



Attorney-General

Reference: MS22-001111

Mr Peter Khalil MP
Chair, Parliamentary Joint Committee on Intelligence and Security
PO Box 6021
Parliament House
CANBERRA ACT 2600

By email: pjcis@aph.gov.au

Dear Mr Khalil

I write to advise that Islamic State Somalia has been re-listed as a terrorist organisation under the *Criminal Code Act 1995* (the Criminal Code). This re-listing will ensure that the offence provisions under Division 102 of the Criminal Code will continue to apply to conduct in relation to Islamic State Somalia.

Under subsection 102.1(2) of the Criminal Code, before an organisation is listed as a terrorist organisation, I must be satisfied on reasonable grounds that the organisation is directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act, or advocates the doing of terrorist act. Following careful consideration of relevant information and legal advice from the Australian Government Solicitor, I am satisfied that Islamic State Somalia continues to meet the legal threshold.

Terrorist Organisation Regulation

Subsection 102.1(3) of the Criminal Code provides that a regulation listing a terrorist organisation ceases to have effect on the third anniversary of the day on which it takes effect. Islamic State Somalia was re-listed as a terrorist organisation with effect from 17 September 2022. To ensure there is no gap in the coverage of offences in relation to the organisation being re-listed, the Regulation commenced immediately and has not been delayed until after the disallowance period.

Before the Regulation was made, I wrote on behalf of the Commonwealth to all state and territory First Ministers advising them of the proposed listing, and provided them with copies of the draft Regulation for their consideration, as required under the *Inter-Governmental Agreement on Counter Terrorism Laws*. No jurisdiction objected to the listing.

As required under subsection 102.1(2A) of the Criminal Code, I also wrote to the Leader of the Opposition advising him of the proposed listings, and invited him to contact my office if he wished to receive a further briefing.

Review by the Parliamentary Joint Committee on Intelligence on Security

Section 102.1A of the Criminal Code provides that the Parliamentary Joint Committee on Intelligence and Security (the Committee) may review regulations listing an organisation as a terrorist organisation as soon as possible after they are made, and report the Committee's comments and recommendations to each House of Parliament before the end of the applicable disallowance period for each House.

To assist the Committee, I attach a copy of the Regulation and the Explanatory Statement. I also attach a Statement of Reasons that provides information on the history, ideology, leadership and activities of Islamic State Somalia, and was the basis upon which I made my decision to list Islamic State Somalia under Division 102 of the Criminal Code.

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

Yours sincerely



THE HON MARK DREYFUS KC MP

6/10/2022

Encl. *Criminal Code Regulations—Islamic State Somalia*
Explanatory Statement—Islamic State Somalia
Statement of Reasons—Islamic State Somalia
Process of re-listing—Islamic State Somalia

Cc Minister for Home Affairs, the Hon Clare O'Neil MP



Australian Government
Department of Home Affairs

OFFICIAL

Statement of Reasons

Listing Islamic State Somalia 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 Somalia. 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 Somalia

Known aliases

Abnaa ul-Calipha; Mahad Moalim; Wilayat al Somal; Wilayat Sumaal; ISIS in East Africa; ISIL Somalia

Legislative basis for listing a terrorist organisation

Division 102 of the *Criminal Code Act 1995* (the *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(20) of the *Criminal Code* describes the doing of a terrorist act includes 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 Islamic State Somalia as a terrorist organisation under the *Criminal Code* on 4 April 2019. The listing commenced on 17 September 2019.

OFFICIAL

OFFICIAL

Details of the organisation

In 2014, a group of disenfranchised al-Shabaab members formed an Islamic State-aligned group (Islamic State Somalia) in northern Somalia, adopting the tenets of Islamic State. In the ensuing years, this group made repeated attempts to reach-out to Islamic State in Syria, including making pledges of allegiance in 2015 and 2016, which were not recognised by Islamic State. Following a further video pledge in December 2017, Islamic State publicly recognised Islamic State (IS) Somalia and its attacks in its official weekly publication al-Naba. On 15 March 2022, IS Somalia pledged allegiance to the new Islamic State leader Sheik Abu-al-Hassan al-Hashimi al-Qurashi, further consolidating its relationship to the Islamic State organisation's core.

