



Australian Government
Attorney-General's Department

**Security and Critical
Infrastructure Division**



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Secretary:

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3 November 2008

Mr Robert Little
Committee Secretary
Parliamentary Joint Committee on Intelligence and Security
Parliament House
CANBERRA ACT 2600

Dear Mr Little

I refer to the Attorney-General's letter dated 21 October 2008 concerning the proposed regulations re-listing Abu Sayyaf Group (ASG), Al-Qa'ida in Iraq (AQI) and Jamiat ul-Ansar (JuA) as terrorist organisations under the Criminal Code.

I confirm that the following *Criminal Code Amendment Regulations 2008* were made on 31 October 2008 giving effect to the re-listing of ASG, AQI and JuA as terrorist organisations under the Criminal Code.

- *Criminal Code Amendment Regulations 2008 (No. 4)* with respect to the re-listing of Abu Sayyaf Group (ASG)
- *Criminal Code Amendment Regulations 2008 (No. 5)* with respect to the re-listing of Al-Qa'ida in Iraq (AQI)
- *Criminal Code Amendment Regulations 2008 (No. 6)* with respect to the re-listing of Jamiat ul-Ansar (JuA)

These regulations took effect on 1 November 2008.

I now attach a document outlining the process for re-listing ASG, AQI and JuA as terrorist organisations. I understand that this document will be considered as a submission to the Committee's review into the re-listing of these organisations, and I consent to its publication.

Yours sincerely

Annette Willing
Assistant Secretary
Security Law Branch

Process for the 2008 re-listing of Jamiat ul-Ansar (JuA), Abu Sayyaf Group (ASG) and Al-Qa'ida in Iraq (AQI) as terrorist organisations 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. Mr George Witynski, Deputy Chief General Counsel provided written advice with respect to the Statements of Reasons for JuA (on 16 July 2008) and for AQI (on 5 August 2008).
3. On 5 August 2008 Mr Henry Burmester QC, Chief General Counsel provided written advice with respect to the Statement of Reasons for ASG.
4. The Director-General of Security, Mr Paul O'Sullivan, wrote to the Attorney-General on 11 August 2008 outlining the background, training activities, terrorist activities, and relevant statements of JuA, ASG and AQI.
5. A submission was provided to the Attorney-General on 25 August 2008 providing the following documents:
 - a. copies of the Statements of Reasons received from ASIO with respect to the three organisations
 - b. advice from the Australian Government Solicitor in relation to the three organisations; and
 - c. regulations and Federal Executive Council documentation.
6. Having considered the information provided in the submission, the Attorney-General signed a statement with respect to JuA and AQI confirming that he is satisfied on reasonable grounds that each organisation is an organisation 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. The Attorney-General also signed a statement with respect to ASG confirming that he is satisfied on reasonable grounds that the organisation is an organisation 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.
7. The Attorney-General also signed the *Criminal Code Amendment Regulations 2008* in relation to each organisation, and approved associated Federal Executive Council documentation including an explanatory memorandum, executive council minutes and explanatory statements for each organisation.
8. The Attorney-General wrote to the Prime Minister on 28 August 2008 advising of his intention to re-list JuA, ASG and AQI as terrorist organisations.

9. The Attorney-General wrote to the Director-General of Security on 28 August 2008, in response to the Director-General's letter dated 11 August 2008.
10. On 26 September 2008 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:

South Australia – 12 October 2008
Northern Territory – 13 October 2008
Tasmania – 13 October 2008
Australian Capital Territory – 13 October 2008
Victoria – 13 October 2008
Western Australia – 14 October 2008
Queensland – 14 October 2008

All responses were supportive of the proposed re-listings.

11. The Attorney-General wrote to the Chairman of the Parliamentary Joint Committee on Intelligence and Security on 21 October 2008 advising of his decision to re-list JuA, ASG and AQI as terrorist organisations.
12. The Attorney-General briefed the Leader of the Opposition of the proposed re-listing of JuA, ASG and AQI as terrorist organisations by letter dated 21 October 2008.
13. On 31 October 2008 the Governor-General made three separate regulations as follows:

Criminal Code Amendment Regulations 2008 (No. 4) with respect to the re-listing of Abu Sayyaf Group(ASG)

Criminal Code Amendment Regulations 2008 (No. 5) with respect to the re-listing of Al-Qa'ida in Iraq (AQI)

Criminal Code Amendment Regulations 2008 (No. 6) with respect to the re-listing of Jamiat ul-Ansar (JuA)

14. The Regulations were registered with the Federal Register of Legislative Instruments (FRLI) on 31 October 2008 with the following FRLI Reference Numbers:

F2008L03611 - *Criminal Code Amendment Regulations 2008 (No. 4)* with respect to the listing of Abu Sayyaf Group(ASG)

F2008L03612 - *Criminal Code Amendment Regulations 2008 (No. 5)* with respect to the listing of Al-Qa'ida in Iraq (AQI)

F2008L03610 - *Criminal Code Amendment Regulations 2008 (No. 6)* with respect to the listing of Jamiat ul-Ansar (JuA)

The regulations came into effect on 1 November 2008, the day after they were registered on FRLI.

15. The Attorney-General issued a Media Release on 3 November 2008 announcing the re-listing of the terrorist organisations and attaching copies of the Statements of Reasons for each organisation.

The Attorney-General's Department's National Security website was also updated.