR protects the right of all persons to group together voluntarily for a common goal and to form and join an organisation. Article 22(2) provides that this right may be limited for the purpose of national security. The Regulations, and the terrorist organisation listing regime more broadly, limit the right of freedom of association to prevent people engaging with and participating in terrorist organisations, in this instance Islamic State Khorasan Province.

The offence of associating with a terrorist organisation in section 102.8 of the Criminal Code is limited in its application to an organisation that is a listed terrorist organisation under the definition of 'terrorist organisation' in paragraph 102.1(1)(b) of the Criminal Code. The offence does not apply if the association is with a close family member and relates to a matter of family or domestic concern, or takes place in the course of practicing a religion in a place used for public religious worship, or the association is only for the purpose of providing humanitarian aid or only for the purpose of providing legal advice or legal representation.

Due to the severity of the danger posed by terrorist organisations, it is reasonable, necessary and proportionate to limit the right of individuals who, by their association with a terrorist organisation, pose a threat to Australians.

### ***General safeguards and accountability mechanisms***

Whilst the Regulations may limit the right to freedom of expression and the right to freedom of association with Islamic State Khorasan Province, the Regulations are subject to the safeguards outlined below. The limits on these rights are reasonable, necessary and proportionate, and are in the interests of public safety and national security, after taking into consideration the direct and indirect terrorist activities of the organisation, which threaten human life.

The Criminal Code provides safeguards and accountability mechanisms requiring prior consultation and enabling review of the Regulations, including the following:

- the Commonwealth must consult with the states and territories in accordance with the Intergovernmental Agreement on Counter-Terrorism Laws of 25 June 2004, and the Regulations may only be made if a majority of the states and territories do not object to the Regulations within a reasonable time specified by the Commonwealth
- under subsection 102.1(2A) of the Criminal Code the Minister must arrange for the Leader of the Opposition to be briefed in relation to the proposed Regulations
- under subsection 102.1(3) of the Criminal Code, the Regulations will cease to have effect on the third anniversary of the day on which they take effect
- subsection 102.1(4) of the Criminal Code provides that if the Minister ceases to be satisfied of the criteria necessary for listing an organisation under subsection 102.1(2) of the Criminal Code, the Minister must make a declaration to that effect by written notice published in the Gazette, with the effect of the Minister's declaration that the Regulations listing the organisation cease to have effect and the organisation is de-listed as a terrorist organisation under Division 102 of the Criminal Code
- subsection 102.1(17) of the Criminal Code provides that an individual or an organisation may make a de-listing application to the Minister
- the Regulations may be reviewed by the Parliamentary Joint Committee on Intelligence and Security under section 102.1A of the Criminal Code, and
- both Houses of Parliament may disallow the Regulations within 15 sitting days after the Regulations are laid before that House, as provided for in section 42 of the *Legislation Act 2003* and noting that this period may be extended by operation of subsection 102.1A(4) of the Criminal Code if the Parliamentary Joint Committee on Intelligence and Security reviews the Regulations.

### **Conclusion**

The Regulations are compatible with human rights because they promote the protection of human rights. To the extent that the terrorist organisation listing regime, of which the Regulations are part, may also limit human rights, those limitations are for a legitimate purpose and are reasonable, necessary and proportionate.

**The Honourable Mark Dreyfus KC MP**

**Attorney-General**

## **ATTACHMENT B**

### **Details of the *Criminal Code (Terrorist Organisation – Islamic State Khorasan Province) Regulations 2023***

#### **Section 1 – Name**

This section would provide that the title of the proposed Regulations is the *Criminal Code (Terrorist Organisation—Islamic State Khorasan Province) Regulations 2023*.

#### **Section 2 – Commencement**

This section would provide for the Regulations to commence on 3 November 2023.

#### **Section 3 – Authority**

This section would provide that the *Criminal Code (Terrorist Organisation – Islamic State Khorasan Province) Regulations 2023* are made under the *Criminal Code Act 1995*.

#### **Section 4 – Schedules**

This section would provide that each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

#### **Section 5 – Terrorist organisation— Islamic State Khorasan Province**

Subsection 5(1) would provide that, for the purposes of paragraph (b) of the definition of ‘terrorist organisation’ in subsection 102.1(1) of the *Criminal Code Act 1995* (the Criminal Code) the organisation known as Islamic State Khorasan Province is specified.

Division 102 of the Criminal Code provides a range of offences relating to interactions with terrorist organisations.

Subsection 5(2) provides a list of 10 names that Islamic State Khorasan Province is also known as:

- a) Daesh Khorasan;
- b) Daesh-Khorasan;
- c) IS Khorasan;
- d) Islamic State in the Khorasan Province;
- e) Islamic State Khorasan;
- f) Islamic State–Khorasan;
- g) Islamic State of Iraq and al-Sham–Khorasan;
- h) Islamic State of Iraq and Syria–Khorasan;
- i) Islamic State of Iraq and the Levant-Khorasan;
- j) Wilayat Khorasan.

Schedule 1— Repeals

***Criminal Code (Terrorist Organisation—Islamic State Khorasan Province) Regulations 2020***

Schedule 1 would repeal the *Criminal Code (Terrorist Organisation— Islamic State Khorasan Province) Regulations 2020*.