IS Somalia's primary objective is to establish an Islamic Caliphate in the horn of Africa based on the application of Sharia law consistent with the global jihadist ideology of the proscribed terrorist organisation Islamic State. On 25 December 2017, IS Somalia promoted attacks against Western states in a video and called for Muslims, especially in East Africa, to join them. During the video, an IS Somalia fighter speaking in English told would-be supporters that killing an infidel was their 'ticket out of hell'. On 25 December 2017 IS Somalia also pledged allegiance to Islamic State, and re-pledged allegiance to the new leader of Islamic State, Sheik Abu-al-Hassan al-Hashimi al-Qurashi, on 15 March 2022.

Leadership

IS Somalia has a centralised command structure and is currently led by Abdul Qadir Mumin.

Membership

IS Somalia is estimated to have over 250 fighters, with an unknown number of supporters. Many IS Somali fighters are ethnic Somalis, although Ethiopians are also believed to be among the ranks.

Recruitment and funding

IS Somalia is directly supported by Islamic State in Yemen, which provides experts, trainers, money, weapons, and other materials. IS Somalia also taxes the local community, threatening harm if they do not pay. Recruiting is undertaken from within local Puntland communities, although the group raids those communities that do not support it and steals food and other necessities. IS Somalia also works with Somali pirates, namely the Mohamed Garfanje's Hobyo-Haradhere Piracy Network.

Links to other groups

IS Somalia is officially recognised as an affiliate of, and ideologically aligned with, proscribed terrorist organisation Islamic State. In October 2015, several al-Shabaab members who later joined IS Somalia pledged allegiance to Islamic State and on 25 April 2016, Abdul Qadir Mumin also pledged allegiance to Islamic State leader Abu Bakr al-Baghdadi, strengthening the connection between the two groups. Relations between IS Somalia and al-Shabaab are hostile.

Terrorist activity

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

IS Somalia conducts attacks in the northern Somali Puntland region and southern Somalia. It primarily targets Western, African Union Transition Mission in Somalia (ATMIS), and Somali Government interests using improvised explosive devices (IEDs) and firearms.

The following attacks, for which IS Somalia has claimed responsibility, can be reliably attributed to the organisation:

- On 19 April 2022, IS Somalia detonated an adhesive IED in Mogadishu that injured Somali police members and damaged their vehicle.

OFFICIAL

- On 25 September 2021, an IS Somalia member killed two policemen in an assassination in Mogadishu.
- On 27 October 2020, IS Somalia conducted an attack which killed one soldier and injured three others in Mogadishu.
- On 18 May 2020, IS Somalia detonated an improvised IED on a vehicle belonging to the Somali military in Mogadishu.

On the basis of these incidents, IS Somalia 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

A successful terrorist attack directed or inspired by IS Somalia or one of its affiliates 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 Government of the United States proscribed IS Somalia as a terrorist organisation in February 2018.

Engagement in peace or mediation processes

IS Somalia is not known to have engaged in any peace or mediation processes.

Conclusion

On the basis of the information above, the Australian Government assesses that the organisation known as Islamic State Somalia 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 Somalia) Regulations 2022

The purpose of the *Criminal Code (Terrorist Organisation—Islamic State Somalia) Regulations 2022* (the Regulations) is to specify the organisation known as Islamic State Somalia for the purposes of paragraph (b) of the definition of **terrorist organisation** in subsection 102.1(1) of the *Criminal Code*.¹

Section 5 of the *Criminal Code Act 1995* (the Act) provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed, for carrying out or giving effect to the Act. The Schedule to the Act sets out the *Criminal Code*, which prescribes offences against humanity and related offences, and dangers to the community and national infrastructure.

