

EXPLANATORY STATEMENT

Select Legislative Instrument 2017 No.

Issued by the authority of the Attorney-General

Criminal Code Act 1995

Criminal Code (Terrorist Organisation—Islamic State) Regulations 2017

The purpose of the *Criminal Code (Terrorist Organisation—Islamic State) Regulations 2017* (the Regulations) is to specify Islamic State for the purposes of paragraph (b) of the definition of ‘terrorist organisation’ in subsection 102.1(1) of the *Criminal Code*.¹ Islamic State is currently specified for this purpose by the *Criminal Code (Terrorist Organisation—Islamic State) Regulation 2014*, which is repealed by the Regulations. Details of the Regulations are set out in Attachment A.

Section 5 of the *Criminal Code Act 1995* (the Act) provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act. The Schedule to the Act sets out the *Criminal Code*.

Paragraph (b) of the definition of ‘terrorist organisation’ in subsection 102.1(1) of the *Criminal Code* provides that regulations can specify organisations for the purposes of the definition of ‘terrorist organisation’.

Subsection 102.1(2) of the *Criminal Code* provides that before the Governor-General makes regulations specifying an organisation for the purposes of paragraph (b) of the definition of ‘terrorist organisation’ in subsection 102.1(1), the Minister 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.

The Attorney-General is satisfied on reasonable grounds that Islamic State is engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act, or advocates the doing of a terrorist act. In coming to this position, the Attorney-General has taken into consideration an unclassified Statement of Reasons provided by the Director-General of Security, as well as advice from the Australian Government Solicitor (AGS). The Statement of Reasons is at Attachment B.

¹ A ‘terrorist organisation’ is defined in subsection 102.1(1) of the *Criminal Code* as:

- (a) an organisation that is directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act; or
- (b) an organisation that is specified by the regulations for the purposes of this paragraph.

Effect of the instrument

Division 102 of the *Criminal Code* sets out the following offences relating to terrorist organisations

- directing the activities of a terrorist organisation
- being a member of a terrorist organisation
- recruiting persons to a terrorist organisation
- receiving training from, providing training to or participating in training with a terrorist organisation
- getting funds to, from or for a terrorist organisation
- providing support to a terrorist organisation, and
- associating with a terrorist organisation.

The Regulations ensure that the offences in Division 102 of the *Criminal Code* continue to apply to conduct relating to Islamic State. Regulations specifying Islamic State as a terrorist organisation have been in effect since 2005.

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

The Regulations commence on the day after it is registered. Subsection 102.1(3) of the *Criminal Code* provides that regulations for the purposes of paragraph (b) of the definition of ‘terrorist organisation’ cease to have effect on the third anniversary of the day on which they take effect.

Consultation

The unclassified Statement of Reasons was prepared by the National Threat Assessment Centre in the Australian Security Intelligence Organisation, in consultation with the Department of Foreign Affairs and Trade and the Attorney-General’s Department (AGD). AGD also consulted the Centre for Counter-Terrorism Coordination in the Department of the Prime Minister and Cabinet and sought the advice of the AGS to inform the decision of the Attorney-General.

Subsection 102.1(2A) of the *Criminal Code* provides that before the Governor-General makes a regulation specifying an organisation for the purposes of paragraph (b) of the definition of ‘terrorist organisation’ in subsection 102.1(1) of the *Criminal Code*, the Minister must arrange for the Leader of the Opposition in the House of Representatives to be briefed in relation to the proposed regulation. The Attorney-General wrote to the Leader of the Opposition enclosing the information upon which he was satisfied that Islamic State met the legislative criteria for listing.

The *Intergovernmental Agreement on Counter-Terrorism Laws* (June 2004) (the IGA) requires that the Commonwealth Government consult with the governments of the states and territories prior to making regulations specifying an organisation for the purposes of the definition of 'terrorist organisation' in subsection 102.1(1) of the *Criminal Code*. The IGA provides that if a majority of the states and territories object to the making of such a regulation within a time frame nominated by the Commonwealth, and provide reasons for their objections, the Commonwealth will not make the regulation at that time.

The Attorney-General wrote, on behalf of the Prime Minister, to the Premiers and Chief Ministers of the states and territories. A majority of the states and territories did not object to the making of the Regulations within the time frame nominated by the Attorney-General.