**ATTACHMENT C**

**Statement of Reasons – Islamic State Khorasan Province**

<b>Listing the Islamic State Khorasan Province as a terrorist organisation under Division 102 of the <i>Criminal Code Act 1995</i></b>
This Statement of Reasons is based on publicly available information about the Islamic State Khorasan Province. To the Australian Government’s knowledge, this information is accurate, reliable and has been corroborated by classified information where available.
<b>Known aliases</b>  Islamic State in the Khorasan Province; Islamic State Khorasan; Islamic State–Khorasan; IS Khorasan; Islamic State of Iraq and the Levant–Khorasan; Islamic State of Iraq and Syria–Khorasan; Islamic State of Iraq and al-Sham–Khorasan; Wilayat Khorasan; Daesh Khorasan; Daesh-Khorasan.
<b>Legislative basis for listing a terrorist organisation</b>  Division 102 of the <i>Criminal Code Act 1995</i> (Criminal Code) provides that for an organisation to be listed as a terrorist organisation, the AFP Minister must be satisfied on reasonable grounds that the organisation:  a) is directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act; or b) advocates the doing of a terrorist act.  For the purposes of listing a terrorist organisation under the Criminal Code, subsection 102.1(2) of the Criminal Code describes the doing of a terrorist act as including the doing of a specific terrorist act, the doing of more than one terrorist act and the doing of a terrorist act, even if a terrorist act does not occur.
<b>Background to this listing</b>  The Australian Government first listed IS-KP as a terrorist organisation under the Criminal Code on 3 November 2017. IS-KP was re-listed on 3 November 2020.
<b>Details of the organisation</b>  IS-KP is a transnational Sunni violent extremist group based primarily in Afghanistan. IS-KP adheres to the extreme Salafi jihadist interpretation of Islam promoted by the Islamic State (IS), which seeks to establish a global caliphate and regards all who fail to follow its religious doctrine as apostates and infidels.  The organisation first emerged in October 2014, following a pledge of allegiance made by six former senior Tehrik-e-Taliban Pakistan (TTP) members to then IS leader Abu Bakr al-Baghdadi. In the wake of this pledge, IS formally announced the formation of its ‘Khorasan’ province in January 2015, and appointed Hafiz Saeed Khan as IS-KP’s first emir.  As a historical region, Khorasan encompasses parts of Afghanistan, Pakistan, Turkmenistan, Tajikistan, Uzbekistan Iran and Bangladesh. The group has also conducted operations in Bangladesh. From 2015 to 2019, IS-KP focused on a strategy of gaining and holding territory. However, following the loss of most of its territory in early 2019, IS-KP underwent a significant organisational restructure in March 2019, which included a



strategic shift towards urban warfare and the consolidation of its operations to focus on Afghanistan and parts of north-western Pakistan. This shift in strategy away from territory control has resulted in a significant escalation of IS-KP's operations, particularly in Afghanistan, which experienced a 400% rise in IS-KP attacks from 2020 to 2021.

This escalation has coincided with the Taliban's takeover of Afghanistan, with IS-KP buoyed by both the reduction in counter-terrorism operations in Afghanistan and the Taliban's limited experience dealing with urban-counter-insurgency. IS-KP has utilised the February 2020 agreement between the United States (U.S.) and the Taliban to contrast itself to the Taliban. IS-KP projects itself as a globally focused jihadist group committed to rejecting compromise with the West and accusing the Taliban of appealing solely to a narrow nationalistic base. While the Taliban has attempted to position itself within the global system of states, IS-KP commits to a universal Islamic Jihad and seeks to disrupt the global state system.

IS-KP has been increasingly focused on undermining the Taliban regime, with recent attacks targeting Taliban 'allies', including Russia, Pakistan and China; targeting Western organisations (including the UN); and continuing assaults against civilians and Shia minorities to weaken Taliban legitimacy and shatter the regime's narrative it has restored peace and stability. IS-KP has killed four senior Taliban officials since December 2022, and also carried out a suicide attack at the funeral of one of the victims – deputy governor of Badakhshan, Nisar Ahmad Ahmadi. The Taliban has experienced mixed success in its counter-terrorism efforts against IS-KP, relying on extreme methods with little regard for civilian casualties.

Despite the above, the relationship between the Afghan Taliban and IS-KP has not been uniformly hostile. Elements of the Haqqani Network, which has been integrated into the Taliban, have been reported to have previously coordinated with IS-KP between 2019 and 2021.

### **Leadership**

IS-KP maintains a hierarchical leadership structure, governed by senior leadership in the form of a Shura Advisory Council, and led by an emir. IS-KP also utilises commanders at the provincial level and leaders responsible for various functions of IS-KP's administration, such as logistics. While early leaders of IS-KP largely hailed from the core group of TTP commanders who founded the group, this has since diversified.

**Seventh emir:** Shahab al-Muhajir (aka Sanaullah Ghafari) Originally affiliated to the Haqqani network, al-Muhajir joined IS-KP following its emergence in Afghanistan and was appointed as the organisation's seventh emir in June 2020. Described by IS as an urban warfare expert, al-Muhajir is credited with driving IS-KP's urban shift and reinvigorating the organisation following major territorial and leadership losses. Within months of al-Muhajir's leadership, IS-KP staged a suicide attack on the Nagarhar central prison in Jalalabad, resulting in the release of 1000 inmates including around 280 IS-KP prisoners. One of those prisoners was Abdul Rahman al-Logari, who led IS-KP's attack on Kabul Airport in August 2021, resulting in the deaths of 170 Afghan civilians and 13 U.S service members.

**Sixth emir:** Aslam Farooqi (aka Abdullah Orakzai) Appointed emir in July 2019, Farooqi was previously in charge of IS-KP operations in Pakistan's Khyber Agency. Captured by Afghanistan security forces in April 2020, Farooqi was one of the IS-KP prisoners freed

during the Nagarhar central prison attack. In January 2022, Pakistan media reported that Farooqi was killed during a shootout in northern Afghanistan.

