

## **Process for the 2014 proscription of Boko Haram as a terrorist organisation under the Criminal Code**

The Security Law and Capability 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 Boko Haram:

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 Boko Haram.
2. On 14 May 2014 the Prime Minister, the Hon Tony Abbott MP, made a statement in the House of Representatives announcing that the Government was taking steps to proscribe Boko Haram as a terrorist organisation under the Criminal Code. The Prime Minister wrote to the Leader of the Opposition to this effect. This proposal received support from the Leader of the Opposition.
3. The Director-General of Security wrote to the Attorney-General on 15 May 2014, outlining the background, training activities, terrorist activities, and relevant statements of Boko Haram.
4. On 14 May 2014, the Australian Government Solicitor provided written advice with respect to the Statement of Reasons for Boko Haram, 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.
5. A submission was provided to the Attorney-General on 21 May 2014, providing the following documents:
  - a. a copy of the Statement of Reasons received from ASIO with respect to Boko Haram, and
  - b. advice from the Australian Government Solicitor
6. Having considered the information provided in the submission, the Attorney-General approved the making of a Statement on 23 May 2014 confirming that he is satisfied on reasonable grounds that Boko Haram 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 16 June 2014.
7. On 23 May 2014, the Attorney-General wrote to the Prime Minister advising of his intention to list Boko Haram as a terrorist organisation.
8. On 23 May 2014, the Attorney-General advised the Leader of the Opposition of the proposed listing of Boko Haram as a terrorist organisation by letter, and offered a briefing in relation to the listing.

9. On 23 May 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 Boko Haram 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 27 May 2014.
10. The following responses were received from the Premiers and Chief Ministers of the States and Territories:
  - New South Wales – response dated 6 June 2014
  - Victoria – response dated 5 June 2014
  - Queensland – response dated 23 June 2014
  - Western Australia – response dated 10 June 2014
  - South Australia – response dated 8 June 2014
  - Tasmania – response not received in time
  - Northern Territory – response dated 3 June 2014
  - ACT – response dated 12 June 2014

These responses did not object to the proposed listing.
11. On 16 June 2014 the Attorney-General signed the *Criminal Code (Terrorist Organisation – Boko Haram) 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 26 June 2014.
12. On 26 June 2014 the Federal Executive Council made the [\*Criminal Code \(Terrorist Organisation—Boko Haram\) Regulation 2014\*](#).
13. The Regulation was registered with the Federal Register of Legislative Instruments (FRLI) on 30 June 2014 with the FRLI Reference Number F2014L00886.
14. The Regulation came into effect on 1 July 2014, the day after it was registered on FRLI.
15. The Attorney-General issued a Media Release announcing the listing of Boko Haram and attached a copy of the Statement of Reasons.
16. The Australian Government’s National Security website was also updated.