Statement of Compatibility with Human Rights

Overview

The *Criminal Code (Terrorist Organisation—Islamic State) Regulations 2017* (the Regulations) specifies Islamic State for the purposes of paragraph (b) of the definition of ‘terrorist organisation’ in subsection 102.1(1) of the *Criminal Code*.

The object of the Regulations is to identify Islamic State as a terrorist organisation under Australian law, and put the organisation and members of the public on notice of that fact. Notification is important to help people avoid engaging in activities which might constitute an offence under Division 102 of the *Criminal Code* in relation to Islamic State.

The Regulations, which are part of Australia’s terrorist organisation listing regime, support the application of the offences in Division 102 of the *Criminal Code*, the object of which is to protect national security, public safety and the rights and freedoms of persons within and outside of Australia. In particular, the Regulations provide that the offence of associating with a terrorist organisation in section 102.8 of the *Criminal Code* applies in relation to associating with Islamic State.

Terrorist organisations, including Islamic State, present a threat to the security of Australia and often seek to harm Australians and our democratic institutions. The statutory definition of a ‘terrorist organisation’ requires that these bodies directly or indirectly engage in, prepare, plan, assist in or foster the doing of a terrorist act which includes the causing of serious harm to persons or death and serious damage to property (refer to [Attachment B](#) for details).

Human rights implications

The Regulations promote the following human rights contained in the International Covenant on Civil and Political Rights (ICCPR):

- the inherent right to life in Article 6.

The Regulations limit the following human rights contained in the ICCPR:

- the right to freedom of expression in Article 19, and
- the right to freedom of association in Article 22.

The inherent right to life in Article 6

Article 6 of the ICCPR provides that countries have a duty to take appropriate steps to protect the right to life and to investigate arbitrary or unlawful killings and punish offenders. The Regulations, and the terrorist organisation listing regime more broadly, ensure that the offence provisions in Division 102 of the *Criminal Code* apply to certain conduct in relation to listed terrorist organisations. These offence provisions operate to penalise conduct that presents a significant risk to life, both in Australia and overseas, and, in conjunction with the terrorist organisation listing regime, also act as a deterrent to that conduct. Deterring the conduct, and thereby preventing the risk to life, promotes the inherent right to life expressed in Article 6 of the ICCPR.

The right to freedom of expression in Article 19

Article 19(2) of the ICCPR provides that everyone shall have the right to freedom of expression. However, Article 19(3) provides that freedom of expression may be limited if it is necessary to achieve a legitimate purpose, including for the protection of national security. The Regulations, and the terrorist organisation listing regime more broadly, limit the right to freedom of expression to the extent that persons are prohibited from directing the activities of, recruiting for, providing support to or associating with terrorist organisations, including Islamic State. The restrictions on freedom of expression are justified on the basis that such conduct could jeopardise the security of Australia, the personal safety of its population and its national interests and the restrictions are reasonable, necessary and proportionate to the objective of protecting Australia's national security.

The right to freedom of association in Article 22

Article 22 of the ICCPR protects the right of all persons to group together voluntarily for a common goal and to form and join an organisation. Article 22(2) provides that this right may be limited for the purpose of national security. The Regulations, and the terrorist organisation listing regime more broadly, limit the right of freedom of association to prevent people engaging with and participating in terrorist organisations, in this instance Islamic State.

The offence of associating with a terrorist organisation in section 102.8 of the *Criminal Code* is limited in its application to an organisation that is a listed terrorist organisation under the definition of 'terrorist organisation' in paragraph 102.1(1)(b) of the *Criminal Code*. The offence does not apply if the association is with a close family member and relates to a matter of family or domestic concern, or takes place in the course of practicing a religion in a place used for public religious worship, or the association is only for the purpose of providing humanitarian aid or only for the purpose of providing legal advice or legal representation.

Due to the severity of the danger posed by terrorist organisations, it is reasonable, necessary and proportionate to limit the right of individuals who, by their association with a terrorist organisation, pose a threat to Australians.

General safeguards and accountability mechanisms

Whilst the Regulations may limit the right to freedom of expression and the right to freedom of association with Islamic State, the Regulations are subject to the safeguards outlined below. The limits on these rights are reasonable, necessary and proportionate, and are in the interests of public safety and national security, after taking into consideration the direct and indirect terrorist activities of the organisation, which threaten human life.

