

PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

Review of the listing and re-listing of four terrorist organisations under the Criminal Code

*Al-Qa'ida in the Indian Subcontinent, Islamic State in Libya,
Islamic State Sinai Province and al-Qa'ida in the Arabian
Peninsula*

Parliamentary Joint Committee on Intelligence and Security

March 2017
CANBERRA

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ISBN 978-1-74366-600-5 (Printed Version)

ISBN 978-1-74366-601-2 (HTML Version)

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Terms of Reference

This inquiry and report are conducted under the following powers:

Criminal Code

Section 102.1A Reviews by Parliamentary Joint Committee on Intelligence and Security

Disallowable instruments

- 1 This section applies in relation to the following disallowable instruments:
 - a a regulation that specifies an organisation for the purposes of paragraph (b) of the definition of terrorist organisation in section 102.1;
 - b an instrument made under section 102.1AA.

Review of disallowable instrument

- 2 The Parliamentary Joint Committee on Intelligence and Security may:
 - a review the disallowable instrument as soon as possible after the making of the instrument; and
 - b report the Committee's comments and recommendations to each House of the Parliament before the end of the applicable disallowance period for that House.

and

*Criminal Code (Terrorist Organisation — Al-Qa'ida in the Indian Subcontinent)
Regulation 2016 (FRLI: F2016L01812)*

*Criminal Code (Terrorist Organisation — Criminal Code (Terrorist Organisation — Islamic
State in Libya) Regulation 2016 (FRLI: F2016L01813)*

*Criminal Code (Terrorist Organisation — Criminal Code (Terrorist Organisation — Islamic
State Sinai Province) Regulation 2016 (FRLI: F2016L01811)*

*Criminal Code (Terrorist Organisation — Criminal Code (Terrorist Organisation —
Al-Qa'ida in the Arabian Peninsula) Regulation 2016 (FRLI: F2016L01807)*

Abbreviations

AQAP	al-Qa'ida in the Arabian Peninsula
AQIS	al-Qa'ida in the Indian Subcontinent
ASIO	Australian Security Intelligence Organisation
IS-Libya	Islamic State in Libya
IS-Sinai	Islamic State Sinai Province

Overall conclusion

The Committee concludes that Islamic State in Libya, Islamic State Sinai Province and al-Qa'ida in the Indian Subcontinent meet, and that al-Qa'ida in the Arabian Peninsula continues to meet, the definition of a terrorist organisation, namely that these organisations:

- are 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.

The Committee therefore supports the listing and re-listing of these organisations under the Criminal Code and finds no reason to disallow these legislative instruments.

The Committee accepts that in many cases it may be appropriate that the listing of a terrorist organisation comes into immediate effect. The Committee maintains the view, however, that where there is no pressing risk to Australia's national security, listings should not come into effect until the parliamentary disallowance period has expired and the Committee has concluded its review.

1. Review of the listings and re-listing

Introduction

- 1.1 This review is conducted under section 102.1A of the Criminal Code.
- 1.2 Section 102.1A provides that the Parliamentary Joint Committee on Intelligence and Security 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 (15 sitting days).
- 1.3 Regulations listing the following organisations as terrorist organisations were made by the Federal Executive Council on 24 November 2016:
 - al-Qa'ida in the Indian Subcontinent,
 - Islamic State in Libya, and
 - Islamic State Sinai Province.
- 1.4 The regulations came into effect on 29 November 2016, the day after they were registered. The regulations were presented in the House of Representatives and Senate on the same date.
- 1.5 Additionally, a regulation re-listing al-Qa'ida in the Arabian Peninsula as a terrorist organisation was made by the Federal Executive Council on

24 November 2016. This regulation came into effect on 26 November 2016 and was presented to the House of Representatives on 28 November 2016 and the Senate on 29 November 2016.

The Committee's review

- 1.6 The Committee's procedures for reviewing terrorist listings were established in its first report, *Review of the listing of the Palestinian Islamic Jihad (PIJ)*. The Committee determined that the validity of the listing of a terrorist organisation should be tested on both the procedures and the merits.¹ The Committee has followed this practice for all subsequent reviews and again adopted this approach for the purposes of this report.
- 1.7 Where an organisation is listed for the first time, the Committee will assess the adequacy and appropriateness of the evidence presented in the explanatory statement as well as the procedures followed by the Government.
- 1.8 Where an organisation is re-listed, the Committee expects the evidence presented to demonstrate a continuation of the requisite activities to satisfy the relevant tests specified in the Criminal Code (and outlined below).

