



## **Appendix A – Process of listing**

Source: Attorney-General, *Submission 1*



## **Process for the 2015 proscription of Hizballah's External Security Organisation as a 'terrorist organisation' 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 a written Statement 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 Hizballah's External Security Organisation (ESO) as a terrorist organisation.

1. An unclassified Statement of Reasons was prepared by ASIO, and endorsed by the Department of Foreign Affairs and Trade, outlining the case for re-listing ESO and identifying ESO as a discrete branch within Hizballah.
2. On 30 March 2015, the Australian Government Solicitor provided written advice that the Attorney-General could, on the basis of the statement, be satisfied on reasonable grounds that the matters specified in section 102.1(2) of the Criminal Code have been met in relation to ESO, as distinct from Hizballah.
3. On 15 April 2015, the Director-General of Security wrote to the Attorney-General outlining the background, training activities, terrorist activities and relevant statements of ESO.
4. On 16 April 2015, the department provided a submission to the Attorney-General containing a copy of the following documents:
  - the Statements of Reasons with respect to ESO and
  - legal advice from the Australian Government Solicitor.
5. On 22 April 2015, having considered the information provided in the submission, including strong grounds to list ESO (as distinct from Hizballah), the Attorney-General approved and signed a Statement that he is satisfied on reasonable grounds that ESO is directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of terrorist acts.
6. On 23 April 2015, the Attorney-General wrote to the Prime Minister advising of his decision to re-list ESO as a terrorist organisation.
7. On 23 April 2015, the Attorney-General wrote to the Leader of the Opposition on the proposed re-listing of ESO as terrorist organisation, offering a briefing in relation to the re-listing.
8. On 23 April 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 ESO.
9. On 23 April 2015, State and Territory officials and members of the Australia-New Zealand Counter-Terrorism Committee were advised by email of the proposed re-listing of ESO and issued an advance copy of the Statement of Reasons.

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10. The Premiers of the States and Chief Ministers of the Territories responded on the dates recorded below in relation to ESO:
  - New South Wales – response dated 29 April 2015
  - Victoria – response dated 5 May 2015
  - Queensland – response dated 28 April 2015
  - Western Australia – response dated 24 April 2015
  - South Australia – response dated 27 April 2015
  - Tasmania – response dated 28 April 2015
  - Australian Capital Territory – response dated 24 April 2015 and
  - Northern Territory – response dated 23 April 2015.
11. None of the State and Territory responses objected to the proposed re-listing of ESO.
12. On 22 April 2015, the Attorney-General signed the *Criminal Code (Terrorist Organisation— Hizballah's External Security Organisation) Regulation 2015* and approved associated Federal Executive Council (ExCo) documentation, including an ExCo Minute, Explanatory Memorandum and Explanatory Statement for consideration by the Governor-General at a meeting of ExCo on 30 April 2015.
13. On 24 April 2015, in accordance with subsection 102.1(2A) of the Criminal Code, the Attorney-General wrote to the Leader of the Opposition to arrange a briefing in relation to the re-listing of ESO.
14. On 30 April 2015, the Governor-General made the Regulation at ExCo.
15. On 1 May 2015, the Regulation was registered on the Federal Register of Legislative Instruments (FRLI) (reference [F2015L00621](#)).
16. On 2 May 2015, the Regulation came into effect, the day after it was registered on FRLI.
17. On 2 May 2015, the Attorney-General issued a media release announcing the re-listing of ESO.
18. The Government's Australian National Security website was updated to reflect the re-listing of ESO.

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