The *Criminal Code* provides safeguards and accountability mechanisms requiring prior consultation and enabling review of the Regulations, including the following:

- the Commonwealth must consult with the states and territories in accordance with the *Intergovernmental Agreement on Counter-Terrorism Laws* of 25 June 2004, and the Regulations may only be made if a majority of the states and territories do not object to the Regulations within a reasonable time specified by the Commonwealth

- under subsection 102.1(2A) of the *Criminal Code* the Minister must arrange for the Leader of the Opposition to be briefed in relation to the proposed Regulations
- under subsection 102.1(3) the *Criminal Code*, the Regulations will cease to have effect on the third anniversary of the day on which it takes effect
- subsection 102.1(4) of the *Criminal Code* provides that if the Minister ceases to be satisfied of the criteria necessary for listing an organisation under subsection 102.1(2) of the *Criminal Code*, the Minister must make a declaration to that effect by written notice published in the Gazette, with the effect of the Minister's declaration that the Regulations listing the organisation cease to have effect and the organisation is de-listed as a terrorist organisation under Division 102 of the *Criminal Code*
- subsection 102.1(17) of the *Criminal Code* provides that an individual or an organisation may make a de-listing application to the Minister
- the Regulations may be reviewed by the Parliamentary Joint Committee on Intelligence and Security under section 102.1A of the *Criminal Code*, and
- both Houses of Parliament may disallow the Regulations within the applicable disallowance period, which is 15 sitting days after the Regulations are laid before that House, as provided for in subsection 102.1A(4) of the *Criminal Code*.

Conclusion

The Regulations are compatible with human rights because they promote the protection of human rights. To the extent that the terrorist organisation listing regime, of which the Regulations are part, may also limit human rights, those limitations achieve a legitimate purpose and are reasonable, necessary and proportionate.

Details of the *Criminal Code (Terrorist Organisation — Islamic State) Regulations 2017*

Section 1 – Name

This section would provide that the title of the Regulation is the *Criminal Code (Terrorist Organisation — Islamic State) Regulations 2017*.

Section 2 – Commencement

This section would provide for the commencement of each paragraph in the instrument, as set out in the table.

Subsection (1) would provide that each provision in the instrument specified in column 1 of the table commences in accordance with column 2 of the table, and that any other statement in column 2 has effect according to its terms. Columns 1 and 2 would provide that the Regulations commence the day after the instrument is registered.

The note to subsection (1) would clarify that the table only relates to the provisions of this instrument as originally made, and that it will not be amended to deal with any later amendments to the instrument.

Subsection (2) would provide that information in column 3 of the table is not part of the instrument. It is designed to assist readers, and may be updated or changed in any published version of these Regulations. Column 3 is empty at the time of making the instrument.

Section 3 – Authority

This section would provide that the Regulations are made under the *Criminal Code Act 1995*.

Section 4 – Schedules

This section would provide each instrument that is specified in a Schedule to the instrument is amended or repealed as set out in the applicable items in the Schedule concerned and that any other item in a Schedule has effect according to its terms. Schedule 1 to the instrument would repeal the whole of the *Criminal Code (Terrorist Organisation – Islamic State) Regulation 2014*.

Section 5 – Terrorist organisation — Islamic State

Subsection (1) would provide that for paragraph (b) of the definition of ‘terrorist organisation’ in subsection 102.1(1) of the *Criminal Code*, the organisation known as Islamic State is specified.

Subsection (2) would provide that Islamic State is also known by the following names:

- a) Al-Qa'ida in Iraq
- b) Al-Qa'ida in Iraq – Zarqawi
- c) Al-Qa'ida of Jihad in the Land of the Two Rivers
- d) Al-Qa'ida of Jihad Organization in the Land of the Two Rivers