Conduct of the inquiry

- 1.9 A letter from the Attorney-General, including statements of reasons and the process of listing undertaken by the Attorney-General's Department, was accepted as a submission to the review and can be found on the Committee's website.
- 1.10 Notice of the review was placed on the Committee's website and a media release was issued on 1 December 2016. No additional submissions were received.
- 1.11 A private hearing with representatives of the Attorney-General's Department and the Australian Security Intelligence Organisation (ASIO)

¹ Parliamentary Joint Committee on ASIO, ASIS and DSD, *Review of listing of the Palestinian Islamic Jihad (PIJ) as a Terrorist Organisation under the Criminal Code Amendment Act 2004*, June 2004, p. 5.

was held in Canberra on 9 February 2017. Appendix A lists witnesses appearing at the hearing.

- 1.12 It is the practice of the Committee to conduct classified hearings with agencies so that evidence presented can be interrogated in more detail, as required. Some unclassified statements from the hearing may be included in this report to support the Committee's findings.
- 1.13 The remainder of this chapter will examine the Government's procedures for the re-listing of each group as a terrorist organisation and examine the merits of the re-listings based on the evidence provided to the Committee.

The Government's procedures

- 1.14 An attachment to the Attorney-General's letter outlined the procedures followed by the Attorney-General's Department, with input from other agencies, for the listing or re-listing of each organisation. This document is available on the Committee's website as an attachment to *Submission 1*.²
- 1.15 The Committee reviewed these procedures and sought additional information from the Attorney-General's Department about the timeframe for the regulations entering into effect. The Committee noted that, since 2008, agreed practice has been that when an organisation is listed for the first time the regulations would enter into force after the 15 sitting day disallowance period has concluded.³ In this instance, the regulations came into effect immediately after they were registered.

² *Process for the 2016 proscription of al-Qa'ida in the Arabian Peninsula, al-Qa'ida in the Indian Subcontinent, Islamic State in Libya and Islamic State Sinai Province as 'terrorist organisations' under the Criminal Code.*

³ In 2008, the Government agreed in response to a recommendation by the Committee the previous year that when an organisation is listed for the first time, commencement of regulations would be delayed until after the parliamentary disallowance period had expired. Flexibility was maintained, however, so that in circumstances where the Attorney-General considered a listing should commence immediately, this could occur. See Parliamentary Joint Committee on Intelligence and Security, *Inquiry into the proscription of 'terrorist organisations' under the Australian Criminal Code*, September 2007, available at www.apph.gov.au/pjicis.

- 1.16 The last new listing to come into effect after the disallowance period had expired was al-Qa'ida in the Arabian Peninsula in November 2010.⁴
- 1.17 The Committee raised the issue of timing in its reviews of the listing of Jabhat al-Nusra, Boko Haram and al-Murabitun during the 44th Parliament. For Jabhat al-Nusra and al-Murabitun, the Committee noted the reasons provided for immediate commencement of the regulations.⁵ In its report on the listing of Boko Haram, the Committee commented:

The Committee is of the view that, where there is no pressing risk to Australia's national security, listings should not come into effect until the parliamentary disallowance period has expired and the Committee has concluded its review.⁶

- 1.18 The Committee asked the Attorney-General's Department why the regulations for these listings commenced on the day following registration. In its response, the Department noted that, since the amended process was agreed to in 2008, the Government had considered whether to delay the commencement of regulations listing terrorist organisations for the first time on a case by case basis. The Department added:

Following the Committee recommendation, and prior to the three new listings in November 2016, five terrorist organisations were listed for the first time. On four of those occasions the Government decided the regulation should not be delayed. The reasons immediate commencement was considered necessary and appropriate included:

- the need to ensure law enforcement and intelligence agencies were able to act swiftly against perpetrators of terrorism, including terrorist organisations,

⁴ See Parliamentary Joint Committee on Intelligence and Security, *Review of the listing of AQAP and the re-listing of six terrorist organisations*, August 2011.

⁵ Parliamentary Joint Committee on Intelligence and Security, *Review of the listing of Jabhat al-Nusra and re-listing of six terrorist organisations; Review of the re-listing of Al-Qa'ida in the Arabian Peninsula*, February 2014, p. 19; *Review of the listing of Al-Murabitun*, December 2014, pp. 1–2.

⁶ Parliamentary Joint Committee on Intelligence and Security, *Review of the listing of Boko Haram; Review of the re-listing of Islamic State*, September 2014, p. 13.

- the heightened terrorist activity around the world and the importance of sending a strong message that the activities of the organisation are unacceptable, and
- the need to avoid significant delays in commencement due to the timing of sittings periods, and Federal elections.

1.19 In regard to the timing of the current listings, the Department advised that:

The department, through omission, did not take the Committee's 2007 recommendation into consideration when preparing the regulations and supporting documentation and advising the Attorney-General on the listing for the first time of al-Qa'ida in the Indian Subcontinent, Islamic State in Libya and Islamic State Sinai Province. The department apologises for this oversight.

