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### Process for the 2017 proscription of Boko Haram and Islamic State as 'terrorist organisations' under the Criminal Code

The Counter Terrorism Unit of the Attorney-General's Department (the department) facilitates the process by which the Attorney-General makes a decision 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 assess organisations, and seeking the advice of the Australian Government Solicitor (AGS) in relation to ASIO's assessments. This information is included in a package of information submitted to the Attorney-General 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 Boko Haram and Islamic State as terrorist organisations.

1. Unclassified Statements of Reasons outlining the cases for re-listing Boko Haram and Islamic State as terrorist organisations were prepared by ASIO.
2. Those Statements of Reasons were considered by the Department of Foreign Affairs and Trade (DFAT) and the department and then provided to AGS.
3. On 26 April 2017, AGS provided written advice in relation to Boko Haram and Islamic State.
4. On 9 May 2017, the Director-General of Security wrote to the Attorney-General outlining the background, training activities, terrorist activities and relevant statements of each of the two organisations.
5. On 15 May 2017, the department provided a submission to the Attorney-General attaching the following documents:
  - the unclassified Statements of Reasons in relation to Boko Haram and Islamic State,
  - legal advice from AGS in relation to Boko Haram and Islamic State,
  - draft regulations and supporting documentation for the listing of Boko Haram and Islamic State as terrorist organisations under the Criminal Code, and
  - a draft letter addressed to the Prime Minister.
6. On 22 May 2017, having considered the information provided in the submission, including grounds to re-list Boko Haram and Islamic State, the Attorney-General approved the regulations and associated Federal Executive Council (ExCo) documentation, including an ExCo Minute, and, for each organisation, a regulation, an Explanatory Memorandum and an Explanatory Statement for consideration by the Governor-General at a meeting of ExCo.
7. On 22 May 2017, the Attorney-General wrote to the Prime Minister advising of his decision to re-list Boko Haram and Islamic State as terrorist organisations, and seeking the Prime Minister's authority to consult with First Ministers about the proposed re-listings on the Prime Minister's behalf.
8. On 1 June 2017, the Prime Minister wrote to the Attorney-General agreeing that the Attorney-General consult with First Ministers about the proposed re-listings.

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9. On 2 June 2017, the Attorney-General wrote to the Leader of the Opposition advising of his decision to re-list Boko Haram and Islamic State, attaching the Statement of Reasons for each organisation, and offered a verbal briefing in relation to the organisations.
10. On 2 June 2017, the Attorney-General also wrote to First Ministers, about the proposal to re-list Boko Haram and Islamic State as terrorist organisations, attaching copies of the Statements of Reasons. The letters requested that, if there was an objection to the proposed re-listing of either terrorist organisation, a response be provided by 16 June 2017.
11. On 2 June 2017, 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 Boko Haram and Islamic State, attaching copies of the Statements of Reasons.
12. The following responses to the Attorney-General's letters to First Ministers were received:
  - Western Australia Premier – response received 13 June 2017
  - Tasmanian Premier – response received 14 June 2017
  - Victorian Premier – response received 15 June 2017
  - South Australia Premier – response received 15 June 2017
  - Queensland Premier – response received 16 June 2017
  - New South Wales Premier – response received 22 June 2017
  - Australian Capital Territory Chief Minister – response received 28 June 2017
13. None of the responses received indicated an objection to the proposed re-listings. Details of any further responses will be provided following receipt.
14. On 27 June 2017, the Governor-General made the regulations.
15. On 28 June 2017, the National Security website was updated to reflect the making of the regulations re-listing Boko Haram and Islamic State as terrorist organisations.
16. On 28 June 2017, the Attorney-General issued a media release announcing the re-listing of the two terrorist organisations under the Criminal Code.
17. On 30 June 2017, the Criminal Code (Terrorist Organisation—Boko Haram) Regulations 2017 was registered on the Federal Register of Legislative Instruments (FRLI) [reference: R20170621L036]. The regulation came into effect on 1 July 2017.
18. On 30 June 2017, the Criminal Code (Terrorist Organisation—Islamic State) Regulations 2017 was registered on the Federal Register of Legislative Instruments (FRLI) [reference: R20170621L035]. The regulation came into effect on 1 July 2017.
19. On 3 July 2017 the Attorney-General wrote to PJCIS advising of the re-listings, and attaching the Criminal Code Regulations, Explanatory Statements, and Statements of Reasons.