- e) Al-Tawhid
- f) Al-Tawhid and al-Jihad
- g) Brigades of Tawhid
- h) Dawla al-Islamiya
- i) Dawla al-Islamiya fi al-Iraq wa as-Sham
- j) Islamic State of Iraq
- k) Islamic State of Iraq and al-Sham
- l) Jama'at al-Tawhid wa'al-Jihad
- m) Kateab al-Tawhid
- n) Mujahidin Shura Council
- o) Qaida of the Jihad in the Land of the Two Rivers
- p) Tanzeem Qa'idat al Jihad Bilad al Raafidaini
- q) Tanzim Qa'idat al-Jihad fi Bilad al-Rafidayn
- r) The al-Zarqawi network
- s) The Islamic Caliphate
- t) The Islamic Caliphate State
- u) The Islamic State of Iraq and al-Sham
- v) The Islamic State of Iraq and Greater Syria
- w) The Islamic State of Iraq and Syria
- x) The Islamic State of Iraq and the Levant
- y) The Monotheism and Jihad Group
- z) The Organisation Base of Jihad Country of the Two Rivers
- aa) The Organisation Base of Jihad Mesopotamia
- bb) The Organisation of Jihad's Base in the Country of the Two Rivers
- cc) Unity and Holy Struggle
- dd) Unity and Holy War
- ee) Unity and Jihad Group

Schedule 1—Repeals

Schedule 1 would provide that *Criminal Code (Terrorist Organisation — Islamic State) Regulation 2014* is repealed.

The *Criminal Code (Terrorist Organisation — Islamic State) Regulation 2014* specifies Islamic State as a terrorist organisation for the purposes of paragraph (b) of the definition of ‘terrorist organisation’ in subsection 102.1(1) of the *Criminal Code*. The proposed clause would ensure there is no duplication where the new Regulations are made before the current Regulation ceases to have effect.

ATTACHMENT B

STATEMENT OF REASONS FOR ISLAMIC STATE

Also known as: Al-Qa'ida in Iraq; Al-Qa'ida in Iraq – Zarqawi; Al-Qa'ida of Jihad in the Land of the Two Rivers; Al-Qa'ida of Jihad Organization in the Land of the Two Rivers; Al-Tawhid; Al-Tawhid and al-Jihad; Brigades of Tawhid; Islamic State of Iraq; Dawla al-Islamiya; Dawla al-Islamiya fi al-Iraq wa as-Sham; Islamic State of Iraq and al-Sham; Jama'at al-Tawhid wa'al-Jihad; Kateab al-Tawhid; Mujahidin Shura Council; Qaida of the Jihad in the Land of the Two Rivers; Tanzeem Qa'idat al Jihad Bilad al Raafidaini; Tanzim Qa'idat al-Jihad fi Bilad al-Rafidayn; The al-Zarqawi network; The Islamic State of Iraq and the Levant; The Islamic State of Iraq and al-Sham; The Islamic State of Iraq and Syria; The Islamic Caliphate; The Islamic Caliphate State; The Islamic State of Iraq and Greater Syria; The Monotheism and Jihad Group; The Organisation Base of Jihad Country of the Two Rivers; The Organisation Base of Jihad Mesopotamia; The Organisation of Jihad's Base in the Country of the Two Rivers; Unity and Holy Struggle; Unity and Holy War; Unity and Jihad Group.

This statement is based on publicly available information about Islamic State. To the Australian Government's knowledge, this information is accurate, reliable and has been corroborated by classified information.

1. Basis for listing a terrorist organisation

Division 102 of the *Criminal Code* provides that for an organisation to be listed as a terrorist organisation, the Attorney-General must be satisfied on reasonable grounds that the organisation:

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

For the purposes of listing a terrorist organisation under the *Criminal Code*, the doing of a terrorist act includes the doing of a specific terrorist act, the doing of more than one terrorist act and the doing of a terrorist act, even if a terrorist act does not occur.

2. Background to this listing

The first listing of this group for proscription purposes was under the Arabic name it formerly used, *Tanzim Qa'idat al-Jihad fi Bilad al-Rafidayn*, in 2005. The group was re-listed under this name on 17 February 2007.

The group was formerly listed as al-Qa'ida in Iraq on 1 November 2008; and re-listed on 29 October 2010 and 12 July 2013.

The group was formerly listed as Islamic State of Iraq and the Levant (ISIL) on 14 December 2013.

On 11 July 2014, the group was listed as Islamic State to reflect the expansion of its operating area and its announcement of an Islamic caliphate on 29 June 2014. This statement has been prepared to support its continued listing.