Fifth emir: Abu Omar al-Khorasani (aka Zia ul-Haq) Initially a spokesperson for IS-KP, Khorasani was appointed as the organisation's fourth emir in August 2018 following the death of his predecessor. In 2019, Khorasani was reportedly demoted following ISKP setbacks throughout 2018. In May 2020, Khorasani was arrested by Afghan security forces in Kabul.

Fourth emir: Abu Saad Orakzai (aka Abu Saad Erhabi) Originally from the Orakzai agency, Abu Saad Orakzai led IS-KP from July 2017 to August 2018 when he was killed in a drone strike in the Jangal Keli village in Nangarhar.

Third emir: Abu Sayed (aka Abdul Rahman Ghaleb) Taking over as IS-KP leader in April 2017, Abu Sayed's tenure was short-lived after he was killed in a U.S. drone strike on 11 July 2017. Second emir: Abdul Hasib (Abdul Haseeb Logari) Initially IS-KP's deputy leader, Abdul Hasib led IS-KP for nine months until his death during a U.S raid in the eastern Afghan province of Nangarhar on 27 April 2017.

First emir: Hafiz Saeed Khan A former commander of the TTP, Khan first pledged allegiance to IS in October 2014. Previously responsible for TTP's operations in Orakazi in Pakistan's Federally Administered Tribal Areas (FATA), Khan possessed access to a wealth of recruitment networks in Pakistan, helping IS-KP secure an early foothold in the strategic Pakistan/Afghanistan border area. Khan was killed in a U.S. drone strike on 26 July 2016.

### **Membership**

The number of IS-KP militants in Afghanistan is estimated to include around 4,000 to 6000 members, including family members.

### **Recruitment and funding**

IS-KP recruits primarily from Pakistan and Afghanistan-based Salafists, and foreign sympathisers. Following territorial losses leading into 2019, IS-KP has shifted its recruitment to focus on disaffected, urban, non-Pashtun youth.

IS-KP's transfer of funds is heavily reliant on a network of hawalas – an informal method of transferring money – and the use of cryptocurrency. Afghanistan's informal financial sector. IS-KP utilises several different revenue streams for finance, including a combination of local donations, exploitation of timber and mineral black markets, kidnapping, extortion, and financial support from IS.

### **Links to other groups**

IS-KP remains ideologically aligned with IS and continues to receive support and guidance from IS senior leadership.

### **Terrorist activity**

- IS-KP fighters frequently conduct attacks against civilian and military targets utilising a combination of weaponry, including firearms and explosives. IS-KP terrorist acts have involved beheadings, violent abductions, and suicide bomb

attacks. IS-KP has also celebrated violent attacks against Western targets and frequently published material in support of terrorist acts.

***Directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act***

The following acts can be attributed to IS-KP:

- 27 March 2023, IS-KP carried out a suicide attack that killed six people and wounded 12 others near the Foreign Ministry in Kabul.
- 9 March 2023, IS-KP killed three people during an attack in Herat Province, Afghanistan.
- 12 December 2022, two IS-KP fighters carried out an attack at the Kabul Longan Hotel, killing three people and injuring 18 others.
- 4 October 2022, IS-KP launched a suicide attack in front of the Russian embassy in Kabul, killing four people.
- 2 December 2022, IS-KP attempted to assassinate Pakistani Chargé d'affaires, Ubaid-ur-Rehman Nizamani, by opening fire from a neighbouring building while Nizamani was taking a walk inside the Pakistani embassy compound.
- 30 September 2022, IS-KP launched a suicide attack against an education centre for Hazara girls in Western Kabul, which killed 54 people.
- 18 June 2022, IS-KP detonated a car bomb outside a Sikh temple in Kabul, killing two people and injuring three others.
- 21 April 2022, IS-KP members detonated a bomb at a mosque during prayers in Balkh Province, Afghanistan. The bomb killed 50 people and wounded 100 others.
- 19 April 2022, an IS-KP suicide bomber blew himself up at a high school in Dasht-e Barchi, west Kabul, which killed or injured 20 students and teachers.
- 4 March 2022, IS-KP conducted a suicide bombing at a Shia mosque in Pakhtunkhwa Province, Pakistan that killed over 56 people and injured another 190.
- 2 November 2021, five IS-KP fighters attacked the Sardar Mohammad Daul Khan military hospital, killing 19 people and wounding 43 others.
- 26 August 2021, IS-KP were responsible for a bomb blast at Kabul's Hamid Karzai International Airport, which killed 170 Afghan civilians and 13 U.S. service members.
- 14 May 2021, IS-KP bombed a Kabul mosque during Friday prayers as worshippers gathered for the Eid al-Fitr holiday, killing 12 people.
- 7 July 2022, Al-Azaim Media Foundation produced an 11-minute, 39-second video in Dari, titled "Flames of Revenge". The video discusses IS-KP's 'revenge' attack in Kabul against a Sikh temple on 18 June 2022. In the video, IS-KP shows clips of the attack and Sikh community members mourning, and warns that the group will target Hindus and Sikhs.
- 10 March 2022, Al-Azaim Media Foundation produced a 14-minute, 29-second video in Pashto, titled "Rafidites Not Safe Anywhere". Utilising a derogatory name for Shi'ite Muslims, IS-KP states that Shi'ites are not safe anywhere and warns that "we will kill them without any hesitation because they are polytheists and are murderers of Sunnis".

On the basis of these examples, IS-KP is assessed to have directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act. The 7 July 2022

and 10 March 2022 videos are assessed to be IS-KP threats to conduct terrorist acts, which fall within the definition of ‘terrorist act’ in s 100.1 of the Criminal Code.