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 Somalia 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](#)).

¹ A **terrorist organisation** is defined in subsection 102.1(1) of the *Criminal Code* as:

- (a) an organisation that is directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act; or
- (b) an organisation that is specified by the regulations for the purposes of this paragraph.

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 the offence provisions in Division 102 of Part 5.3 of the *Criminal Code* to continue to apply in relation to conduct relating to Islamic State Somalia.

The Regulations repeal the *Criminal Code (Terrorist Organisation—Islamic State Somalia) Regulations 2019*, which would otherwise cease to have effect on 17 September 2022 by operation of subsection 102.1(3) of the *Criminal Code*. Making new Regulations ensures that the organisation Islamic State Somalia 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 17 September 2022. 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* (June 2004) (the 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 the 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 the 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 Somalia meets the legislative requirements for listing.

Advice from the Australian Government Solicitor in relation to the Statement of Reasons at [Attachment C](#).

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 Somalia) Regulations 2022

This Disallowable Legislative 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 Somalia) Regulations 2022* (the Regulations) specify Islamic State Somalia 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 specify Islamic State Somalia as 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 that might constitute an offence under Division 102 of Part 5.3 of the *Criminal Code* in relation to Islamic State Somalia.

The Regulations, which are part of Australia’s terrorist organisation listing regime, support the application of the offences in Division 102 of Part 5.3 of the *Criminal Code*, the object of which is to protect national security, public safety and the rights and freedoms of persons. 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 Somalia as a listed terrorist organisation.

Terrorist organisations, including Islamic State Somalia, 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 engage the following rights:

- the inherent right to life in Article 6 of the *International Covenant on Civil and Political Rights* (ICCPR)
- the right to freedom of expression in Article 19 of the ICCPR, and
- the right to freedom of association in Article 22 of the ICCPR.

The inherent right to life in Article 6

Under Article 6 of the ICCPR, 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, 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 Somalia. 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 Somalia.

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 paragraph (b) of the definition of **terrorist organisation** in subsection 102.1(1) 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 Somalia, 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 AFP Minister must arrange for the Leader of the Opposition in the House of Representatives to be briefed in relation to the proposed Regulations
- under subsection 102.1(3) 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 AFP Minister ceases to be satisfied of the criteria necessary for listing an organisation under subsection 102.1(2) of the *Criminal Code*, the AFP Minister must make a declaration to that effect by written notice published in the Gazette, with the effect of the AFP Minister's declaration being 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 AFP 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 and tables its report during the applicable disallowance period for that House.

Conclusion

The Disallowable Legislative Instrument is compatible with human rights because it promotes the right to life. To the extent that it limits 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 Somalia) Regulations 2022

Section 1 – Name

1. This section provides that the title of the Regulations is the *Criminal Code (Terrorist Organisation—Islamic State Somalia) Regulations 2022*.

Section 2 – Commencement

2. This section provides for the commencement of each provision in the Regulations, as set out in the table.
3. Subsection 2(1) provides that each provision in the Regulations, as specified in column 1 of the table, commences in accordance with column 2 of the table, and that any other statement in column 2 has effect according to its terms. Columns 1 and 2 provide that the Regulations commence in their entirety on 17 September 2022.
4. The note below subsection 2(1) clarifies that the table only relates to the provisions of the Regulations as originally made, and will not be amended to deal with any subsequent amendments of the instrument.
5. Subsection 2(2) provides that the information in column 3 of the table is not part of the Regulations. It is designed to assist readers of the Regulations.

Section 3 – Authority

6. This section provides that the Regulations are made under the *Criminal Code Act 1995*.

Section 4 – Schedules

7. This section provides that each instrument specified in a Schedule to the Regulations is amended or repealed as set out in the applicable items in the Schedule concerned. Any other item in a Schedule to the Regulations has effect according to its terms.
8. Schedule 1 to the Regulations repeals the whole of the *Criminal Code (Terrorist Organisation—Islamic State Somalia) Regulations 2019*.