3. Terrorist activity of the organisation

Objectives

Islamic State is an Iraq and Syria-based Sunni extremist group and former al-Qa'ida affiliate that adheres to a global jihadist ideology. Islamic State 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. Islamic State's announcement of a caliphate claimed the land from Aleppo in Syria to Diyala in Iraq, the Sunni-dominated areas of both countries. It aims to establish a salafist-orientated Islamist state spanning Iraq, Syria and other parts of the Levant and now operates in parts of Syria and Iraq as a consolidated organisation separate from al-Qa'ida and its affiliates. Islamic State has also accepted pledges of allegiance from a number of like-minded groups elsewhere in the world to further its influence globally.

Since the formation of Islamic State, the group has focussed on capturing and consolidating its control over areas of Iraq and Syria by stoking sectarian tensions between, and within, Sunni and Shia; capitalising on Sunni disenfranchisement. By late 2015, Islamic State had captured significant territory in Iraq and Syria. In Iraq, the group controlled Fallujah in Anbar Province and most of Ninewa Province, including Mosul, Iraq's second largest city. In Syria, Islamic State controlled parts of Raqqah, Dayr az-Zawr, Homs, Aleppo, al-Hassakah and Rif Damascus provinces; including the cities of Raqqah, Dayr az-Zawr, and Palmyra. Islamic State faced significant territorial losses and leadership attrition in 2016, particularly in Iraq; however, remains in control of parts of Ninewa Province in Iraq and large areas of the provinces of Raqqah and Dayr az-Zawr, as well as parts of Homs, al-Hassakah and Aleppo provinces in Syria.

Directly or indirectly engaged in preparing, planning, assisting in or fostering the doing of terrorist acts

Islamic State is one of the world's deadliest and most active terrorist organisations and conducts daily attacks on security forces and civilians in Iraq and Syria; and against rival opposition groups. Islamic State also inspires, encourages, enables and directs attacks internationally; ranging from low-capability attacks with knives, vehicles or small arms through to complex, coordinated mixed-mode attacks with firearms and explosives. Its attacks often aim to maximise casualties and publicity by targeting crowds and gatherings at festivals and religious events; choosing targets such as churches, nightclubs, music venues and national commemorations for symbolic value. Islamic State also targets police and military personnel, both within and outside Iraq and Syria. The group incites and conducts violence against Muslims and non-Muslim religious minorities within the region, and conducts public executions and violent punishments in areas it controls.

Islamic State's operations in Iraq and Syria consist of military operations and daily terrorist attacks including; bombings, suicide bombings, suicide car bombs, armed attacks including sniper attacks, as well as the use of human shields.

In Iraq, attacks are mostly in the centre, in and around Baghdad and in the provinces to the north and west. Attacks in the Kurdish-majority northern provinces and the Shia-majority provinces in the south are less common but do occur. Islamic State's primary targets in Iraq are; security forces, Shia civilians in public areas, including cafes, mosques and markets, political figures, community and tribal leaders who publicly condemn the Islamic State, and anti-Islamic State militias. By attacking these targets, the group hopes to undermine security force efforts to contain the group, destroy public confidence in the security forces and provoke a widespread revolt against the government. Islamic State also attacks and controls elements of infrastructure including bridges, oil fields and dams, to cause major damage and restrict local security forces' freedom of movement.

In Syria, attacks are predominately against the Syrian regime of Bashar al-Assad, but Islamic State also attacks some other Syrian armed opposition groups, which it considers apostates and infidels as well as on occasion directly targeting civilians. Islamic State has targeted Turkish forces, Turkish, Kurdish and Shia militants in northern Syria, Syrian refugees and Kurdish organisations in Turkey.

In the Middle East, Islamic State has conducted a range of attacks in Egypt, Lebanon, Jordan, Saudi Arabia and Turkey; and also threatened attacks against the Governments of Turkey and Saudi Arabia.

