

Process for the 2013 proscription of Al-Qa'ida in the Arabian Peninsula as a terrorist organisation under the Criminal Code

The Security Law Branch 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. This includes obtaining products from ASIO that assess organisations and seeking the advice of the Chief General Counsel 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 Al-Qa'ida in the Arabian Peninsula (AQAP):

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 AQAP.
2. The Director-General of Security wrote to the Attorney-General on 26 September 2013, outlining the background, training activities, terrorist activities, and relevant statements of AQAP.
3. On 12 September 2013, the Australian Government Solicitor provided written advice with respect to the Statement of Reasons for AQAP, stating that the Attorney-General could, on the basis of the statement, be satisfied on reasonable grounds that matters specified in s102.1(2) of the Criminal Code have been met.
4. A submission was provided to the Attorney-General on 2 October 2013, providing the following documents:
 - a. a copy of the Statement of Reasons received from ASIO with respect to AQAP and
 - b. advice from the Australian Government Solicitor.
5. Having considered the information provided in the submission, the Attorney-General signed a statement on 4 October 2013 with respect to AQAP confirming that he is 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 whether or not the act has occurred or will occur.
6. On 4 October 2013, the Attorney-General wrote to the Prime Minister advising of his intention to list AQAP as a terrorist organisation.
7. On 4 October 2013, the Attorney-General wrote to the Director-General of Security, in response to the Director-General's letter dated 26 September 2013.
8. On 4 October 2013, 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 AQAP as a terrorist organisation and requesting their

comments on the proposed listing. State and Territory officials were also advised of the proposed listing by e-mail dated 8 October 2013.

The following responses were received from the Premiers and Chief Ministers of the States and Territories:

Victoria – response dated 5 November 2013
New South Wales - response dated 27 November 2013
Queensland – response dated 25 October 2013
Western Australia – response dated 29 October 2013
South Australia – response dated 6 November 2013
Tasmania – response dated 14 October 2013
Australian Capital Territory – response dated 1 November 2013
Northern Territory – response dated 3 November 2013

These responses did not object to the proposed listing.

9. A submission was provided to the Attorney-General on 6 November 2013, providing the regulation and Federal Executive Council documentation with respect to the listing of AQAP.
10. On 13 November 2013 the Attorney-General signed the *Criminal Code (Terrorist Organisation – Al-Qa’ida in the Arabian Peninsula) Regulation 2013* 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 21 November 2013.
11. On 13 November 2013, the Attorney-General advised the Leader of the Opposition of the proposed listing of AQAP as a terrorist organisation by letter, and offered a briefing in relation to the listing.
12. On 21 November 2013 the Federal Executive Council made the *Criminal Code (Terrorist Organisation—Al-Qa’ida in the Arabian Peninsula) Regulation 2013*.

The Regulation was registered with the Federal Register of Legislative Instruments (FRLI) on 25 November 2013 with the FRLI Reference Number F2013L01969.

The Regulation came into effect on 26 November 2013, the day after it was registered on FRLI.

13. The Attorney-General issued a Media Release on 26 November 2013 announcing the listing of AQAP and attaching a copy of the Statement of Reasons.
14. The Australian Government’s National Security website was also updated.