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Process for the 2018 proscription of Hizballah's External Security Organisation as a 'terrorist organisation' under the Criminal Code

The Counter-Terrorism Policy Branch in the Department of Home Affairs (the department) facilitates the process by which the Minister for Home Affairs makes a decision on behalf of the Attorney-General to list, re-list or de-list an organisation as 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 assesses the organisation, and seeking the advice of the Australian Government Solicitor (AGS) in relation to ASIO's assessment. This information and advice is included in a package of information submitted to the Minister for Home Affairs 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 outlining the case for the re-listing of ESO was prepared by ASIO.
2. On 07 February 2018, the Statement of Reasons was considered by the department and then provided to AGS.
3. On 13 February 2018, AGS provided written advice to the department in relation to ESO and the Criminal Code requirements.
4. On 20 February 2018, the Director-General of Security wrote to the Minister for Home Affairs providing the Statement of Reasons.
5. On 27 February 2018, the department provided a submission to the Minister for Home Affairs advising him that he could be satisfied on reasonable grounds that the legislative criteria for re-listing ESO has been satisfied.
6. On 16 March 2018, having considered the information provided in the submission, including grounds to re-list ESO, the Minister for Home Affairs agreed to re-list this organisation.
7. On 16 March 2018 the Minister for Home Affairs wrote to the Prime Minister advising of the decision to re-list ESO as a terrorist organisation. The Minister for Home Affairs notified the Prime Minister that he had written, on the Prime Minister's behalf, to the First Ministers of each state and territory regarding the proposed re-listing of ESO.
8. On 16 March 2018, the Minister for Home Affairs wrote to the Leader of the Opposition advising of his decision to re-list ESO, attaching the Statement of Reasons and offering a briefing in relation to this organisation.
9. On 16 March 2018, the Minister for Home Affairs wrote to First Ministers on behalf of the Prime Minister, advising of his decision to re-list ESO as a terrorist organisation, and attached a copy of the Statement of Reasons. The letters requested that a response be provided by 6 April 2018, advising whether the First Minister approved of, or objected to the re-listing.
10. On 21 March 2018, the department emailed State and Territory officials and members of the Australia-New Zealand Counter-Terrorism Committee (ANZCTC) advising them of the proposal to re-list ESO and provided a copy of the Statement of Reasons.

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11. The following responses to the Minister for Home Affairs' letters to First Ministers were received by the department:
 - Victoria – response received 4 April 2018
 - Western Australia – response received 6 April 2018
 - Australian Capital Territory – response received 9 April 2018
 - Queensland – response received 9 April 2018
 - Tasmania – response received 9 April 2018
 - Northern Territory – response received 10 April 2018
 - New South Wales – response received 13 April 2018
 - South Australia – response received 24 April 2018
12. No objections were made to the re-listing of ESO.
13. On 23 March 2018, the department provided a submission to the Minister for Home Affairs seeking approval of the Regulations and associated Federal Executive Council (ExCo) documentation, including an ExCo Minute, and Explanatory Memorandum for consideration by the Governor-General at a meeting of ExCo.
14. On 09 April 2018, the Minister approved the Regulations and associated Federal Executive Council (ExCo) documentation.
15. On 27 April 2018, the Governor-General made the Regulations.
16. On 1 May 2018, the Criminal Code (Terrorist Organisation—Hizballah's External Security Organisation) Regulations 2018 were registered on the Federal Register of Legislation (FRL) [reference: F2018L00550]. The Regulations came into effect on 2 May 2018.
17. On 2 May 2018, the Minister for Home Affairs issued a media release announcing the re-listing of ESO under the Criminal Code.
18. On 2 May 2018, the Australian Government's National Security website was updated to reflect the making of the Regulations re-listing ESO as a terrorist organisation.
19. On 2 May 2018 the Minister for Home Affairs wrote to the Chair of the Parliamentary Joint Committee on Intelligence and Security advising of re-listing, attaching the Regulations, Explanatory Statement and Statement of Reasons.

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