Significant attacks either claimed by, or reliably attributed to, Islamic State since the group was last proscribed (in July 2014) include:

- 4 to 10 January 2017: in a wave of attacks, Islamic State claimed two suicide and five improvised explosive device operations targeting Shia civilians in Baghdad killing and wounding approximately 300 people.
- 1 January 2017: Islamic State claimed responsibility for a shooting at a popular nightclub in Istanbul, Turkey on New Year's Eve, which killed 39 people and wounded approximately 70.
- 19 December 2016: an individual drove a truck through a crowded Christmas market in Berlin, Germany; killing 12 and injuring 49 people. Islamic State claimed that the attacker was one of its soldiers.
- 14 July 2016: an individual in a large truck deliberately drove through a crowd gathered for French National Day (formerly Bastille Day) celebrations in Nice, France, killing 84 people. Islamic State claimed that the attacker was one of its soldiers.
- 3 July 2016: Islamic State claimed responsibility for detonating a vehicle-borne improvised explosive device outside a restaurant in a shopping complex in the Shia Karrada district of Baghdad, Iraq, which killed 292 people and injured hundreds more.
- 12 June 2016: a gunman shot and killed 50 people and wounded approximately 50 others at a nightclub in Orlando, Florida, United States of America. Islamic State claimed the attack was carried out by an Islamic State fighter.
- 22 March 2016: Islamic State claimed responsibility for two explosive attacks at the Zaventem Airport and Maalbeek Metro station in Brussels, Belgium, killing 32 and injuring over 340.
- 1 February 2016: a car bomb, followed by two suicide bombings, killed more than 70 people and injured a further 40 near the Shia Sayyida Zaynab shrine in Damascus, Syria. Islamic State claimed responsibility for the attack.
- 11 to 28 January 2016: Islamic State launched a wave of attacks against Iraqi soldiers and pro-government fighters in Ramadi, Iraq. The suicide attacks, sniper fire and roadside bombs killed more than 80 people.
- 11 January 2016: Islamic State claimed responsibility for a series of attacks against civilian targets in Iraq, killing 51 people. The attacks included a car bombing and armed attack against the Jawaher shopping centre in Baghdad, a double suicide bombing at a casino in Muqdadiya and a car bombing near a restaurant in Baquba.
- 13 November 2015: a group of attackers conducted simultaneous armed assaults against a concert hall, a major stadium, restaurants and bars in Paris, France, killing 130 and injuring hundreds more. Islamic State claimed responsibility for the attacks.
- 10 August 2015: Islamic State claimed responsibility for two bombings in Baquba and Kanaan in Iraq's Diyala province, which killed nearly 60 people and injured a further 105.
- 17 July 2015: Islamic State claimed responsibility for a car bomb which exploded in a crowded market in the Iraqi town of Khan Bani Saad, killing 115 people and injuring a further 170.

Advocating the doing of terrorist acts

Several media statements have been issued by the group that advocate the doing of terrorist acts, including:

- 6 January 2017: Islamic State released the fifth issue of its *Rumiyah* magazine in which it specified arson as a ‘terror tactic’ and identified types of targets; including apartment complexes, banks, factories, hospitals, schools and churches. Another article titled ‘Collateral Carnage’ justified the killing of women and children that are disbelievers; while the German version of the magazine had an exclusive article discussing the 19 December 2016 Berlin attack and calling for more attacks throughout Europe causing ‘greater damage, deeper grief and terrible pain.’
- 22 December 2016: Islamic State released a video showing the execution by burning of two Turkish Army soldiers, with the speaker encouraging its followers in Turkey to burn it, destroy it and blow it up; threatening Turkey if it did not retreat in Syria.
- 5 December 2016: Islamic State released an audio speech on Telegram of its new spokesperson—Abu al-Hassan al-Muhajir—calling on Muslims to attack their enemies; specifically naming the United States, Europe, Russia, Iran, Turkey, Kurdistan as well as several other countries. Al-Muhajir also threatened the Turkish government, instructing attacks against its ‘every embassy and consulate.’
- 5 September 2016: Islamic State released an English-language version of a new magazine titled *Rumiyah* which contained an article calling for lone-wolf attacks in the West, including Australia. Subsequent editions of the magazine have incited attacks in a range of locations, justified attacks against non-Muslims and contained articles on ‘terror tactics’ which focused on knife attacks, vehicle attacks and arson.
- 30 January 2016: a Twitter user posted a video produced by an Islamic State media office threatening attacks and violence against the West that would be worse than the 13 November 2015 attacks in Paris and the September 2001 al-Qa’ida attacks in the United States. The video featured the execution of five Islamic State captives.
- 24 January 2016: Islamic State released a video about the 13 November 2015 Paris attacks. The video ended with a statement threatening similar attacks in the United Kingdom.
- 16 November 2015: Islamic State released a video warning the United States and other countries conducting air strikes against it in Syria and Iraq that the group would conduct attacks in their homelands.
- 14 April 2015: a Twitter user posted a video produced by Islamic State encouraging terrorist attacks against the United States and other Western countries. The video included footage of beheadings and other executions carried out by Islamic State.
- 21 September 2014: former Islamic State spokesman Abu Muhammad al-Adnani released a statement calling on its followers in the West to kill citizens of Western countries in terrorist attacks.

