



Australian Government
Attorney-General's Department

**National Security Law
& Policy Division**

13/4749

10 July 2013

Mr Jerome Brown
Committee Secretary
Parliamentary Joint Committee
on Intelligence and Security
Parliament House
CANBERRA ACT 2600

Dear Mr Brown

I refer to the Attorney-General's letter of 18 June 2013, to the Chair of the Parliamentary Joint Committee on Intelligence and Security, concerning the proposed listing of Jabhat al-Nusra.

I confirm that the *Criminal Code (Terrorist Organisation – Jabhat al-Nusra) Regulation 2013* was made on 28 June 2013 giving effect to the listing of Jabhat al-Nusra as a terrorist organisation under the Criminal Code.

The Regulation came into effect on 29 June 2013, the day after it was registered on the Federal Register of Legislative Instruments.

I attach a document outlining the process for listing this terrorist organisation. I understand that this document will be considered as a submission should the Committee decide to conduct a review into the listing of the organisation, and I consent to its publication for that purpose.

Yours sincerely

Geoff McDonald
First Assistant Secretary
National Security Law and Policy Division

Encl. Process of listing

Process for the 2013 proscription of Jabhat al-Nusra 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 Jabhat al-Nusra:

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 Jabhat al-Nusra.
2. The Acting Director-General of Security wrote to the Attorney-General on 3 May 2013, outlining the background, training activities, terrorist activities, and relevant statements of Jabhat al-Nusra.
3. On 6 May 2013, the Australian Government Solicitor provided written advice with respect to the Statements of Reasons for Jabhat al-Nusra, 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 10 May 2013, providing the following documents:
 - a. a copy of the Statement of Reasons received from ASIO with respect to Jabhat al-Nusra; and
 - b. advice from the Chief General Counsel.
5. Having considered the information provided in the submission, the Attorney-General signed a statement on 13 May 2013 with respect to Jabhat al-Nusra 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 13 May 2013, the Attorney-General wrote to the then Prime Minister advising of his intention to list Jabhat al-Nusra as a terrorist organisation.
7. On 13 May 2013, the Attorney-General wrote to the Director-General of Security, in response to the Acting Director-General's letter dated 3 May 2013.

8. On 13 May 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 Jabhat al-Nusra 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 14 May 2013.

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

New South Wales – response dated 13 June 2013
Victoria – response dated 2 June 2013
Western Australia – response dated 12 June 2013
South Australia – response dated 12 June 2013
Tasmania – response dated 24 June 2013
Australian Capital Territory – response dated 6 June 2013
Northern Territory – response dated 31 May 2013

All responses were supportive of the proposed listing.

9. A submission was provided to the Attorney-General on 17 June 2013, providing the regulation and Federal Executive Council documentation with respect to the listing of Jabhat al-Nusra.
10. On 17 June the Attorney-General signed the *Criminal Code (Terrorist Organisation—Jabhat al-Nusra) Regulation 2013* in relation to the organisation, 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 28 June 2013.
11. On 18 June 2013, the Attorney-General advised the Leader of the Opposition of the proposed listing of Jabhat al-Nusra as a terrorist organisation by letter, and offered a briefing in relation to the listing.
12. On 18 June 2013, the Attorney-General wrote to the Chair of the Parliamentary Joint Committee on Intelligence and Security advising of his decision to list Jabhat al-Nusra as a terrorist organisation.
13. On 28 June 2013 the Federal Executive Council made the *Criminal Code (Terrorist Organisation—Jabhat al-Nusra) Regulation 2013*.

The Regulation was registered with the Federal Register of Legislative Instruments (FRLI) on 28 June 2013 with the FRLI Reference Number F2013L01217.

The Regulation came into effect on 29 June 2013, the day after it was registered on FRLI.

14. The Attorney-General issued a Media Release on 28 June 2013 announcing the listing of Jabhat al-Nusra and attaching a copy of the Statement of Reasons.

The Australian Government's National Security website was also updated.



Australian Government
Attorney-General's Department

**National Security Law
& Policy Division**

13/5334

10 December 2013

Dr Anna Dacre
Committee Secretary
Parliamentary Joint Committee
on Intelligence and Security
Parliament House
CANBERRA ACT 2600

Dear Dr Dacre

I refer to the letter of 2 July 2013 from the former Attorney-General, the Hon Mark Dreyfus QC MP, to the Chair of the Parliamentary Joint Committee on Intelligence and Security, concerning the proposed re-listing of the six organisations as terrorist organisations for the purpose of the Criminal Code. The organisations are:

- Abu Sayyaf Group
- Al-Qa'ida
- Al-Qa'ida in Iraq
- Al-Qa'ida in the Lands of the Islamic Maghreb
- Jamiat ul-Ansar, and
- Jemaah Islamiyah.

I confirm that the separate Criminal Code regulations were made on 11 July 2013 giving effect to the re-listing of the above organisations.

The regulations came into effect on 12 July 2013, the day after they were registered on the Federal Register of Legislative Instruments.

These regulations were tabled in both Houses of Parliament on 12 November 2013. I attach a document outlining the process for re-listing these six terrorist organisations. I understand that this document will be considered as a submission should the Committee decide to conduct a review into the re-listings of these organisations, and I consent to its publication for that purpose.

