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Process for the 2019 listing of Islamic State Somalia and re-listing of Abu Sayyaf Group, al-Qa'ida, al-Qa'ida in the Lands of the Islamic Maghreb, Jabhat Fatah al-Sham and Jemaah Islamiyah as terrorist organisations under the Criminal Code

The Counter-Terrorism Strategic Policy Branch in the Department of Home Affairs (the Department) facilitates the process by which the Minister for Home Affairs 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 assesses the organisation, and seeking the advice of the Australian Government Solicitor (AGS) in relation to ASIO's assessment. This information and advice is included in a submission to the Minister for Home Affairs to assist 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 listing Islamic State Somalia (IS-Somalia) and re-listing Abu Sayyaf Group (ASG), al-Qa'ida (AQ), al-Qa'ida in the Lands of the Islamic Maghreb (AQIM), Jabhat Fatah al-Sham (JFS) and Jemaah Islamiyah (JI) as terrorist organisations:

1. Unclassified Statements of Reasons outlining the case for the listing of IS-Somalia and re-listing of ASG, AQ, AQIM, JFS and JI were provided to the Department by ASIO.
2. On 22 January 2019, the Statements of Reasons were considered by the Department and then provided to AGS.
3. On 1, 3, 4 and 19 February 2019, AGS provided written advice to the Department in relation to these organisations and the Criminal Code requirements.
4. On 28 February 2019, the Director-General of Security wrote to the Minister for Home Affairs providing the Statements of Reasons for IS-Somalia, ASG, AQ, AQIM, JFS and JI.
5. On 4 March 2019, 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 listing IS-Somalia and re-listing ASG, AQ, AQIM, JFS and JI as terrorist organisations under the Criminal Code was satisfied.
6. On 4 March 2019, the Department sought approval from the Minister for Home Affairs of the Regulations and associated Federal Executive Council (ExCo) documentation, including an ExCo Minute, and Explanatory Memorandum for consideration by the Governor-General at a meeting of ExCo.
7. On 14 March 2019, having considered the information provided in the submission, including grounds to list IS-Somalia and re-list ASG, AQ, AQIM, JFS and JI, the Minister for Home Affairs agreed to list or re-list these organisations.
8. On 14 March 2019, the Minister approved the Regulations and associated ExCo documentation.
9. On 14 March 2019, the Minister for Home Affairs wrote to the Prime Minister advising of the decision to list IS-Somalia and re-list ASG, AQ, AQIM, JFS and JI as terrorist organisations. The Minister for Home Affairs notified the Prime Minister that he had

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written, on the Prime Minister's behalf, to the First Ministers of each state and territory regarding the proposed re-listings.

10. On 14 March 2019 the Minister for Home Affairs wrote to the Leader of the Opposition advising of his decision to list IS-Somalia and re-list ASG, AQ, AQIM, JFS and JI as terrorist organisations, attaching the Statements of Reasons and offering a briefing in relation to these organisations.
11. On 14 March 2019, the Minister for Home Affairs wrote to First Ministers on behalf of the Prime Minister, advising of his decision to list IS-Somalia and re-list ASG, AQ, AQIM, JFS and JI as terrorist organisations, and attached copies of the Statements of Reasons. The letters requested that a response be provided by 2 April 2019, advising whether the First Minister approved of, or objected to the re-listings.
12. On 18 March 2019, the Department emailed state and territory officials and members of the Australia-New Zealand Counter-Terrorism Committee (ANZCTC) advising them of the proposal to list IS-Somalia and re-list ASG, AQ, AQIM, JFS and JI as terrorist organisations, and provided copies of the Statements of Reasons.
13. The Department received the following responses to the Minister for Home Affairs' correspondence to First Ministers:
 - Australian Capital Territory – response received 8 April 2019
 - New South Wales – response received 8 April 2019
 - Queensland – response received 3 April 2019
 - South Australia – response received 3 April 2019
 - Tasmania – response received 2 April 2019
 - Western Australia – response received 2 April 2019
 - Victoria – response received 2 April 2019

No response was received from the Chief Minister of the Northern Territory.

No objections were made to the listing of IS-Somalia and re-listing of ASG, AQ, AQIM, JFS and JI as terrorist organisations.

14. On 4 April 2019, the Governor-General made the Regulations.
15. On 5 April 2019, the Minister for Home Affairs issued a media release regarding the listing of IS-Somalia and re-listing of ASG, AQ, AQIM, JFS and JI as terrorist organisations.
16. On 8 April 2019, the *Criminal Code (Terrorist Organisation—Jabhat Fatah al-Sham) Regulations 2019* and *Criminal Code (Terrorist Organisation—Jemaah Islamiyah) Regulations 2019* were registered on the Federal Register of Legislation (FRL) [references: F2019L00549, F2019L00548]. These Regulations came into effect on 9 April 2019.
17. On 8 April 2019, the *Criminal Code (Terrorist Organisation—Islamic State Somalia) Regulations 2019* was registered on FRL [reference: F2019L00547]. In keeping with the Parliamentary Joint Committee on Intelligence and Security's (PJCIS's) previous recommendations, these Regulations will not commence immediately and will be delayed until after the applicable disallowance period.

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18. On 9 April 2019, the *Criminal Code (Terrorist Organisation—Abu Sayyaf Group) Regulations 2019*, *Criminal Code (Terrorist Organisation—Al-Qa’ida) Regulations 2019* and *Criminal Code (Terrorist Organisation—Al-Qa’ida in the Lands of the Islamic Maghreb) Regulations 2019* were registered on FRL [references: F2019L00580, F2019L00581, F2019L00582]. These Regulations came into effect on 10 April 2019.
19. On 3 May 2019, the Minister for Home Affairs wrote to the Chair of the PJCIS advising of the listing of IS-Somalia and re-listing of ASG, AQ, AQIM, JFS and JI as terrorist organisations, and attaching the Regulations, Explanatory Statements and Statements of Reasons.