### **Other considerations**

#### ***Links to Australia and threats to Australian interests***

A successful terrorist attack directed or inspired by IS-KP could result in harm to Australians, and the group’s activities and propaganda have the potential to inspire Australian violent extremists.

#### ***Listings by likeminded countries or the United Nations***

The United Nations Security Council includes IS-KP in its ISIL (Da’esh) and al-Qa’ida Sanctions List. The United States designated IS-KP as a foreign terrorist organisation on 14 January 2016. Canada listed IS-KP as a terrorist entity on 23 May 2018. New Zealand designated IS-KP as a terrorist entity on 14 April 2019.

#### ***Engagement in peace or mediation processes***

IS-KP is not involved in any peace or mediation process.

### **Conclusion**

On the basis of the above information, the Australian Government assesses that Islamic State Khorasan Province continues to be directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of terrorist acts or advocates the doing of terrorist acts.

## **EXPLANATORY STATEMENT**

Issued by the authority of the Attorney-General

*Criminal Code Act 1995*

Criminal Code (Terrorist Organisation – Jama’at Nusrat al-Islam wal-Muslimin)

Regulations 2023

The purpose of the Criminal Code (Terrorist Organisation – Jama’at Nusrat al-Islam wal-Muslimin) Regulations 2023 (the Regulations) is to specify the organisation known as Jama’at Nusrat al-Islam wal-Muslimin for the purposes of paragraph (b) of the definition of ***terrorist organisation*** in subsection 102.1(1) of the *Criminal Code Act 1995* (the Criminal Code).

Section 5 of the Criminal Code provides that the Governor-General may make regulations prescribing matters required or permitted by the Criminal Code to be prescribed, or necessary or convenient to be prescribed, for carrying out or giving effect to the Criminal Code.

Paragraph (b) of the definition of ***terrorist organisation*** in subsection 102.1(1) of the Criminal Code provides that regulations can specify organisations for the purposes of the definition of ***terrorist organisation***.

Subsection 102.1(2) of the Criminal Code provides that before the Governor-General makes regulations specifying an organisation for the purposes of paragraph (b) of the definition of ***terrorist organisation*** in subsection 102.1(1), the ***AFP Minister*** 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. Subsection 100.1(1) provides that, for Part 5.3 of the Criminal Code, the ***AFP Minister*** is the Minister administering the *Australian Federal Police Act 1979*. Under the Administrative Arrangements Order made by the Governor-General on 23 June 2022, and which commenced on 1 July 2022, this is the Attorney-General.

The AFP Minister is satisfied on reasonable grounds that the organisation Jama’at Nusrat al-Islam wal-Muslimin is directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act. In coming to this position, the AFP Minister has taken into consideration unclassified information provided by the relevant agencies (the Statement of Reasons at [Attachment C](#)).

### *Effect of the instrument*

Division 102 of Part 5.3 of the Criminal Code sets out the following offences relating to terrorist organisations:

- Directing the activities of a terrorist organisation
- Being a member of a terrorist organisation
- Recruiting persons to a terrorist organisation
- Receiving training from, providing training to or participating in training with a terrorist organisation
- Getting funds to, from or for a terrorist organisation

- Providing support to a terrorist organisation, and
- Associating with a terrorist organisation.

The Regulations enable Jama'at Nusrat al-Islam wal-Muslimin to continue to be recognised as a terrorist organisation for the purposes of the offence provisions in Division 102 of 5.3 of the Criminal Code.

The Regulations repeal the Criminal Code (Terrorist Organisation – Jama'at Nusrat al-Islam wal-Muslimin) Regulations 2020, which would otherwise cease to have effect on 3 November 2023 by operation of subsection 102.1(3) of the Criminal Code. Making new regulations ensures that the organisation Jama'at Nusrat al-Islam wal-Muslimin continues to be specified for the purposes of paragraph (b) of the definition of **terrorist organisation**.

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

The Regulations commence on 3 November 2023. Subsection 102.1(3) of the Criminal Code provides that regulations for the purposes of paragraph (b) of the definition of **terrorist organisation** cease to have effect on the third anniversary of the day on which they take effect.

A Statement of Compatibility with Human Rights has been completed in accordance with the *Human Rights (Parliamentary Scrutiny) Act 2011*. The overall assessment is that the Regulations are compatible with human rights. A copy of this Statement is at [Attachment A](#).

Further details of the Regulations are set out in [Attachment B](#).

### *Consultation*

The *Intergovernmental Agreement on Counter-Terrorism Laws* (IGA) requires that the Commonwealth Government consult with the governments of the States and Territories prior to making regulations specifying an organisation for the purposes of paragraph (b) of the definition of **terrorist organisation** in subsection 102.1(1) of the Criminal Code. The IGA provides that if a majority of States and Territories object to the making of such a regulation within a timeframe nominated by the Commonwealth, and provide reasons for their objections, the Commonwealth will not make the regulation at that time.

The Attorney-General wrote, on behalf of the Prime Minister, to the Premiers and Chief Ministers of the States and Territories. A majority of States and Territories did not object to the making of the Regulations within the timeframe nominated by the AFP Minister.

Subsection 102.1(2A) of the Criminal Code provides that before the Governor-General makes a regulation specifying an organisation for the purposes of paragraph (b) of the definition of **terrorist organisation** in subsection 102.1(1) of the Criminal Code, the AFP Minister must arrange for the Leader of the Opposition in the House of Representatives to be briefed in relation to the proposed regulation. The Attorney-General wrote to the Leader of the Opposition, enclosing the information upon which he was satisfied that Jama'at Nusrat al-Islam wal-Muslimin meets the legislative requirements for listing.