Section 5 – Terrorist organisation – Islamic State Somalia

9. Subsection 5(1) provides that, 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 Somalia is specified.

10. The effect of specifying Islamic State Somalia as a terrorist organisation is to ensure that offences in Subdivision B of Division 102 of Part 5.3 of the *Criminal Code* that relate to terrorist organisations are able to operate, where the appropriate elements are satisfied, in relation to conduct in connection with Islamic State Somalia.
11. Subsection 5(2) provides a list of names by which the organisation Islamic State Somalia is also known, at paragraphs 5(2)(a) to (f):
 - Abnaa ul-Calipha;
 - ISIL Somalia;
 - ISIS in East Africa;
 - Mahad Moalim;
 - Wilayat al Somal;
 - Wilayat Sumaal.

Schedule 1—Repeals

12. Item 1 of Schedule 1 to the Regulations repeals the *Criminal Code (Terrorist Organisation—Islamic State Somalia) Regulations 2019* (the 2019 Regulations).
13. The 2019 Regulations specify the organisation Islamic State Somalia for the purposes of paragraph (b) of the definition of **terrorist organisation** in subsection 102.1(1) of the *Criminal Code*. Subsection 102.1(3) of the *Criminal Code* provides that the 2019 Regulations cease to have effect on 17 September 2022, being the third anniversary of the day on which they took effect.
14. While the 2019 Regulations would otherwise have ceased to have effect on this date, repealing the 2019 Regulations provides clarity and ensures there is no duplication where the new Regulations are made before the 2019 Regulations cease to have effect.

ATTACHMENT C

Statement of Reasons

Listing Islamic State Somalia as a terrorist organisation under the *Criminal Code Act 1995*

This Statement of Reasons is based on publicly available information about Islamic State Somalia. 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 Somalia

Known aliases

Abnaa ul-Calipha; Mahad Moalim; Wilayat al Somal; Wilayat Sumaal; ISIS in East Africa; ISIL Somalia

Legislative basis for listing a terrorist organisation

Division 102 of the *Criminal Code Act 1995* (the *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(20) of the *Criminal Code* describes the doing of a terrorist act includes 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 Islamic State Somalia as a terrorist organisation under the *Criminal Code* on 4 April 2019, in the *Criminal Code (Terrorist Organisation—Islamic State Somalia) Regulations 2019*. The listing commenced on 17 September 2019.

Details of the organisation

In 2014, a group of disenfranchised al-Shabaab members formed an Islamic State-aligned group (Islamic State Somalia) in northern Somalia, adopting the tenets of Islamic State. In ensuing years, this group made repeated attempts to reach-out to Islamic State in Syria, including making pledges of allegiance in 2015 and 2016, which were not recognised by Islamic State. Following a further video pledge in December 2017, Islamic State publicly recognised Islamic State (IS) Somalia and its attacks in its official weekly publication al-Naba. On 15 March 2022, IS Somalia pledged allegiance to the new Islamic State leader Sheik Abu-al-Hassan al-Hashimi al-Qurashi, further consolidating its relationship to the Islamic State organisation's core.

IS Somalia's primary objective is to establish an Islamic Caliphate in the horn of Africa based on the application of Sharia law consistent with the global jihadist ideology of the proscribed terrorist organisation Islamic State. On 25 December 2017, IS Somalia promoted attacks against Western states in a video and called for Muslims, especially in East Africa, to join them. During the video, an IS Somalia fighter speaking in English told would-be supporters that killing an infidel is their 'ticket out of hell'. On 25 December 2017 IS Somalia also pledged allegiance to Islamic State, and re-pledged to the new leader of Islamic State, Sheik Abu-al-Hassan al-Hashimi al-Qurashi, on 15 March 2022.