Following the PJCIS hearing on 9 February 2017, the department gave consideration to the timing of commencement of each of the three new regulations. In retrospect, it is likely that the department would have recommended to the Attorney-General that the regulations commence immediately after registration in order to avoid significant delay. This is because, due to the timing of Parliamentary sittings, the disallowance period expires on 28 March 2017, four months after the date of tabling of the regulations.

The Department has updated its processes to ensure that, consistent with the Committee's 2007 recommendation, active consideration is given to delaying the commencement of all future Criminal Code regulations listing a terrorist organisation for the first time until the end of the disallowance period.

Merits of the listings and re-listing

The criteria for listing an organisation

1.20 For an organisation to be listed as a terrorist organisation under the Criminal Code, the Attorney-General must be satisfied on reasonable grounds that the organisation:

- is directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act; or

- advocates the doing of a terrorist act.⁷

1.21 In addition to these legislative criteria, ASIO may also have regard to non-legislative factors, including:

- engagement in terrorism,
- ideology and links to other terrorist groups or networks,
- links to Australia,
- threats to Australian interests,
- proscription by the United Nations Security Council or like-minded countries, and
- engagement in peace/mediation processes.

1.22 Regulations that specify an organisation as a terrorist organisation cease to have effect on the third anniversary of the day on which they take effect. Organisations can be re-listed, provided the Minister is satisfied on reasonable grounds that the organisation continues to directly or indirectly engage in terrorism or advocate the doing of a terrorist act.⁸

1.23 The Committee was first advised of ASIO's evaluation process, including its use of non-legislative factors, in 2005. As has been the approach in past reviews, the Committee has used these criteria to assess the appropriateness and adequacy of the evidence provided.

1.24 The Committee has taken into account the Attorney-General's explanatory statement, other publicly available information, and evidence provided at the private hearing. As a re-listing, the Committee's review of al-Qa'ida in the Arabian Peninsula has focussed upon the group's activities since its last listing in 2013.⁹

⁷ Criminal Code, subsection 102.1(2). A full list of proscribed terrorist organisations is available on the Australian Government's National Security website at:
<http://www.nationalsecurity.gov.au/Listedterroristorganisations/Pages/default.aspx>

⁸ Criminal Code, Division 102.

⁹ For earlier information, see Parliamentary Joint Committee on Intelligence and Security, *Review of the listing of Jabhat al-Nusra and the re-listing of six terrorist organisations; Review of the re-listing of Al-Qa'ida in the Arabian Peninsula*, February 2014.

Al-Qa'ida in the Indian Subcontinent

- 1.25 Al-Qa'ida in the Indian Subcontinent (AQIS) is an al-Qa'ida-affiliated extremist group that aims to advance al-Qa'ida's ideology in South Asia.¹⁰
- 1.26 AQIS was established with the assistance of al-Qa'ida and shares the same anti-Western ideology. Al-Qa'ida leader, Ayman al-Zawahiri, officially announced the existence of AQIS on 3 September 2014, and identified Pakistan-based Asim Umar as its leader.¹¹ Al-Zawahiri identified Burma (Myanmar), Bangladesh, and India's regions of Assam, Gujarat and Kashmir as regions where AQIS would operate.¹²
- 1.27 The Explanatory Statement states that the objectives of AQIS are the same as those previously articulated by al-Qa'ida — 'to prepare Muslims for military jihad against their enemies, to liberate Muslim lands now ruled by non-Muslims, and to revive the Islamic caliphate'. A video released by AQIS's media branch in March 2016 identified that the group's objectives are to conduct attacks on the United States; Pakistani military intelligence and security agencies; the Government of Pakistan; 'enemies of Islam' who 'extort Muslim businessmen and are involved in murdering Sunni religious scholars'; and 'blasphemers, atheists and disbelievers'.¹³
- 1.28 This is the first time that AQIS has been listed as a terrorist organisation under the Criminal Code.

Engaging in terrorism

- 1.29 The Explanatory Statement identifies the following attacks claimed by or attributed to AQIS:
- 6 September 2014: AQIS attempted an operation to take control of two Pakistani naval ships, which it planned to use to attack a United States refuelling tanker and its escort. The operation was thwarted by Pakistani Navy and security forces shortly after it commenced.

¹⁰ Explanatory Statement, al-Qa'ida in the Indian Subcontinent (AQIS), p. 8.

¹¹ Explanatory Statement, AQIS, p. 10.

¹² Explanatory Statement, AQIS, p. 8.

¹³ Explanatory Statement, AQIS, pp. 8–9.

- 6 September 2014: AQIS gunmen assassinated Pakistani Military Intelligence Brigadier Zahoor Fazal Qadri.
- 28 March 2015: Pakistani Army Colonel Tariq Azim was killed by AQIS in a 'targeted killing operation'.
- May 2015: twenty Pakistani Army soldiers were killed by an improvised explosive device placed by AQIS in the Hathala region of Dera Ismail Khan, Pakistan.