## **ATTACHMENT A**

### **Statement of Compatibility with Human Rights**

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

#### **Criminal Code (Terrorist Organisation – Jama’at Nusrat al-Islam wal-Muslimin) Regulations 2023**

This Disallowable Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

#### **Overview of the Disallowable Legislative Instrument**

The Criminal Code (Terrorist Organisation— Jama’at Nusrat al-Islam wal-Muslimin) Regulations 2023 (the Regulations) specify Jama’at Nusrat al-Islam wal-Muslimin for the purposes of paragraph (b) of the definition of ‘terrorist organisation’ in subsection 102.1(1) of the Criminal Code.

The object of the Regulations is to identify that Jama’at Nusrat al-Islam wal-Muslimin is a terrorist organisation under Australian law, and put the organisation and members of the public on notice of that fact. Notification is important to help people avoid engaging in activities which might constitute an offence under Division 102 of the Criminal Code in relation to Jama’at Nusrat al-Islam wal-Muslimin.

The Regulations, which are part of Australia’s terrorist organisation listing regime, support the application of the offences in Division 102 of the Criminal Code, the object of which is to protect national security, public safety and the rights and freedoms of persons within and outside of Australia. In particular, the offence of associating with a terrorist organisation in section 102.8 of the Criminal Code applies in relation to associating with Jama’at Nusrat al-Islam wal-Muslimin as a listed terrorist organisation.

Terrorist organisations, including Jama’at Nusrat al-Islam wal-Muslimin, present a threat to the security of Australia and often seek to harm Australians and our democratic institutions. The statutory definition of a ‘terrorist organisation’ requires that an organisation directly or indirectly engages in, prepares, plans, assists in or fosters the doing of a terrorist act or, in relation to a listed terrorist organisation, that the organisation advocates the doing of a terrorist act.

#### **Human rights implications**

The Regulations promote the following human rights contained in the International Covenant on Civil and Political Rights (ICCPR):

- the inherent right to life in Article 6.

The Regulations limit the following human rights contained in the ICCPR:

- the right to freedom of expression in Article 19, and

- the right to freedom of association in Article 22.

### ***The inherent right to life in Article 6***

Article 6 of the ICCPR provides that countries have a duty to take appropriate steps to protect the right to life and to investigate arbitrary or unlawful killings and punish offenders. The Regulations, and the terrorist organisation listing regime more broadly, ensure that the offence provisions in Division 102 of the Criminal Code apply to certain conduct in relation to listed terrorist organisations. These offence provisions operate to penalise conduct that presents a significant risk to life, both in Australia and overseas, and, in conjunction with the terrorist organisation listing regime, also act as a deterrent to that conduct. Deterring the conduct, and thereby preventing the risk to life, promotes the inherent right to life expressed in Article 6 of the ICCPR.

### ***The right to freedom of expression in Article 19***

Article 19(2) of the ICCPR provides that everyone shall have the right to freedom of expression. However, Article 19(3) provides that freedom of expression may be limited if it is necessary to achieve a legitimate purpose, including for the protection of national security. The Regulations, and the terrorist organisation listing regime more broadly, limit the right to freedom of expression to the extent that persons are prohibited from directing the activities of, recruiting for, providing support to or associating with terrorist organisations, including Jama'at Nusrat al-Islam wal-Muslimin. The restrictions on freedom of expression are justified on the basis that such conduct could jeopardise the security of Australia, the personal safety of its population and its national interests and the restrictions are reasonable, necessary and proportionate to the objective of protecting Australia's national security.

### ***The right to freedom of association in Article 22***

Article 22 of the ICCPR protects the right of all persons to group together voluntarily for a common goal and to form and join an organisation. Article 22(2) provides that this right may be limited for the purpose of national security. The Regulations, and the terrorist organisation listing regime more broadly, limit the right of freedom of association to prevent people engaging with and participating in terrorist organisations, in this instance Jama'at Nusrat al-Islam wal-Muslimin.

The offence of associating with a terrorist organisation in section 102.8 of the Criminal Code is limited in its application to an organisation that is a listed terrorist organisation under the definition of 'terrorist organisation' in paragraph 102.1(1)(b) of the Criminal Code. The offence does not apply if the association is with a close family member and relates to a matter of family or domestic concern, or takes place in the course of practicing a religion in a place used for public religious worship, or the association is only for the purpose of providing humanitarian aid or only for the purpose of providing legal advice or legal representation.

Due to the severity of the danger posed by terrorist organisations, it is reasonable, necessary and proportionate to limit the right of individuals who, by their association with a terrorist organisation, pose a threat to Australians.

### ***General safeguards and accountability mechanisms***

Whilst the Regulations may limit the right to freedom of expression and the right to freedom of association with Jama'at Nusrat al-Islam wal-Muslimin, the Regulations are subject to the safeguards outlined below. The limits on these rights are reasonable, necessary and proportionate, and are in the interests of public safety and national security, after taking into consideration the direct and indirect terrorist activities of the organisation, which threaten human life.

