

## Process for the 2010 proscription of Jamiat ul-Ansar (JuA), Abu Sayyaf Group (ASG) and Al-Qa'ida in Iraq (AQI) as terrorist organisations 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 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 Jamiat ul-Ansar (JuA), Abu Sayyaf Group (ASG) and Al-Qa'ida in Iraq (AQI):

1. Unclassified Statements of Reasons were prepared by ASIO, and endorsed by DFAT, detailing the case for re-listing JuA, ASG and AQI.
2. On 21 September 2010, Mr George Witynski SC, Deputy Chief General Counsel, provided written advice with respect to the Statements of Reasons for JuA, ASG and AQI.
3. The Director-General of Security wrote to the Attorney-General on 17 September 2010, outlining the background, training activities, terrorist activities, and relevant statements of JuA, ASG and AQI.
4. A submission was provided to the Attorney-General on 23 September 2010, providing the following documents:
  - a. copies of the Statements of Reasons received from ASIO with respect to the organisations; and
  - b. advice from the Deputy Chief General Counsel
  - c. separate Criminal Code Amendment Regulations 2010 and other Federal Executive Council documentation with respect to JuA, ASG and AQI.
5. Having considered the information provided in the submission, on 27 September 2010, the Attorney-General signed statements with respect to JuA, ASG and AQI confirming that he is satisfied on reasonable grounds that the organisations are organisations directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act, or advocate the doing of a terrorist act, whether or not the act has occurred or will occur.
6. The Attorney-General signed *Criminal Code Amendment Regulations 2010* in relation to the organisations, and approved associated Federal Executive Council documentation including an explanatory memorandum, executive council minute and explanatory statements, for the Federal Executive Council meeting scheduled for 27 October 2010.

7. On 28 September 2010, the Attorney-General wrote to the Prime Minister advising of his intention to re-list JuA, ASG and AQI as terrorist organisations.
8. On 28 September 2010, the Attorney-General wrote to the Director-General of Security, in response to the Director-General's letter dated 17 September 2010.
9. On 6 October 2010, the Acting Prime Minister wrote to the Premiers of the States and Chief Ministers of the Territories advising them of the decision to re-list JuA, ASG and AQI as terrorist organisations.

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

New South Wales – the Department of Prime Minister and Cabinet received telephone advice that NSW agreed to the re-listings.

Victoria – response dated 20 October 2010

Queensland – response dated 19 October 2010 from the Premier

Western Australia – the Department of Prime Minister and Cabinet received telephone advice that WA agreed to the re-listings.

South Australia – response dated 25 October 2010

Tasmania – response dated 19 October 2010

Australian Capital Territory – response dated 22 October 2010 from the Deputy Chief Minister

Northern Territory – dated 25 October 2010 from the Chief Minister

All responses were supportive of the proposed re-listings.

10. On 21 October 2010, the Attorney-General advised the Leader of the Opposition of the proposed re-listing of JuA, ASG and AQI as terrorist organisations by letter, and offered a briefing in relation to the re-listings.
11. On 27 October 2010 the Governor-General made the *Criminal Code Amendment Regulations 2010 (No.5)*, *Criminal Code Amendment Regulations 2010 (No.6)*, *Criminal Code Amendment Regulations 2010 (No.7)* with respect to the re-listing of JuA, ASG and AQI.
12. The Regulations were registered with the Federal Register of Legislative Instruments (FRLI) on 28 October 2010 with the following FRLI Reference Numbers:

F2010L02825 – *Criminal Code Amendment Regulations 2010 (No. 5)* – re-listing Jamiat ul-Ansar (JuA) as a terrorist organisation

F2010L02826 – *Criminal Code Amendment Regulations 2010 (No. 6)* – re-listing Abu Sayyaf Group (ASG) as a terrorist organisation

F2010L02828 – *Criminal Code Amendment Regulations 2010 (No.7)* – re-listing Al-Qa'ida in Iraq (AQI) as a terrorist organisation.

The re-listing Regulations relating to JuA, ASG and AQI came into effect on 29 October 2010, the day after they were registered on FRLI.

13. The Attorney-General issued a Media Release on 28 October 2010 announcing the re-listing of the terrorist organisations and attaching copies of the Statements of Reasons.

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

14. On 2 November 2010 the Attorney-General's Department advised the Secretary of the Parliamentary Joint Committee on Intelligence and Security by e-mail, of the making of the separate *Criminal Code Amendment Regulations 2010* giving effect to the re-listings of JuA, ASG and AQI as terrorist organisations under the Criminal Code.