1.30 AQIS members have also conducted attacks against individuals in Pakistan identified as 'blasphemers' and the 'enemies of Islam', and has actively encouraged an affiliated extremist group, Ansar al-Islam Bangladesh, to conduct similar attacks in Bangladesh. Ansar al-Islam Bangladesh aligned itself with AQIS after its establishment, and AQIS has claimed responsibility for the killing, by Ansar al-Islam Bangladesh members, of secularists or critics of Islam in Bangladesh in eight attacks since November 2014.¹⁴

Advocating terrorism

- 1.31 On 3 July 2016, AQIS leader Asim Umar issued a public statement encouraging Muslims in India to follow the example of lone actors in Europe and 'kill the senior officers of institutions and administrative departments that get [people to] start these riots. Target [Indian Administrative Service] and [Indian Police Service] officers. Cause them financial loss.'
- 1.32 The Explanatory Statement notes that the encouragement of autonomous, small scale attacks is 'a departure from the approval and control demonstrated by AQIS over previous attacks'.¹⁵

Other non-legislative factors

- 1.33 AQIS has close links with al-Qa'ida core, the Afghan Taliban and Tehrik-e-Taliban Pakistan. In October 2015, AQIS leader, Asim Umar, pledged allegiance to the then chief of the Afghan Taliban, Mullah Mansour. Umar is also associated with the terrorist groups Harakat ul Jihad-e-Islami

¹⁴ Explanatory Statement, AQIS, pp. 9–10.

¹⁵ Explanatory Statement, AQIS, p. 10.

and Jaish-e-Mohammad, and, as noted above, AQIS is associated with the extremist group Ansar al-Islam Bangladesh.¹⁶

- 1.34 There are no known links between AQIS and Australia, and Australian interests have not been targeted by AQIS. However, the Explanatory Statement notes that AQIS's anti-Western ideology and its willingness to undertake large scale, indiscriminate attacks may result in attacks against Australian interests. Additionally, AQIS specifically mentioned an Australian Navy vessel during the planning of the AQIS operation to take control of a Pakistani Navy Ship in 2014.¹⁷
- 1.35 While the United Nations has not listed AQIS at this time, AQIS is listed as a proscribed terrorist organisation by the government of the United States and is included in the United Kingdom government's listing of al Qa'ida.¹⁸ The government of Canada listed AQIS as a terrorist entity in December 2016.¹⁹
- 1.36 AQIS is not engaged in any peace or mediation processes.²⁰

Islamic State in Libya

- 1.37 Islamic State in Libya (IS-Libya) is an officially recognised Islamic State affiliate that adheres to Islamic State's global jihadist ideology and follows an extreme interpretation of Islam which is anti-Western, promotes sectarian violence and targets those that do not agree with its interpretation as infidels and apostates.²¹
- 1.38 IS-Libya was formed in the city of Derna in Libya by local returnees from Syria, who established the Islamic Youth Shura Council in Derna in 2014. The returnees received an Islamic State delegation in September 2014 and

¹⁶ Explanatory Statement, AQIS, p. 11.

¹⁷ Explanatory Statement, AQIS, p. 11.

¹⁸ Explanatory Statement, AQIS, p. 11.

¹⁹ Public Safety Canada, 'Government of Canada lists Al Qaida in the Indian Subcontinent and the Indian Mujahideen as terrorist entities', *Media Release*, 28 December 2016: <http://news.gc.ca/web/article-en.do?nid=1173989>

²⁰ Explanatory Statement, AQIS, p. 12.

²¹ Explanatory Statement, Islamic State in Libya (IS-Libya), p. 9.

subsequently pledged allegiance to Islamic State leader Abu Bakr al-Baghdadi. In November 2014, Abu Bakr al-Baghdadi announced that he had accepted the oath of allegiance and created the IS-Libya 'branch'.²²

- 1.39 IS-Libya supports Islamic State's goals of consolidating territory under its control and aims to expand its territorial gains within Libya. The group's stated aim is that Libya be the 'vanguard of the Caliphate'. IS-Libya aims to establish three Islamic State provinces in Libya: Barqah, Fezzan and Tripolitania and remove the United Nations-backed transitional Government of National Accord.²³
- 1.40 This is the first time that IS-Libya has been listed as a terrorist organisation under the Criminal Code.

Engaging in terrorism

- 1.41 According to the Explanatory Statement, IS-Libya has claimed responsibility for the following attacks:
- 7 January 2016: at least 47 people were killed when a vehicle-borne improvised explosive device detonated at a police training centre in Zliten, Libya.
 - 4 January 2016: IS-Libya militants attacked an oil export terminal in As Sidrah, Libya, killing two people and setting an oil storage tank on fire.
 - 6 March 2015: nine foreign oil workers were kidnapped by IS-Libya militants from the al-Ghani oilfield, near the town of Zalla, Libya. Eight Libyan guards were killed during the abduction.
 - 21 February 2015: three vehicle-borne improvised explosive devices exploded in the town of Qubbah, Libya, killing at least 31 people.
 - 27 January 2015: two IS-Libya militants attacked the Corinthia Hotel in Tripoli, Libya, killing nine people, including five foreigners.