The Criminal Code provides safeguards and accountability mechanisms requiring prior consultation and enabling review of the Regulations, including the following:

- the Commonwealth must consult with the states and territories in accordance with the *Intergovernmental Agreement on Counter-Terrorism Laws* of 25 June 2004, and the Regulations may only be made if a majority of the states and territories do not object to the Regulations within a reasonable time specified by the Commonwealth
- under subsection 102.1(2A) of the Criminal Code, the Minister must arrange for the Leader of the Opposition to be briefed in relation to the proposed Regulations
- under subsection 102.1(3) of the Criminal Code, the Regulations will cease to have effect on the third anniversary of the day on which they take effect
- subsection 102.1(4) of the Criminal Code provides that if the Minister ceases to be satisfied of the criteria necessary for listing an organisation under subsection 102.1(2) of the Criminal Code, the Minister must make a declaration to that effect by written notice published in the Gazette, with the effect of the Minister's declaration that the Regulations listing the organisation cease to have effect and the organisation is de-listed as a terrorist organisation under Division 102 of the Criminal Code
- subsection 102.1(17) of the Criminal Code provides that an individual or an organisation may make a de-listing application to the Minister
- the Regulations may be reviewed by the Parliamentary Joint Committee on Intelligence and Security under section 102.1A of the Criminal Code, and
- both Houses of Parliament may disallow the Regulations within 15 sitting days after the Regulations are laid before that House, as provided for in section 42 of the *Legislation Act 2003* and noting that this period may be extended by operation of subsection 102.1A(4) of the Criminal Code if the Parliamentary Joint Committee on Intelligence and Security reviews the Regulations.

### **Conclusion**

The Regulations are compatible with human rights because they promote the protection of human rights. To the extent that the terrorist organisation listing regime, of which the Regulations are part, may also limit human rights, those limitations are for a legitimate purpose and are reasonable, necessary and proportionate.

**The Honourable Mark Dreyfus KC MP**

**Attorney-General**

## **ATTACHMENT B**

### **Details of the *Criminal Code (Terrorist Organisation – Jama’at Nusrat al-Islam wal-Muslimin) Regulations 2023***

#### **Section 1 – Name**

This section would provide that the title of the proposed Regulations is the *Criminal Code (Terrorist Organisation — Jama’at Nusrat al-Islam wal-Muslimin) Regulations 2023*.

#### **Section 2 – Commencement**

This section would provide for the Regulations to commence on 3 November 2023.

#### **Section 3 – Authority**

This section would provide that the *Criminal Code (Terrorist Organisation — Jama’at Nusrat al-Islam wal-Muslimin) Regulations 2023* are made under the *Criminal Code Act 1995*.

#### **Section 4 – Schedules**

This section would provide that each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

#### **Section 5 – Terrorist organisation— Jama’at Nusrat al-Islam wal-Muslimin**

Subsection 5(1) would provide that, for the purposes of paragraph (b) of the definition of ‘terrorist organisation’ in subsection 102.1(1) of the *Criminal Code Act 1995* (the Criminal Code) the organisation known as Jama’at Nusrat al-Islam wal-Muslimin is specified.

Division 102 of the Criminal Code provides a range of offences relating to interactions with terrorist organisations.

Subsection 5(2) provides a list of 27 names that Jama’at Nusrat al-Islam wal-Muslimin is also known as:

- a) al-Mulathamun Battalion;
- b) al-Murabitoun;
- c) al-Murabitun;
- d) Ansar al-Din;
- e) Ansar Dine;
- f) Force de Libération du Macina;
- g) GNIM;
- h) Group for Support of Islam and Muslims;
- i) Group for Supporting Islam and Muslims;
- j) Group of Support for Islam and All Muslims;
- k) Group to Support Islam and Muslims;
- l) GSIM;
- m) Islam and Muslims’ Support Group;

- n) JNIM;
- o) Jamaat Nosrat al-Islam wal-Mouslimin;
- p) Jama'a Nusrah al-Islam wa al-Muslimin;
- q) Jama'ah Nusrah al-Islam wal-Muslimin;
- r) Jama'at Nusrat al-Islam wal Muslimeen;
- s) Jama'at Nusrat al-Islam wal Muslimin;
- t) Katibat Macina;
- u) Macina Liberation Front;
- v) NIM
- w) Nusrat al-Islam wal Muslimeen;
- x) Nusrat al-Islam wal Muslimin;
- y) the Sentinels;
- z) Sahara Emirate;
- aa) Union for Supporting Islam and Muslims.

#### Schedule 1— Repeals

#### ***Criminal Code (Terrorist Organisation— Jama'at Nusrat al-Islam wal-Muslimin) Regulations 2020***

Schedule 1 would repeal the *Criminal Code (Terrorist Organisation— Jama'at Nusrat al-Islam wal-Muslimin) Regulations 2020*.

