



**Australian Government**  
**Attorney-General's Department**

**National Security Law  
& Policy Division**

14/8837

Ms Julia Searle  
A/g Committee Secretary  
Parliamentary Joint Committee  
on Intelligence and Security  
Parliament House  
CANBERRA ACT 2600

Dear Ms Searle

I refer to the Attorney-General's letter of 3 July 2014 to the Chair of the Parliamentary Joint Committee on Intelligence and Security concerning the proposed listing of Islamic State for the purpose of the *Criminal Code Act 1995* (the Criminal Code).

I confirm that the Criminal Code (Terrorist Organisation—Islamic State) Regulation 2014 was made by the Federal Executive Council on 10 July 2014, giving effect to the listing of Islamic State.

The regulation came into effect on 11 July 2014, the day after it was registered on the Federal Register of Legislative Instruments.

I attach a document outlining the process for listing Islamic State. I understand that this document will be considered as a submission should the Committee decide to conduct a review into the listing of this organisation. I consent to its publication for that purpose.

The action officer for this matter is

Yours sincerely

Jamie Lowe  
A/g First Assistant Secretary  
National Security Law and Policy Division

Encl. Process of listing Islamic State

## **Process for the 2014 proscription of Islamic State as a terrorist organisation under the Criminal Code**

The National Security Law and Policy Division of the Attorney-General's 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 products from the Australian Security Intelligence Organisation (ASIO) that assess organisations and seeking the advice of the Australian Government Solicitor in relation to the assessments. These are included in a package of information that is submitted to the Attorney-General to assist him to make a decision as to whether or not a particular organisation will be listed under the Criminal Code.

The following processes were undertaken for the purpose of listing Islamic State:

1. An unclassified Statement of Reasons was prepared by ASIO, and endorsed by the Department of Foreign Affairs and Trade, detailing the case for listing Islamic State.
2. On 2 July 2014, the Australian Government Solicitor provided written advice with respect to the Statement of Reasons for Islamic State, stating 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.
3. The Director-General of Security wrote to the Attorney-General on 3 July 2014, outlining the background, training activities, terrorist activities, and relevant statements of Islamic State.
4. A submission was provided to the Attorney-General on 3 July 2014, providing the following documents:
  - a. a copy of the Statement of Reasons received from ASIO with respect to Islamic State, and
  - b. advice from the Australian Government Solicitor.
5. Having considered the information provided in the submission, the Attorney-General approved the making of a Statement on 3 July 2014 confirming that he is satisfied on reasonable grounds that Islamic State is directly or indirectly engaged in, preparing, planning, assisting in, fostering or advocates the doing of a terrorist act (whether or not the act has occurred or will occur). The Attorney-General signed the Statement on 3 July 2014.
6. On 3 July 2014, the Attorney-General wrote to the Prime Minister advising of his intention to list Islamic State as a terrorist organisation.
7. On 3 July 2014, the Attorney-General wrote to the Leader of the Opposition of the proposed listing of Islamic State as a terrorist organisation, and offered a briefing in relation to the listing.

8. On 3 July 2014, 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 list Islamic State as a terrorist organisation and requested their comments on the proposed listing. State and territory officials were also advised of the proposed listing by email dated 4 July 2014.
9. The Premiers and Chief Ministers of the states and territories responded on the dates recorded below:

New South Wales – response dated 7 July 2014  
Victoria – response dated 7 July 2014  
Queensland – response dated 10 July 2014  
Western Australia – response dated 3 July 2014  
South Australia – response dated 7 July 2014  
Tasmania – response dated 7 July 2014  
Northern Territory – response dated 7 July 2014 and  
ACT – response dated 9 July 2014.

These responses did not object to the proposed listing.

10. On 3 July 2014, the Attorney-General signed the Criminal Code (Terrorist Organisation—Islamic State) Regulation 2014 and approved associated Federal Executive Council documentation including an Explanatory Memorandum, Executive Council Minute and Explanatory Statement, in preparation for the Federal Executive Council meeting on 10 July 2014.
11. On 10 July 2014, the Federal Executive Council made the [Criminal Code \(Terrorist Organisation—Islamic State\) Regulation 2014](#).
12. The Regulation was registered with the Federal Register of Legislative Instruments (FRLI) on 10 July 2014 with the FRLI Reference Number F2014L00979.
13. The Regulation came into effect on 11 July 2014, the day after it was registered on FRLI.
14. The Attorney-General issued a Media Release on 12 July 2014 announcing the listing of Islamic State and attached a copy of the Statement of Reasons.
15. The Australian Government's National Security website was also updated.