²² Explanatory Statement, IS-Libya, p. 10.

²³ Explanatory Statement, IS-Libya, p. 9.

- 12 January 2015: IS-Libya claimed responsibility for the kidnapping of 21 Coptic Christians in Sirte, Libya. IS-Libya subsequently released a video on 15 February 2015 depicting the execution of the hostages.²⁴

Advocating terrorism

- 1.42 On 26 March 2016, IS-Libya released a video praising the March 2016 attacks in Brussels and threatened similar attacks on countries that attack Islamic State branches.²⁵

Other non-legislative factors

- 1.43 IS-Libya remains an affiliate of, and ideologically aligned with, Islamic State and has received support and guidance from Islamic State senior leadership.
- 1.44 There are no known links between IS-Libya and Australia, and IS-Libya has not made statements specifically threatening Australians or Australian interests. However, IS-Libya has issued statements threatening Westerners and Western interests in general.²⁶
- 1.45 IS-Libya is listed as a proscribed terrorist organisation by the government of the United States and is included in the United Kingdom government's listing of Islamic State of Iraq and the Levant.²⁷
- 1.46 IS-Libya has not participated in peace talks with the Libyan Government and did not participate in United Nations-brokered negotiations to form a national unity government in Libya.²⁸

²⁴ Explanatory Statement, IS-Libya, p. 10.

²⁵ Explanatory Statement, IS-Libya, p. 10.

²⁶ Explanatory Statement, IS-Libya, p. 11.

²⁷ Explanatory Statement, IS-Libya, p. 11.

²⁸ Explanatory Statement, IS-Libya, p. 11.

Islamic State Sinai Province

- 1.47 Islamic State Sinai (IS-Sinai) is an officially-recognised Islamic State affiliate located in the Sinai Peninsula in Egypt.²⁹
- 1.48 On 9 November 2014, Egypt-based extremist group Ansar Bayt al-Maqdis (ABM) and members of the Gaza-based Mujahidin Shura Council in the Environs of Jerusalem (MSC) pledged allegiance to the Islamic State and its leader, Abu Bakr al-Baghdadi. Following the pledges and the subsequent merging of ABM and MSC, the group adopted the name IS-Sinai and became a recognised Islamic State affiliate.³⁰
- 1.49 IS-Sinai adheres to Islamic State’s global jihadist ideology and follows an extreme interpretation of Islam which is anti-Western, promotes sectarian violence and targets those that do not agree with its interpretations as infidels and apostates. IS-Sinai seeks to assist Islamic State to establish an Islamic caliphate covering historic greater Syria (Iraq, Syria and other parts of the Levant). Islamic State has tasked IS-Sinai to help establish the caliphate in Egypt’s Sinai and, over the longer-term, historic Palestine (Israel and the Palestinian Territories).³¹
- 1.50 This is the first time that IS-Sinai has been listed as a terrorist organisation under the Criminal Code.

Engaging in terrorism

- 1.51 Attacks claimed by, or reliably attributed to, IS-Sinai include:
- 8 April 2016: IS-Sinai claimed responsibility for separate roadside improvised explosive device attacks in North Sinai, Egypt, which killed seven people and wounded 15 more.
 - 19 March 2016: IS-Sinai ambushed an Egyptian security checkpoint in North Sinai, Egypt, killing 15 policemen.

²⁹ Explanatory Statement, Islamic State Sinai (IS-Sinai), p. 9.

³⁰ Explanatory Statement, IS-Sinai, pp. 10–11.

³¹ Explanatory Statement, IS-Sinai, p. 9.

- 22 January 2016: IS-Sinai claimed responsibility for a bombing in Giza, Egypt, targeting Egyptian police, which killed nine people and injured a further 10.
- 7 January 2016: IS-Sinai claimed a shooting attack on an Israeli tour bus outside a hotel near the pyramids in Giza, Egypt.
- 24 November 2015: IS-Sinai claimed responsibility for a bombing at the Swiss Inn Hotel in El-Arish, North Sinai, Egypt, killing seven people, including two judges.
- 31 October 2015: IS-Sinai claimed responsibility for the downing of Russian Metrojet flight 9268, which exploded over the Sinai Peninsula in Egypt, killing all 224 passengers and crew.
- 12 August 2015: IS-Sinai claimed to have beheaded a Croatian citizen who was kidnapped on 22 July 2015 west of Cairo, Egypt. IS-Sinai released a video showing the decapitated body of the Croatian citizen.
- 1 July 2015: IS-Sinai launched simultaneous armed assaults and vehicle-borne improvised explosive device attacks against military checkpoints and police posts in North Sinai, Egypt, killing dozens of security personnel and civilians.
- 16 May 2015: IS-Sinai extremists opened fire on a bus carrying Egyptian judges in El-Arish, North Sinai, Egypt. Three judges and their driver were killed.
- 29 January 2015: IS-Sinai conducted simultaneous bombings, mortar attacks and armed assaults against several Egyptian security services targets in North Sinai, Egypt, killing up to 30 people.
- 11 January 2015: IS-Sinai abducted and killed an Egyptian police conscript in North Sinai, Egypt.³²

