



Australian Government
Department of Home Affairs

OFFICIAL

Ref No: MS23-001975

Peter Khalil
Chair
Parliamentary Joint Committee on Intelligence and Security
Parliament House
Canberra ACT 2600

Dear Chair

Thank you for your correspondence of 6 September 2023 regarding your queries on the process of re-listing terrorist organisations under the *Criminal Code Act 1995* (Cth) (Criminal Code). The Department of Home Affairs is aware that the Parliamentary Joint Committee on Intelligence and Security (the Committee) is conducting a Review of the 1 July 2023 re-listing of three terrorist organisations under the Criminal Code, namely Islamic State (IS), Islamic State West Africa Province (ISWAP) and Boko Haram.

In response to your questions, there was an administrative error relating to the process for the re-listing of IS, ISWAP and Boko Haram as terrorist organisations under the Criminal Code. As a result of this error, the Minister for Home Affairs did not write to the Attorney-General in relation to these re-listings in this instance. This error had no impact on the legality of the Attorney-General's consideration of the legal threshold under the Criminal Code. This matter has been addressed and the process for listing and re-listing of terrorist organisations has not changed.

The Department of Home Affairs worked closely with the Attorney-General's Department to progress the re-listings of IS, ISWAP and Boko Haram. In accordance with normal process, the Department of Home Affairs was responsible for developing the Statements of Reasons for each organisation, which informed the Attorney-General's decision on whether to list the organisations as a terrorist organisations under the Criminal Code. The Department of Home Affairs was also responsible for seeking legal advice from the Australian Government Solicitor as to whether the organisations met the legislative criteria for listing as a terrorist organisation.

Thank you for bringing the Committee's queries to the Minister's attention.

Yours sincerely


Chris Field
First Assistant Secretary
Counter-Terrorism Coordination Centre
National Security and Resilience Group

11 September 2023

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PARLIAMENTARY JOINT COMMITTEE ON INTELLIGENCE AND SECURITY
Parliament House, Canberra ACT 2600 | Phone: (02) 6277 2360 | Email: pjcis@aph.gov.au

6 September 2023

The Hon Clare O'Neil MP
Minister for Home Affairs
Suite M1.26
Parliament House
CANBERRA ACT 2600

Via email: 

Dear Minister,

Re-listing of terrorist organisations under the Criminal Code: query on process

As you may be aware, the Committee is presently conducting a Review of the 2023 relisting of three organisations (Islamic State, Islamic State West Africa Province and Boko Haram) as terrorist organisations under the Criminal Code.

In line with usual practice for these reviews, the Committee received from the Attorney-General a letter and supporting documents about the relistings – which it accepted and published on its [website](#) as Submission 1 to the review – including a document stepping through the *Process for the 2023 re-listing* of the organisations.

The Committee noted that, unlike the *Process* documents provided for previous reviews, the process for the 2023 re-listings did not specify that the Minister for Home Affairs wrote to the Attorney-General endorsing the re-listing of the organisations.

The Committee has requested that I write to you to ascertain:

1. Whether you wrote to the Attorney-General endorsing the 2023 re-listing of Islamic State, Islamic State West Africa Province and Boko Haram as terrorist organisations under the Criminal Code;
2. If so, whether there is any reason this correspondence is not mentioned in the *Process* document provided to the Committee;
3. If not, how and why the process has changed from the process previously undertaken for listing and re-listing of terrorist organisations under the Criminal Code, in which you wrote to the Attorney-General to endorse his listing decision;
4. Whether in fact you endorse the re-listing of the three organisations currently under review by the Committee.

[REDACTED]

In order to ensure the Committee can meet the imminent tabling deadline for its review of these regulations, the Committee would be most grateful for your written response on this matter by **2.00pm (AEST) on Thursday 7 September 2023**.

Should you have any queries, please contact the Committee Secretary, [REDACTED] on 02 6277 2360; or via email at pjcis@aph.gov.au.

Yours sincerely

[REDACTED]

Mr Peter Khalil MP
Chair

cc. The Hon Mark Dreyfus KC MP, Attorney-General: [REDACTED]