



Appendix A – Process of listing

Source: Attorney-General, *Submission 1*

**Process for the 2015 proscription of
Al-Shabaab, Hamas' Izz al-Din al Qassam Brigades,
Kurdistan Workers' Party, Lashkar-e-Tayyiba and
Palestinian Islamic Jihad as 'terrorist organisations'
under the Criminal Code**

The National Security Law and Policy Division of the Attorney-General's Department (the department) facilitates the process by which the Attorney-General makes a decision to list, re-list or de-list a terrorist organisation under the *Criminal Code Act 1995* (the Criminal Code). This includes obtaining written Statements of Reasons from the Australian Security Intelligence Organisation (ASIO) that assess organisations and seeking the advice of the Australian Government Solicitor in relation to ASIO's assessments. This information is included in a package of information submitted to the Attorney-General to assist him in deciding whether or not to list, re-list or de-list an organisation as a terrorist organisation under the Criminal Code.

The following processes were undertaken for the purpose of re-listing Al-Shabaab, Hamas' Izz al-Din al Qassam Brigades (Brigades), Kurdistan Workers' Party (PKK), Lashkar-e-Tayyiba (LeT) and Palestinian Islamic Jihad (PIJ) as 'terrorist organisations' under the Criminal Code.

1. Unclassified Statements of Reasons were prepared by ASIO, and endorsed by the Department of Foreign Affairs and Trade, outlining the case for re-listing Al-Shabaab, Brigades, PKK, LeT and PIJ.
2. In June 2015, the Australian Government Solicitor (AGS) provided written advice that the Attorney-General could, on the basis of the statements, be satisfied on reasonable grounds that the matters specified in section 102.1(2) of the Criminal Code have been met in relation to Al-Shabaab, Brigades, LeT and PIJ, and in July 2015 in relation to PKK.
3. On 13 July 2015, the Director-General of Security wrote to the Attorney-General outlining the background, training activities, terrorist activities and relevant statements of Al-Shabaab, Brigades, PKK, LeT and PIJ.
4. On 14 July 2015, following consideration of the Director-General of Security's advice, ASIO's Statements of Reasons with respect to Al-Shabaab, Brigades, LeT and PIJ, including legal advices from AGS, the Attorney-General approved and signed separate Statements that he is satisfied on reasonable grounds that Al-Shabaab, Brigades, LeT and PIJ are directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of terrorist acts, or advocate the doing of terrorist acts, and on 21 July 2015 in relation to PKK. The Attorney-General also signed letters to the Prime Minister, First Ministers and the Leader of the Opposition regarding the proposed re-listings, signed the *Criminal Code (Terrorist Organisation—Al-Shabaab) Regulation 2015*; *Criminal Code (Terrorist Organisation—Hamas' Izz al-Din al Qassam Brigades) Regulation 2015*; *Criminal Code (Terrorist Organisation—Kurdistan Workers' Party) Regulation 2015*; *Criminal Code (Terrorist Organisation—Lashkar-e-Tayyiba) Regulation 2015* and *Criminal Code (Terrorist Organisation—Palestinian Islamic Jihad) Regulation 2015*, and approved associated Federal Executive Council (ExCo) documentation, including an ExCo Minute, Explanatory Memorandums and Explanatory Statements for consideration by the Administrator, His Excellency the Honourable Paul de Jersey AC, Governor of Queensland, at a meeting of ExCo on 6 August 2015.

UNCLASSIFIED

5. On 15 July 2015, the Attorney-General wrote to the Prime Minister advising of his decision to re-list Al-Shabaab, Brigades, LeT and PIJ, and on 21 July 2015 in relation to PKK.
6. In accordance with subsection 102.1(2A) of the Criminal Code, on 15 July 2015 the Attorney-General wrote to the Leader of the Opposition to offer a briefing in relation to the re-listing of Al-Shabaab, Brigades, LeT and PIJ, and on 28 July 2015 in relation to PKK.
7. On 15 July 2015, the Attorney-General wrote, on behalf of the Prime Minister, to the Premiers of the States and Chief Ministers of the Territories, advising them of his decision to re-list Al-Shabaab, Brigades, LeT and PIJ, and on 21 July 2015 in relation to PKK.
8. On 16 July 2015, State and Territory officials and members of the Australia-New Zealand Counter-Terrorism Committee (ANZCTC) were advised by email of the proposed re-listing of Al-Shabaab, Brigades, LeT and PIJ and given advance copies of the Statements of Reasons by email, and on 23 July 2015 in relation to PKK.
9. The Premiers of the States and Chief Ministers of the Territories responded on the dates recorded below in relation to the proposed re-listing of Al-Shabaab, Brigades, PKK, LeT and PIJ:
 - New South Wales – responses dated 30 July 2015 (Al-Shabaab, Brigades, LeT and PIJ) and 31 July 2015 (PKK)
 - Victoria – response dated 4 August 2015 (Al-Shabaab, Brigades, PKK, LeT and PIJ)
 - Queensland – response dated 6 August 2015 (PKK)
 - Western Australia – response dated 30 July 2015 (Al-Shabaab, Brigades, PKK, LeT and PIJ)
 - South Australia – response dated 30 July 2015 (Al-Shabaab, Brigades, PKK, LeT and PIJ)
 - Tasmania – responses dated 31 July 2015 (Al-Shabaab, Brigades, LeT and PIJ) and 10 August 2015 (PKK)
 - Australian Capital Territory – response dated 1 August 2015 (Al-Shabaab, Brigades, PKK, LeT and PIJ) and
 - Northern Territory – responses dated 28 July 2015 (Al-Shabaab, Brigades, PKK, LeT and PIJ) and 31 July 2015 (PKK).
10. None of the State and Territory responses objected to the proposed re-listing of Al-Shabaab, Brigades, PKK, LeT and PIJ.
11. On 6 August 2015, the Administrator made the Regulations at ExCo.
12. On 10 August 2015, the Regulations re-listing Al-Shabaab, Brigades, PKK, LeT and PIJ were registered on the Federal Register of Legislative Instruments (FRLI) (references [F2015L01235](#), [F2015L01236](#), [F2015L01237](#), [F2015L01238](#) and [F2015L01239](#)).
13. On 11 August 2015, the Regulations came into effect, the day after they were registered.
14. On 12 August 2015, the Attorney-General issued a media release announcing the re-listing of Al-Shabaab, Brigades, PKK, LeT and PIJ.
15. The Australian National Security website was updated to reflect the re-listings.

UNCLASSIFIED