Leadership

IS Somalia has a centralised command structure and is currently led by Abdul Qadir Mumin.

Membership

IS Somalia is estimated to have over 250 fighters, with an unknown number of supporters. Many IS Somalia fighters are ethnic Somalis, although Ethiopians are also believed to be among the ranks.

Recruitment and funding

IS Somalia is directly supported by Islamic State in Yemen, which provides experts, trainers, money, weapons, and other materials. IS Somalia also taxes the local community, threatening harm if they do not pay. Recruiting is undertaken from within local Puntland communities, although the group raids those communities that do not support it and steals food and other necessities. IS Somalia also works with Somali pirates, namely the Mohamed Garfanje's Hobyo-Haradhere Piracy Network.

Links to other groups

IS Somalia is officially recognised as an affiliate of, and ideologically aligned with, proscribed terrorist organisation Islamic State. In October 2015, several al-Shabaab members who later joined IS Somalia pledged allegiance to Islamic State and on 25 April 2016, Abdul Qadir Mumin also pledged allegiance to Islamic State leader Abu Bakr al-Baghdadi, strengthening the connection between the two groups. Relations between IS Somalia and al-Shabaab are hostile.

Terrorist activity

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

IS Somalia conducts attacks in the northern Somali Puntland region and southern Somalia. It primarily targets Western, African Union Transition Mission in Somalia (ATMIS), and Somali Government interests using improvised explosive devices (IEDs) and firearms.

The following attacks, for which IS Somalia has claimed responsibility, can be reliably attributed to the organisation:

- On 19 April 2022, IS Somalia detonated an adhesive IED in Mogadishu that injured Somali police members and damaged their vehicle.
- On 25 September 2021, an IS Somalia member killed two policemen in an assassination in Mogadishu.
- On 27 October 2020, IS Somalia conducted an attack which killed one soldier and injured three others in Mogadishu.
- On 18 May 2020, IS Somalia detonated an improvised IED on a vehicle belonging to the Somali military in Mogadishu.

On the basis of these examples, IS Somalia 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

A successful terrorist attack directed or inspired by IS Somalia or one of its affiliates 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 Government of the United States of America proscribed IS Somalia as a terrorist organisation in February 2018.

Engagement in peace or mediation processes

IS Somalia is not known to have engaged in any peace or mediation processes.

Conclusion

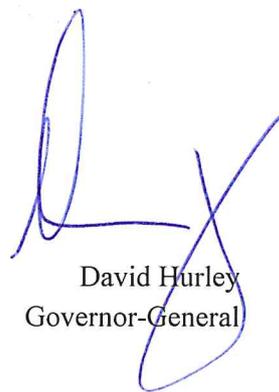
On the basis of the information above, the Australian Government assesses that the organisation known as Islamic State Somalia is directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of terrorist acts.



Criminal Code (Terrorist Organisation— Islamic State Somalia) Regulations 2022

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 *15 September* 2022



David Hurley
Governor-General

By His Excellency's Command



Mark Dreyfus KC
Attorney-General

Contents

1	Name	1
2	Commencement.....	1
3	Authority	1
4	Schedules.....	1
5	Terrorist organisation—Islamic State Somalia	1
Schedule 1—Repeals		2
<i>Criminal Code (Terrorist Organisation—Islamic State Somalia) Regulations 2019</i>		<i>2</i>

1 Name

This instrument is the *Criminal Code (Terrorist Organisation—Islamic State Somalia) Regulations 2022*.

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	17 September 2022.	17 September 2022

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 Somalia

- (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 Somalia is specified.
- (2) Islamic State Somalia is also known by the following names:
- (a) Abnaa ul-Calipha;
 - (b) ISIL Somalia;
 - (c) ISIS in East Africa;
 - (d) Mahad Moalim;
 - (e) Wilayat al Somal;
 - (f) Wilayat Sumaal.