Advocating terrorism

1.52 The Explanatory Statement notes that public announcements directly from IS-Sinai are rare, however

³² Explanatory Statement, IS-Sinai, p. 10.

- on 29 May 2015, IS-Sinai called (via Twitter) for Islamic State-aligned members in the Sinai to fight against Hamas and take over the Gaza Strip, and
- on 20 May 2015, IS-Sinai called for attacks against Egyptian judges in an audio statement posted on a prominent jihadist website.³³

Other non-legislative factors

- 1.53 IS-Sinai pledged allegiance to Islamic State leader Abu Bakr al-Baghdadi in November 2014 and is also likely to have links to IS-Libya. Further, IS-Sinai allegedly has low-level links to Hamas' military wing, Izz al-Din al-Qassam Brigades, likely based on familial links and areas of mutual benefit, such as smuggling and training.³⁴
- 1.54 There are no known links between IS-Sinai and Australia, and IS-Sinai has not made any explicit statements specifically threatening Australians or Australian interests. However, the group views the West, and the United States in particular, as supporters of Israel and Egypt and expresses anti-Western sentiment in its rhetoric. Various social media accounts claiming association with the group have posted threats to Western targets.³⁵
- 1.55 According to the Explanatory Statement, before pledging allegiance to Islamic State, Ansar Bayt al-Maqdis mainly carried out attacks against Israeli and Egyptian Government interests, including Egypt's tourism industry. Since aligning itself with Islamic State, the scale and ferocity of IS-Sinai attacks has increased, and it has conducted attacks against Western interests.³⁶
- 1.56 IS-Sinai is listed by the United Nations under Security Council Resolution 1373 and as a proscribed terrorist organisation by the governments of the United States and Canada. It is also listed under its former name, Ansar Bayt al-Maqdis, by the government of the United

³³ Explanatory Statement, IS-Sinai, p. 10.

³⁴ Explanatory Statement, IS-Sinai, p. 12.

³⁵ Explanatory Statement, IS-Sinai, p. 12.

³⁶ Explanatory Statement, IS-Sinai, p. 11.

Kingdom. Mujahidin Shura Council in the Environs of Jerusalem is separately listed by the United States government.³⁷

1.57 IS-Sinai is not engaged in any peace talks with the Egyptian Government.³⁸

Al-Qa'ida in the Arabian Peninsula

1.58 Al-Qa'ida in the Arabian Peninsula (AQAP) is a Sunni extremist group located in Yemen that is described as 'one of al-Qa'ida's most capable and active franchises'. It subscribes to al-Qa'ida's Sunni Islamic extremist ideology, which promotes violence and is strongly anti-Western.³⁹

1.59 AQAP was formed in 2009 when the Saudi Arabian and Yemeni branches of al-Qa'ida merged after Riyadh's counterterrorism efforts had driven al-Qa'ida members south into Yemen. It was originally founded as al-Qa'ida Yemen in February 2006, after the escape of 23 detained Islamic extremists from a high-security government correctional facility in Sana'a, Yemen. In a January 2009 statement, al-Qa'ida Yemen announced a change of name to AQAP, which was the name of al-Qa'ida Saudi Arabia before it was dismantled by Saudi authorities in 2006.⁴⁰

1.60 Although the group currently focuses on Yemeni targets, AQAP conducted attacks in Saudi Arabia during the mid-2000s, and has attempted to conduct attacks within the United States and against United States interests around the world.⁴¹ The group is considered to maintain the intent to conduct external attacks targeting Western interests and regional countries.⁴²

1.61 On 20 December 2015, AQAP released a video in which its emir, Qasim al-Rimi, gave a nearly 20-minute lecture on jihad and the importance of

³⁷ Explanatory Statement, IS-Sinai, p. 12.

³⁸ Explanatory Statement, IS-Sinai, p. 12.

³⁹ Explanatory Statement, Al-Qa'ida in the Arabian Peninsula (AQAP), p. 9.

⁴⁰ Explanatory Statement, AQAP, p. 12.

⁴¹ Explanatory Statement, AQAP, p. 12.