**ATTACHMENT C**

**Statement of Reasons – Jama’at Nusrat al-Islam wal-Muslimin**

<b>Listing Jama’at Nusrat al-Islam wal-Muslimin as a terrorist organisation under Division 102 of the <i>Criminal Code Act 1995</i></b>
This Statement of Reasons is based on publicly available information about the Jama’at Nusrat al-Islam wal-Muslimin. To the Australian Government’s knowledge, this information is accurate, reliable and has been corroborated by classified information where available.
<b>Known aliases</b> al-Mulathamun Battalion; al-Murabitoun; al-Murabitun; Ansar al-Din; Ansar Dine; Force de Libération du Macina; GNIM; Group for Support of Islam and Muslims; Group for Supporting Islam and Muslims; Group of Support for Islam and All Muslims; Group to Support Islam and Muslims; GSIM; Islam and Muslims’ Support Group; JNIM; Jamaat Nosrat al-Islam wal-Mouslimin; Jama’a Nusrah al-Islam wa al-Muslimin; Jama’ah Nusrah al-Islam wal-Muslimin; Jama’at Nusrat al-Islam wal Muslimeen; Jama’at Nusrat al-Islam wal Muslimin; Katibat Macina; Macina Liberation Front; NIM; Nusrat al-Islam wal Muslimeen; Nusrat al-Islam wal Muslimin; the Sentinels; Sahara Emirate; Union for Supporting Islam and Muslims.
<b>Legislative basis for listing a terrorist organisation</b> Division 102 of the <i>Criminal Code Act 1995</i> (Criminal Code) provides that for an organisation to be listed as a terrorist organisation, the AFP Minister must be satisfied on reasonable grounds that the organisation: <ul style="list-style-type: none"><li>a) is directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act; or</li><li>b) advocates the doing of a terrorist act.</li></ul> For the purposes of listing a terrorist organisation under the Criminal Code, subsection 102.1(2) of the Criminal Code describes the doing of a terrorist act as including the doing of a specific terrorist act, the doing of more than one terrorist act and the doing of a terrorist act, even if a terrorist act does not occur.
<b>Background to this listing</b> The Australian Government first proscribed JNIM as a terrorist organisation on 3 November 2020. Al-Murabitun (since merged into JNIM) was listed on 5 November 2014, and re-listed on 3 November 2017.
<b>Details of the organisation</b> JNIM is an al-Qa’ida aligned Salafi-Jihadist organisation that strives to build a Salafi-Islamist state in West Africa. The organisation is primarily based in Mali but active across much of West Africa, including Burkina Faso, Niger, and Togo. JNIM was formed on 2 March 2017, when a coalition of jihadist groups operating in the Sahel region of West Africa – Ansar al-Din, the Macina Liberation Front (FLM), al-Murabitun and the Sahara Emirate subgroup of al-Qa’ida in the Lands of the Islamic Maghreb (AQIM) – announced they had merged into one entity under one Emir, formalising the longstanding alliance between the member groups.



JNIM's goal to eliminate Western influences in the region has brought the organisation into conflict with the United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA), and partner states – predominantly France through its regional counter-terrorism effort, Operation Barkhane, which concluded in August 2022. Over the past decade, more than 300 peacekeepers associated with MINUSMA have been killed as a result of targeted insurgent attacks. The danger posed to UN personnel by JNIM, combined with tensions between MINUSMA and host country authorities, has resulted in a security situation described as 'dire' by a UN Security Council report.

JNIM's activities in West Africa have also brought the organisation into competition with Islamic State (IS) affiliates operating in the region. Between 2017 and 2019, engagements between JNIM and IS were largely cooperative, and reported as a "Sahelian exception" to the wider conflict between al-Qa'ida affiliates and IS. Since 2019 this relationship has degraded, as JNIM and IS have repeatedly come into violent conflict over territory. Since fighting first broke out in mid-2019, there have been reports of nearly 200 clashes between the groups resulting in the deaths of more than 1100 combatants.

### **Leadership**

#### Current emir: Iyad ag Ghaly

The founder of Ansar al-Din, Iyad Ag Ghaly was named as JNIM's overall emir shortly following the organisation's formation in March 2017. Following his appointment, Ag Ghaly affirmed JNIM's allegiance to AQIM, al-Qa'ida, and the Afghan Taliban.

Ag Ghaly, a Tuareg, originates from the Kidal Region of northern Mali. A participant in the Tuareg rebellions during the 1990s, Ag Ghaly also led a short-lived Tuareg revolt in 2006 before joining the Malian High Council of Territorial Collectivities – a constitutionally enshrined institution of Mali that advises the government – in 2007.

Ag Ghaly operated as a hostage negotiator for the Malian Government until 2010. During this time, Ag Ghaly formulated several close contacts within AQIM, with Ag Ghaly eventually encouraged by AQIM officials to form Ansar al-Din as a way to assist AQIM's efforts to expand its activities into northern Mali.

Ag Ghaly was included in the United Nations' ISIL (Da'eash) and al-Qaida Sanctions List on 25 February 2013 and listed by the United States as a 'Specially Designated Global Terrorist' a day later.

#### Senior Leader: Amadou Kouffa

Born in Niafunke, Mali, Amadou Kouffa founded FLM in January 2015. Alongside Ag Ghaly, Kouffa was one of the co-founders of JNIM. Since JNIM's formation, Kouffa's FLM faction been responsible for more violent activities and associated fatalities than any other JNIM-affiliated faction. Kouffa's FLM faction has also targeted civilians at a higher rate than any other JNIM faction.

Kouffa was included in the United Nations' ISIL (Da'eash) and al-Qa'ida Sanctions List on 4 February 2020.

### **Membership**

JNIM is estimated to boast approximately 2000 fighters in central and northern Mali.

### **Recruitment and funding**

JNIM follows the wider al-Qa'ida blueprint of appealing to local communities, seeking to exploit the frustrations of vulnerable and underrepresented peoples, such as the Tuareg and Fulani, and presenting itself as an alternative to existing West African governments.

Amadou Kouffa's FLM faction in particular has found success by weaponising local and ethnic grievances for broader Salafi-Islamist ends.

JNIM finances itself through kidnappings-for-ransom, extortion and the levying of taxes, such as zakat, to fund the recruitment of its fighters. It has also been reported that JNIM taxes smugglers and traffickers seeking transit through JNIM-controlled areas. JNIM has also equipped itself with arms captured from military barracks and local militia forces.

### **Links to other groups**

JNIM holds close links to al-Qa'ida. Immediately following the formation of JNIM in 2017, Iyad ag Ghaly affirmed the organisation's allegiance to Abdelmalek Droukdel, the emir of AQIM, Ayman al-Zawahiri, the emir of al-Qa'ida, and Haibatullah Akhundzada, the then leader of the Afghan Taliban.

### **Terrorist activity**

JNIM regularly conducts attacks against both foreign and state security forces, typically through the use of hit and run attacks, kidnappings, improvised explosive devices, roadside bombings and mortar attacks. JNIM has also frequently conducted attacks against civilian targets and villages. JNIM has also celebrated violent attacks against Western targets and frequently published material in support of terrorist acts.

