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Process for the 2018 proscription of Islamic Movement of Uzbekistan, Jaish-e-Mohammad and Lashkar-e Jhangvi as ‘terrorist organisations’ under the Criminal Code

The Counter Terrorism Policy Branch of 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 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.

Prior to the machinery of government arrangements of 15 December 2017, The Counter Terrorism Policy Branch was previously known as the Counter Terrorism Division within the Attorney-General’s Department. The Branch transitioned to the Department of Home Affairs in the machinery of government arrangements.

The following processes were undertaken for the purpose of re-listing Islamic Movement of Uzbekistan (IMU), Jaish-e-Mohammad (JeM) and Lashkar-e Jhangvi (LeJ) as terrorist organisations.

1. Unclassified Statements of Reasons outlining the case for the re-listing of Islamic Move as terrorist organisations were prepared by ASIO.
2. On 28 November 2017, the Statements of Reasons were considered by Attorney-General’s department and then provided to AGS.
3. On 1 December 2017, AGS provided written advice in relation to IMU, JeM and LeJ.
4. On 16 January 2018, the Director-General of Security wrote to the Minister for Home Affairs providing the Statements of Reasons.
5. On 22 January 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 IMU, JeM and LeJ have been satisfied.
6. On 15 February 2018, having considered the information provided in the submission, including grounds to re-list IMU, JeM and LeJ, the Minister for Home Affairs agreed to re-list these organisations.
7. On 15 February 2018 the Minister for Home Affairs wrote to the Prime Minister advising of the decision to re-list IMU, JeM and LeJ as terrorist organisations. 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-listings.
8. On 15 February 2018, the Minister for Home Affairs wrote to the Leader of the Opposition advising of his decision to re-list IMU, JeM and LeJ attaching the Statements of Reasons, and offering a briefing in relation to the organisations.
9. On 16 February 2018, the Minister for Home Affairs wrote to First Ministers on behalf of the Prime Minister, advising of his decision to re-list IMU, JeM and LeJ as terrorist organisations, and attached copies of the Statements of Reasons. The letters requested

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that a response be provided by 28 February 2018, advising whether the First Minister approved of, or objected to, the listing and re-listing.

10. On 16 February 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 IMU, JeM and LeJ, and provided copies of the Statements of Reasons.
11. The following responses to the Minister for Home Affairs' letters to First Ministers were received by the department:
 - Victorian Premier – response received 26 February 2018
 - Queensland Premier – response received 1 March 2018
 - Western Australian Premier – response received 2 March 2018
 - Australian Capital Territory – response received (verbally) 2 March 2018
 - Northern Territory – response received (verbally) 2 March 2018
12. No responses were received from South Australia or Tasmania as both governments were in caretaker periods prior to state elections.
13. No objections were made to the re-listing of IMU, JeM and LeJ.
14. On 7 February 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, Regulations and Explanatory Memorandums for consideration by the Governor-General at a meeting of ExCo.
15. On 27 February 2018, the Minister approved the Regulations and associated Federal Executive Council (ExCo) documentation.
16. On 2 March 2018, the Governor-General made the Regulations.
17. On 2 March 2018, the Minister for Home Affairs issued a media release announcing the re-listing of the organisations under the Criminal Code.
18. On 2 March 2018, the Criminal Code (Terrorist Organisation—Islamic Movement of Uzbekistan) Regulations 2018 were registered on the Federal Register of Legislation (FRL) [reference: F2018L00182]. The Regulations came into effect on 3 March 2018.
19. On 2 March 2018, the Criminal Code (Terrorist Organisation—Jaish-e-Mohammad) Regulations 2018 were registered on the Federal Register of Legislation (FRL) [reference: F2018L00183]. The Regulations came into effect on 3 March 2018.
20. On 2 March 2018, the Criminal Code (Terrorist Organisation—Lashkar-e Jhangvi) Regulations 2018 were registered on the Federal Register of Legislation (FRL) [reference: F2018L00181]. The Regulations came into effect on 3 March 2018.
21. On 2 March 2018, the Australian Government's National Security website was updated to reflect the making of the Regulations re-listing IMU, JeM and LeJ as terrorist organisations.
22. On 7 March 2018 the Minister for Home Affairs wrote to the Chair of the Parliamentary Joint Committee on Intelligence and Security advising of the listing and re-listing, attaching the Regulations, Explanatory Statements and Statements of Reasons.

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