

## Introduction

- 1.1 This review is conducted under section 102.1A of the *Criminal Code Act 1995* (the Criminal Code). Section 102.1A provides that the Parliamentary Joint Committee on Intelligence and Security (the Committee) may review a regulation specifying an organisation as a terrorist organisation for the purpose of paragraph (b) of the definition of terrorist organisation in section 102.1 of the Criminal Code and report the Committee's comments to each house of the Parliament before the end of the applicable disallowance period.
- 1.2 The regulation under review have specified Hizballah's External Security Organisation (ESO) as a terrorist organisation for the purposes of section 102.1 of the *Criminal Code Act 1995*.
- 1.3 This is a review of the re-listing of this organisation.
- 1.4 In a letter received by the Committee on 25 May 2012, the Attorney-General advised that she intended to re-list this organisation prior to the lapsing of their current listing as provided for in section 102.1(3). The Attorney provided statement of reasons for the re-listing. This was accepted as submission number one to this review.
- 1.5 The regulation was tabled in the House of Representatives and the Senate on Monday, 21 May 2012. The disallowance period of 15 sitting days for the Committee's review of the listing began from the date of the tabling. Therefore the Committee has conducted its review to enable it to report to the Parliament by Thursday, 28 June 2012.

## The Government's procedures

- 1.6 In a letter received by the Committee on Friday, 25 May 2012, the Attorney-General's Department informed the Committee that it had adhered to the following procedures for the purpose of re-listing the organisation:

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 her 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 Hizballah's External Security Organisation (Hizballah ESO):

Unclassified Statements of Reasons were prepared by ASIO, and endorsed by DFAT, detailing the case for re-listing Hizballah ESO. The Statement of Reasons was received by the Attorney-General's Department on 14 February 2012.

On 14 March and 20 March 2012 Mr Robert Orr QC, Chief General Counsel, provided written advice with respect to the Statement of Reasons for Hizballah ESO.

The Director-General of Security wrote to the Attorney-General on 20 March 2012, outlining the background, training activities, terrorist activities and statements of Hizballah's ESO.

A submission was provided to the Attorney-General on 21 March 2012, providing the following documents:

- a. copies of the Statement of Reasons received from ASIO with respect to the organisations; and
- b. advice from the Chief General Counsel.

Having considered the information provided in the submission, the Attorney-General signed statements on 27

March 2012 with respect to Hizballah ESO confirming that she is satisfied on reasonable grounds that the organisation is an organisation 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.

On 27 March 2012, the Attorney-General wrote to the Prime Minister advising of her intention to re-list Hizballah ESO as a terrorist organisation.

On 27 March 2012, the Attorney-General wrote to the Director-General of Security, in response to the Director-General's letter dated 20 March 2012.

On 14 April 2012, the Prime Minister wrote to the Premiers of the States and Chief Ministers of the Territories advising them of the Attorney-General's decision to re-list Hizballah ESO as a terrorist organisation and requesting their comments on the proposed re-listing. The States and Territories were also advised of the proposed re-listings by e-mail dated 20 April 2012.

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

- ⇒ New South Wales - response dated 7 May 2012
- ⇒ Victoria - response dated 7 May 2012
- ⇒ Western Australia - response dated 7 May 2012
- ⇒ South Australia - response dated 1 May 2012
- ⇒ Tasmania - response dated 4 May 2012
- ⇒ Queensland - response dated 2 May 2012
- ⇒ Australian Capital Territory - response dated 4 May 2012
- ⇒ Northern Territory - response dated 30 April 2012

None of the States and Territories objected to the re-listing.

A submission was provided to the Attorney-General on 18 April 2012, providing the regulation and Federal Executive Council documentation with respect of the re-listing of Hizballah ESO.

On 25 April 2012, the Attorney-General signed Criminal Code Amendment Regulation 2012 in relation to the organisation, and approved associated Federal Executive Council documentation including an explanatory memorandum,

executive council minute and explanatory statement, for the Federal Executive Council meeting that occurred on 10 May 2012.

On 25 April 2012, the Attorney-General advised the Leader of the Opposition of the proposed re-listing of Hizballah ESO as a terrorist organisation by letter, and offered a briefing in relation to the re-listing.

On 25 April 2012, the Attorney-General wrote to the Chair of the Parliamentary Joint Committee on Intelligence and Security advising of her decision to re-list Hizballah ESO as a terrorist organisation.

On 10 May 2012 the Governor-General made Criminal Code Amendment Regulation 2012 (No. 6) re-listing Hizballah ESO as a terrorist organisation.

The Regulation was registered with the Federal Register of Legislative Instruments (FRLI) on 11 May 2012 with the FRLI Reference Number F2012L01016 – Criminal Code Amendment Regulation 2012.

The re-listing Regulation came into effect on 12 May 2012, the day after it was registered on FRLI.

The Attorney-General issued a Media Release on 11 May 2012 announcing the re-listing of the terrorist organisation and attaching a copy of the Statement of Reasons.

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

## **Procedural comments**

- 1.7 The Committee is satisfied with the procedures undertaken by the Government and notes the responses of the States and Territories.