⁴² Committee Hansard, 9 February 2017, p. 2; Jane's World Insurgency and Terrorism, *Al-Qaeda in the Arabian Peninsula (AQAP)*, <http://janes.ihs.com>, viewed 24 February 2017.

fighting America. He claimed the United States was the primary obstacle to the group's objective to build a truly Islamic state.⁴³

- 1.62 AQAP remains loyal to al-Qa'ida leader Ayman al-Zawahiri and — though it seeks the creation of a pan-Islamic caliphate governed by Sharia law — remains broadly opposed to Islamic State's self-declared caliphate. Consistent with al-Qa'ida's primary goal, AQAP aspires to establish an Islamic Caliphate by removing 'un-Islamic' or 'apostate' governments and influences from Muslim majority countries through the use of violence. AQAP specifically seeks to establish a caliphate and implement Sharia law in Yemen, and from there aspires to spread this system throughout the Arabian Peninsula.⁴⁴
- 1.63 AQAP was initially listed as a terrorist organisation under the Criminal Code in 2010 and was re-listed in 2013.

Engaging in terrorism

- 1.64 According to the Explanatory Statement, AQAP conducts terrorist attacks including bombings, kidnappings and assassinations against Yemeni and foreign government interests to destabilise the state and has declared Yemen's Shia Huthi minority 'heretics'. AQAP capitalised on the Huthi's uprising in September 2014, and the corresponding deteriorating security environment, by expanding its insurgency — taking control of the port city of Mukalla in April 2015. AQAP had gained control of significant territory in Yemen's south and east until a UAE-led military coalition offensive retook Mukalla in late April 2016.⁴⁵
- 1.65 AQAP has claimed responsibility for the following attacks since the group was last re-listed in 2013:
- 11 May 2016: a vehicle-borne improvised explosive device attack in northern Hadramawt province in Yemen that wounded General Abdul-

⁴³ Explanatory Statement, AQAP, p. 9.

⁴⁴ Explanatory Statement, AQAP, p. 9.

⁴⁵ Explanatory Statement, AQAP, p. 10. See also Jane's World Insurgency and Terrorism, *Al-Qaeda in the Arabian Peninsula (AQAP)*, <http://janes.ihs.com>, viewed 24 February 2017.

Rahman al-Halili, commander of Yemen's First Military Region, and killed at least eight Yemeni soldiers and civilians.

- 1 May 2016: an attack against General Aydarus al-Zubaydi, Governor of the city of Aden in Yemen, and Shelal Ali Shayyeh, security director for the city of Aden, that killed six police officers and injured several others.
- 23 April 2016: a suicide bombing that targeted military forces in Abyan province in Yemen, killing and wounding dozens of people.
- 2 April 2015: AQAP attacked government and security facilities in the southern port city Mukalla, Hadramawt province in Yemen, and established control of the area. Further, the group freed about 300 prisoners from the local jail, including AQAP's former emir of Abyan province, Khalid al-Batarfi.
- 3 March 2015: Saudi Arabian diplomat Abdullah al-Khalidi was released after being kidnapped and held captive by AQAP for three years. Al-Khalidi appeared as a hostage in AQAP videos pleading to the Saudi Government to secure his release.
- 27 September 2014: a rocket attack against Yemeni security forces near the United States embassy in Sana'a, the capital of Yemen.
- 3 December 2014: AQAP claimed responsibility for an attempt to assassinate the Iranian Ambassador by detonating a vehicle-borne improvised explosive device at his residence in Sana'a, Yemen.
- 24 April 2014: AQAP gunmen attempted to kidnap two United States embassy staff near a barbershop often visited by Westerners in Sana'a, Yemen. One of the gunmen was killed during the attempt.⁴⁶

1.66 The Explanatory Statement also notes that on 27 November 2014, AQAP claimed responsibility for an attempt to assassinate the United States Ambassador in Sana'a, Yemen. Two improvised explosive devices were disarmed before they could be detonated.⁴⁷

Advocating terrorism

1.67 Public statements by AQAP since its re-listing in 2013 include:

⁴⁶ Explanatory Statement, AQAP, p. 10.

⁴⁷ Explanatory Statement, AQAP, p. 10.

- 10 January 2016: AQAP leader and explosives expert Ibrahim al-Asiri issued his first public statement, in which he praised executed prisoners and vaguely threatened Saudi Arabia and the United States.
- 8 December 2015: AQAP released a video titled 'Guardians of Sharia' that featured veteran leaders discussing at length their time waging jihad. Convicted terrorist and AQAP commander Ibrahim al-Qosi stated that the 'war against America' continues through 'individual jihad', which AQAP promotes through its policy of encouraging attacks by individuals and small-cell attacks worldwide.
- 4 August 2015: AQAP's Khalid al-Batarfi released a video praising lone-actor attacks, condemning the United States, France and other 'disbeliever' nations, and encouraging lone-wolf attacks in these nations. AQAP's media outlet al-Malahim also produced this video.
- 7 January 2015: two brothers attacked the Paris headquarters of the 'Charlie Hebdo' magazine, killing 12 people and injuring 11 others. The attackers were inspired by AQAP ideology, with one brother confirmed to have met with now-deceased AQAP operational Anwar al-Awlaki in 2011 at an AQAP training camp in Yemen. AQAP subsequently claimed responsibility for the attack.

