



Australian Government
Attorney-General's Department

National Security
Law and Policy Division

09/3912

27 May 2009

COPY

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 to the Chair of the Parliamentary Joint Committee on Intelligence and Security concerning the proposed regulations re-listing Hizballah's External Security Organisation (ESO) as a terrorist organisation under the Criminal Code.

I confirm that the *Criminal Code Amendment Regulations 2009 (No. 7)* were made on 14 May 2009 giving effect to the re-listing of ESO as a terrorist organisation under the Criminal Code.

These regulations took effect on 16 March 2009.

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

Yours sincerely

Annette Willing
Assistant Secretary
Security Law Branch

Process for the 2009 re-listing of Hizballah's External Security Organisation 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 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 Hizballah's External Security Organisation ('ESO'):

1. Unclassified Statement of Reasons was prepared by ASIO, and endorsed by DFAT, detailing the case for re-listing ESO.
2. On 19 March 2009 Mr George Witynski, Deputy Chief General Counsel provided written advice with respect to the Statement of Reasons for ESO.
3. The Acting Director-General of Security wrote to the Attorney-General on 20 March 2009 outlining the background, training activities, terrorist activities, and relevant statements of ESO.
4. A submission was provided to the Attorney-General on 31 March 2009 providing the following documents:
 - a. copy of the Statement of Reasons received from ASIO with respect to the organisation
 - b. advice from the Chief General Counsel, and
 - c. regulations and Federal Executive Council documentation.
5. Having considered the information provided in the submission, the Attorney-General signed a statement with respect to ESO confirming that he 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, whether or not the act has occurred or will occur.
6. The Attorney-General also signed the *Criminal Code Amendment Regulations 2009* in relation to the organisation, and approved associated Federal Executive Council documentation including an explanatory memorandum, executive council minutes and explanatory statement.
7. The Attorney-General wrote to the Prime Minister advising of his intention to list ESO as a terrorist organisation.
8. The Attorney-General wrote to the Director-General of Security, in response to the Acting Director-General's letter dated 20 March 2009.

9. On 9 April 2009 the Prime Minister wrote to the Premiers of the States and Chief Ministers of the Territories advising them of the decision to re-list ESO as a terrorist organisation.

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

Western Australia – 28 April 2009
Northern Territory – 6 May 2009
Australian Capital Territory – 7 May 2009
Victoria – 7 May 2009
Queensland – 13 May 2009

All responses were supportive of the proposed re-listings.

Note: On 8 May 2009, the NSW Department of Premier and Cabinet advised that it was not possible for the Premier to provide a response to the Prime Minister's proposal within the timeframe requested. However, NSW did indicate that they supported the re-listing.

10. The Attorney-General wrote to the Chairman of the Parliamentary Joint Committee on Intelligence and Security advising of his decision to re-list ESO as a terrorist organisation.
11. The Attorney-General advised the Leader of the Opposition of the proposed re-listing of ESO as a terrorist organisation by letter, and offered a briefing in relating to this re-listing.
12. On 14 May 2009 the Governor-General made the *Criminal Code Amendment Regulations 2009 (No. 7)* with respect to the re-listing of ESO.
13. The Regulations were registered with the Federal Register of Legislative Instruments (FRLI) on 15 May 2009 with the following FRLI Reference Number:

F2009L01297 - *Criminal Code Amendment Regulations 2009 (No. 7)*.

The Regulations came into effect on 16 May 2009, the day after they were registered on FRLI.

14. The Attorney-General issued a Media Release on 15 May 2009 announcing the re-listing of the terrorist organisation and attaching a copy of the Statement of Reasons.

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