Yours sincerely

Geoff McDonald
First Assistant Secretary
National Security Law and Policy Division

Encl. Process of re-listing

**Process for the 2013 proscription of Abu Sayyaf Group, Al-Qa'ida,
Al-Qa'ida in Iraq, Al-Qa'ida in the Lands of the Islamic Maghreb,
Jamiat ul-Ansar and Jemaah Islamiyah as terrorist organisations under
the *Criminal Code Act 1995***

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 the Australian Security Intelligence Organisation (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 re-listing Abu Sayyaf Group (ASG), Al-Qa'ida (AQ), Al-Qa'ida in Iraq (AQI), Al-Qa'ida in the Lands of the Islamic Maghreb (AQIM), Jamiat ul-Ansar (JuA) and Jemaah Islamiyah (JI):

1. Unclassified Statements of Reasons was prepared by ASIO, and endorsed by the Department of Foreign Affairs and Trade, detailing the case for listing ASG, AQ, AQI, AQIM, JuA and JI.
2. On 15 May 2013, the Australian Government Solicitor provided written advice with respect to the Statements of Reasons for ASG, AQ, AQI, AQIM, JuA and JI.
3. The Director-General of Security wrote to the Attorney-General on 23 May 2013, outlining the background, training activities, terrorist activities, and relevant statements of ASG, AQ, AQI, AQIM, JuA and JI.
4. A submission was provided to the Attorney-General on 3 June 2013, providing the following documents:
 - a. copies of the Statement of Reasons received from ASIO with respect to the organisations; and
 - b. advice from the Australian Government Solicitor.
5. Having considered the information provided in the submission, the Attorney-General signed a statement on 5 June 2013 with respect to ASG, AQ, AQI, AQIM, JuA and JI confirming that he is satisfied on reasonable grounds that the organisations are directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act, or advocating the doing of a terrorist act, whether or not the act has occurred or will occur.
6. On 5 June 2013, the Attorney-General wrote to the Director-General of Security, in response to the Director-General's letter dated 23 May 2013.

7. On 5 June 2013, the Attorney-General wrote to the then Prime Minister advising of his intention to re-list ASG, AQ, AQI, AQIM, JuA and JI as terrorist organisations.
8. On 5 June 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 re-list ASG, AQ, AQI, AQIM, JuA and JI as terrorist organisations and requesting their comments on the proposed re-listings by 1 July 2013. Relevant officials of the States and Territories were also advised of the proposed re-listings by e-mail dated 6 June 2013.

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

New South Wales – response dated 2 July 2013
Victoria – response dated 24 June 2013
Queensland – response dated 12 July 2013
Western Australia – response dated 26 June 2013
South Australia – response dated 1 July 2013
Australian Capital Territory – response dated 4 July 2013
Northern Territory – response dated 25 June 2013
Tasmania – response dated 6 August 2013.

No States or Territories objected to the making of the regulations proscribing the organisations as terrorist organisations.

9. A submission was provided to the Attorney-General on 28 June 2013, providing the regulation and Federal Executive Council documentation with respect to the re-listing of ASG, AQ, AQI, AQIM, JuA and JI.
10. The Attorney-General signed the separate regulations in relation to each organisation, and approved associated Federal Executive Council documentation including an explanatory memorandum, an Executive Council minute and explanatory statements, in preparation for the Federal Executive Council meeting that occurred on 11 July 2013.
11. On 2 July 2013, the Attorney-General advised the Leader of the Opposition of the proposed re-listing of ASG, AQ, AQI, AQIM, JuA and JI as terrorist organisations by letter, and offered a briefing in relation to the re-listings.
12. On 2 July 2013, the Attorney-General wrote to the Chair of the Parliamentary Joint Committee on Intelligence and Security advising of his decision to re-list ASG, AQ, AQI, AQIM, JuA and JI as terrorist organisations.
13. On 11 July 2013 the Federal Executive Council made the following regulations:

Criminal Code (Terrorist Organisation—Abu Sayyaf Group) Regulation 2013
Criminal Code (Terrorist Organisation—Al-Qa'ida) Regulation 2013
Criminal Code (Terrorist Organisation—Al-Qa'ida in Iraq) Regulation 2013

Criminal Code (Terrorist Organisation—Al-Qa'ida in the Lands of the Islamic Maghreb) Regulation 2013

Criminal Code (Terrorist Organisation—Jamiat ul-Ansar) Regulation 2013

Criminal Code (Terrorist Organisation—Jemaah Islamiyah) Regulation 2013

The Regulations were registered with the Federal Register of Legislative Instruments (FRLI) on 11 July 2013 with the FRLI Reference Numbers:

F2013L01353, *Criminal Code (Terrorist Organisation—Abu Sayyaf Group) Regulation 2013*

F2013L01357, *Criminal Code (Terrorist Organisation—Al-Qa'ida) Regulation 2013*

F2013L01358, *Criminal Code (Terrorist Organisation—Al-Qa'ida in Iraq) Regulation 2013*

F2013L01354, *Criminal Code (Terrorist Organisation—Al-Qa'ida in the Lands of the Islamic Maghreb) Regulation 2013*

F2013L01356, *Criminal Code (Terrorist Organisation—Jamiat ul-Ansar) Regulation 2013*

F2013L01355, *Criminal Code (Terrorist Organisation—Jemaah Islamiyah) Regulation 2013*

The re-listing regulations came into effect on 12 July 2013, the day after they were registered on FRLI.

14. The Attorney-General issued a Media Release on 12 July 2013 announcing the re-listing of ASG, AQ, AQI, AQIM, JuA and JI and attaching copies of the Statements of Reasons with respect to each organisation.

The Australian Government's National Security website was also updated.