1.68 Additionally, AQAP advocates terrorism through its online English-language magazine 'Inspire'. Recent examples include:

- 14 May 2016: 'Inspire 15' includes a section called 'Open Source Jihad' that instructs readers on how to professionalise assassinations, advocates murdering people in their homes, and provides guidance on the construction of three different types of IEDs.
- 2 December 2015: Syed Rizwan Farook, the male shooter in the San Bernardino, United States, terrorist attack that killed 14 people and injured 20 others, was allegedly influenced by AQAP's 'Inspire' magazine and the teachings of AQAP operational planner and ideologue Anwar al-Awlaki, who was killed in a United States drone strike in 2011.

- 9 September 2015: 'Inspire 14' provides instructions for the construction of an improvised timed hand grenade and advocates the use of assassination tactics in terrorist attacks.⁴⁸

Other non-legislative factors

- 1.69 AQAP is a recognised affiliate of al-Qa'ida. AQAP has also developed some links with al-Qa'ida-affiliated terrorist group al-Shabaab, which operates in Somalia.⁴⁹
- 1.70 There are no corroborated links between AQAP and Australian individuals or interests since the group was re-listed in 2013. However, on 19 November 2013, two Australians (one with dual New Zealand citizenship) who had featured in an AQAP video were killed by a United States drone strike targeting AQAP operatives in Hadramawt province, Yemen. Australian media began reporting this event in April 2014, and AQAP confirmed the deaths of the two Australians in a mid-April 2016 video.⁵⁰
- 1.71 There are no known AQAP attacks that have killed or injured Australian citizens. However, the Explanatory Statement cites a number of examples of where AQAP has conducted and encouraging others to undertake terrorist attacks against Western targets, which includes Australian interests.⁵¹ Furthermore, the Explanatory Statement notes that 'most' editions of AQAP's 'Inspire' magazine have mentioned Australia.⁵²
- 1.72 AQAP is listed by the United Nations under Security Council Resolution 1267. The group is listed as a proscribed terrorist organisation by the governments of the United States and Canada, and is included in the United Kingdom government's listing of al-Qa'ida.⁵³

⁴⁸ Explanatory Statement, AQAP, pp. 9–10.

⁴⁹ Explanatory Statement, AQAP, p. 13.

⁵⁰ Explanatory Statement, AQAP, p. 13.

⁵¹ Explanatory Statement, AQAP, p. 13.

⁵² Explanatory Statement, AQAP, p. 13.

⁵³ Explanatory Statement, AQAP, p. 14.

- 1.73 AQAP was involved in peace talks with the Yemeni Government in 2013, but is not currently engaged in any peace or mediation processes.⁵⁴

Committee comment

- 1.74 The Committee considered the publicly available material to support the listing and re-listing of these organisations, and the additional information provided during the private hearing. In addition to other matters, the Committee heard about the effectiveness and resilience of these groups, and threats they pose, including to Australian interests.
- 1.75 The Committee concludes that AQIS, IS-Libya and IS-Sinai meet, and that AQAP continues to meet, the definition of a terrorist organisation, namely that these organisations:
- are 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.
- 1.76 The Committee therefore supports the listing and re-listing of these organisations under the Criminal Code and finds no reason to disallow these legislative instruments.
- 1.77 The Committee notes that, contrary to the Government's agreed practice for first-time listings, the listings of AQIS, IS-Libya and IS-Sinai came into effect immediately following registration of the regulations. The Committee accepts that in many cases it may be appropriate that the listing of a terrorist organisation comes into immediate effect. The Committee maintains the view, however, that where there is no pressing risk to Australia's national security, listings should not come into effect until the parliamentary disallowance period has expired and the Committee has concluded its review.

⁵⁴ Explanatory Statement, AQAP, p. 14.

- 1.78 In circumstances where there are compelling reasons why the listing of a terrorist organisation should not be delayed until after the disallowance period, the Committee expects these reasons to be provided.

Mr Andrew Hastie MP

Chair

March 2017

A. List of witnesses appearing at private hearing

Thursday, 9 February 2017

Parliament House

Canberra

Attorney-General's Department

- Mr Anthony Coles, Assistant Secretary
- Ms Karen Bishop, Principal Legal Officer

Australian Security Intelligence Organisation

- Assistant Director-General, National Threat Assessment Centre
- Coordinator, National Threat Assessment Centre