#### ***Directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act***

The following acts can be reliably attributed to JNIM:

- 8 May 2023, JNIM fighters killed six soldiers in an ambush near Kita town, Mali.
- 22 April 2023, JNIM launched several suicide attacks in Severe town, Mali, leaving 10 civilians dead and 60 injured.
- 24 November 2022, JNIM fighters killed 12 soldiers after ambushing security forces in Kpendjal, north Togo.
- 26 September 2022, JNIM fighters killed 11 soldiers and injured 28 others during an ambush on a military convoy taking supplies to a town in Gaskinde, northern Burkina Faso.
- 11 August 2022, JNIM detonated an explosive device in Niamey, Niger's capital. Two people were killed.
- 1 August 2022, JNIM fighters conducted an attack in Barbougna village, northwest Niger. Three civilians were killed.
- 25 June 2022, JNIM militants killed 132 people across several villages in the Bankass area of Central Mali.
- 23 December 2021, JNIM gunmen killed 41 civilians during an attack on a convoy of market traders in the nord region, Burkina Faso.
- 18 August 2021, JNIM gunmen killed 59 civilians and 15 security forces in an attack on a military convoy on the road between Arbinda and Gorgadji in Burkina Faso.
- 8 April 2021, JNIM kidnapped French journalist Olivier Dubois in Mali's Gao area. Dubois was released 711 days later on 20 March 2023.

On the basis of these examples, JNIM is assessed to have directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act.

#### **Other considerations**

##### ***Links to Australia and threats to Australian interests***

JNIM has previously targeted Australian citizens. On January 2016, Dr Kenneth Elliot was abducted by the Saharan Emirate subgroup of AQIM, one of the founding organisations that merged to form JNIM in March 2017. Dr Elliot was held for seven years before being released in May 2023. A successful terrorist attack directed or inspired by JNIM could result in harm to Australians, and the group's activities and propaganda have the potential to inspire Australian violent extremists.

##### ***Listings by likeminded countries or the United Nations***

The UN Security Council included JNIM in its ISIL (Da'esh) and al-Qa'ida Sanctions List. JNIM was designated as a foreign terrorist organisation by the United States in 2018, was listed as a proscribed terrorist organisation by the United Kingdom in 2019, and was listed as a terrorist entity by Canada in 2021.

##### ***Engagement in peace or mediation processes***

JNIM is not involved in any peace or mediation process.

#### **Conclusion**

On the basis of the above information, the Australian Government assesses that Jama'at Nusrat al-Islam wal-Muslimin is directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of terrorist acts.

**Process for the 2023 re-listing of Jama'at Nusrat al-Islam wal-Muslimin (JNIM) and Islamic State Khorasan Province (IS-KP) as terrorist organisations under the *Criminal Code Act 1995***

1. 2 August 2023: The Department of Home Affairs (Home Affairs) formally raised the re-listing of JNIM and IS-KP with relevant agencies and sought whole-of-government input to inform the Statement of Reasons.
2. 18 August 2023: Home Affairs provided the Australian Government Solicitor (AGS) with the consolidated Statements of Reasons, seeking advice as to whether, based on the information contained within the Statement of Reasons provided, the Attorney-General could be satisfied that JNIM and ISKP met the legislative thresholds to be listed as terrorist organisations.
3. 29 August 2023: AGS provided final legal advice on JNIM to Home Affairs.
4. 31 August 2023: AGS provided final legal advice on IS-KP to Home Affairs.
5. 1 September 2023: Home Affairs provided a submission to the Minister for Home Affairs seeking her consideration of the Statements of Reasons.
6. 7 September 2023: The Minister for Home Affairs wrote to the Attorney-General, formally providing the Statements of Reasons and accompanying AGS advice and endorsing the proposed re-listing of the organisations.
7. 8 September 2023: The Attorney-General's Department provided a submission to the Attorney-General recommending that he agree to the re-listings.
8. 12 September 2023: The Attorney-General agreed to the re-listings, having been satisfied that JNIM and IS-KP met the statutory criteria and approved the Regulations, and:
  - A. The Attorney-General wrote to the Prime Minister advising of his decision to re-list JNIM and IS-KP, and notified the Prime Minister that he had written to the First Ministers of each state and territory regarding the proposed re-listings.
  - B. The Attorney-General wrote to the Leader of the Opposition advising of his decision to re-list JNIM and IS-KP, attaching the Statements of Reasons and offering a briefing.
  - C. The Attorney-General wrote to First Ministers on behalf of the Prime Minister, advising of his decision to re-list JNIM and IS-KP, and attached copies of the draft Regulations and Statement of Reasons. The letters requested that a response be provided by 13 October 2023, advising whether the First Minister objected to the re-listings, and reasons for any objection.
9. The following responses were received from the First Ministers of the following states and territories:
  - A. Victoria – received 25 September
  - B. Australian Capital Territory – received 10 October
  - C. Western Australia – received 11 October
  - D. New South Wales – received 13 October

No objections were made to the re-listing.

10. 13 October 2023: The Attorney-General's Department provided a submission to the Attorney-General, requesting his approval and signature of the Regulations and supporting documents for Federal Executive Council.

11. 16 October 2023: The Attorney-General approved the documents for Federal Executive Council.
12. 26 October 2023: The Governor-General made the Regulations.
13. 26 October 2023: The *Criminal Code (Terrorist Organisation – Jama'at Nusrat al-Islam wal-Muslimin) Regulations 2023* and *Criminal Code (Terrorist Organisation – Islamic State Khorasan Province) Regulations 2023* were lodged on the Federal Register of Legislation [reference: F20231026L013 and F20231026L014].