Schedule 1 Repeals

Schedule 1—Repeals

Criminal Code (Terrorist Organisation—Islamic State Somalia) Regulations 2019

1 The whole of the instrument

Repeal the instrument.

Process for the 2022 re-listing of Islamic State Somalia as a terrorist organisation under the Criminal Code

Islamic State (IS) Somalia re-listing process

1. On 1 June 2022, the Department of Home Affairs formally raised the re-listing of IS Somalia with relevant agencies and sought whole-of-government input to inform the Statement of Reasons outlining the case for re-listing Islamic State Somalia (IS Somalia).
2. On 1 August 2022, the Australian Government Solicitor provided written advice to the Department of Home Affairs in relation to IS Somalia and the Criminal Code requirements.
3. On 11 August 2022, the Department of Home Affairs wrote to state and territory officials and members of the Australia-New Zealand Counter-Terrorism Committee to inform them of the proposed re-listing of IS Somalia as a terrorist organisation and to provide them with advance notice that they would be consulted.
4. On 18 August 2022, the Department of Home Affairs provided a submission to the Minister for Home Affairs seeking her consideration of the Statement of Reasons.
5. On 23 August 2022, the Minister for Home Affairs wrote to the Attorney-General, supporting the re-listing of Islamic State Somalia as a terrorist organisation under the Criminal Code. The Minister's letter attached the Statement of Reasons, and drafts of the Regulations, Explanatory Memorandum and Federal Executive Council documents.
6. On 30 August 2022, the Attorney-General's Department provided a submission to the Attorney-General recommending that he agree to the re-listing.
7. On 31 August 2022, the Attorney-General agreed to the re-listing of IS Somalia having been satisfied that the organisation met the statutory criteria and approved the Regulation.
8. On 31 August 2022, the Attorney-General wrote to the Prime Minister advising of the decision to re-list Islamic State Somalia as a terrorist organisation. The Attorney-General notified the Prime Minister that he had written to the First Ministers of each state and territory regarding the proposed re-listing.
9. On 31 August 2022, the Attorney-General wrote to the Leader of the Opposition advising of his decision to re-list Islamic State Somalia as a terrorist organisation, attaching the Statement of Reasons and offering a briefing in relation to the organisation.
10. On 31 August 2022, the Attorney-General wrote to the Minister for Home Affairs advising of his intention to re-list IS Somalia as a terrorist organisation.
11. On 31 August 2022, the Attorney-General wrote to First Ministers on behalf of the Prime Minister, advising of his decision to re-list Islamic State Somalia as a terrorist organisation, and attached copies of the draft Regulation and Statement of Reasons. The letters requested that a response be provided by 13 September 2022, advising whether the First Minister objected to the re-listing, and reasons for any objections.
12. The following responses were received from the Premier or Chief Minister of the following states and territories:
 - Northern Territory – received 12 September 2022
 - Australian Capital Territory – received 13 September 2022
 - Western Australia – received 13 September 2022

- Victoria – received 14 September 2022
- New South Wales – received 14 September 2022

No response was received from the Premiers of Tasmania, South Australia, and Queensland.

No objections were made to the re-listing of IS Somalia as a terrorist organisation.

13. On 15 September 2022, the Governor-General made the Regulation.
14. On 16 September 2022 the *Criminal Code (Terrorist Organisation—Islamic State Somalia) Regulations 2022* was registered on FRL [reference: F2022L01215]. To ensure there is no gap in the coverage of offences in relation to IS Somalia, the Regulation commenced immediately and was not delayed until after the disallowance period.
15. On 6 October 2022 the Attorney-General wrote to the Chair of the Parliamentary Joint Committee on Intelligence and Security advising of the re-listing of IS Somalia as a terrorist organisation, and attaching the Regulation, Explanatory Statement, and Statement of Reasons, and this listing process document.