4. Details of the organisation

Islamic State is an Iraq and Syria-based Sunni extremist group and former al-Qa’ida affiliate that adheres to a global jihadist ideology. Islamic State 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.

The group became an al-Qa’ida affiliate in October 2004 when its former leader, Abu Musab al-Zarqawi, pledged allegiance to Usama bin Laden. In late 2011, the group established operations in Syria through its former subordinate organisation, Jabhat al-Nusra (now known as Jabhat Fatah al-

Sham). In April 2013, current Islamic State leader Abu Bakr al-Baghdadi announced the creation of ISIL to subsume the then Jabhat al-Nusra and consolidate operations across Iraq and Syria.

The then Jabhat al-Nusra (and now Jabhat Fatah al-Sham) leader Abu-Muhammad al-Jawlani attempted to annul the announcement by pledging allegiance to al-Qa'ida leader Ayman al-Zawahiri. In June 2013, al-Zawahiri ruled that the then Jabhat al-Nusra was the only al-Qa'ida affiliate in Syria and annulled the creation of ISIL. However, al-Baghdadi refused to follow this ruling and confirmed the creation of ISIL, later announcing the formation of Islamic State with himself as the Caliph in June 2014. The group now operates in parts of Syria and Iraq as a consolidated organisation separate from Jabhat Fatah al-Sham and al-Qa'ida. Islamic State has also accepted pledges of allegiance from like-minded groups elsewhere in the world; some of which include ISIL-Libya, ISIL-Sinai, Boko Haram and the Abu Sayyaf Group.

Leadership

Islamic State's current leader and self-proclaimed Caliph is Ibrahim Awwad Ibrahim Ali al-Badri. He has many aliases and is usually known as Abu Bakr al-Baghdadi or Abu Du'a. Al-Baghdadi became the leader following the May 2010 death of his predecessor, Abu Hamza al-Muhajir. He is currently believed to be located in either Syria or Iraq.

The official spokesman of Islamic State, Abu al-Hassan al-Muhajir, released his first speech in December 2016 after former spokesperson Abu Muhammad al-Adnani was killed in an airstrike in August 2016. While Islamic State has faced leadership attrition in 2016, the fluid nature of Islamic State leadership, with other members being able to fill roles as required, has allowed the group to continue its local operations and international attack planning.

Islamic State has a hierarchical structure, featuring overall leadership councils and provincial governments in both Iraq and Syria. Regional and specialist cells act with relative autonomy under general direction from senior leaders. While Islamic State's affiliates elsewhere in the world largely act independently from the organisation's leadership in Iraq and Syria, they adhere to its jihadist ideology.

Membership

Islamic State has several thousand members in Iraq and Syria; mostly young Iraqi and Syrian Sunni men and foreign fighters. While its numbers were boosted in 2014 by its success in capturing Iraqi cities and coercing or convincing Sunni tribes to ally with the group, fighter numbers in Iraq and Syria are estimated to have fallen from estimates of over 65 000, to 20 000 to 30 000 after Islamic State faced significant military losses on the battlefield through 2016.

Due to Islamic State's Iraqi origins, a large number of its Syria-based senior operatives and leadership are Iraqi nationals. Fighters in both countries are able to pass freely across the border, which is no longer recognised by Islamic State.

Recruitment and funding

Islamic State uses a combination of threats, incentives and ideology to recruit new members, including a sophisticated social media campaign in several languages. It mostly targets young Sunni men worldwide, exploiting anger at the perceived mistreatment of Sunni Muslims and encouraging them to join in restoring an Islamic caliphate. Islamic State also targets young women and children.

Islamic State has forcefully recruited from areas under its control and is known to run schools to indoctrinate children into its extremist ideology at a young age. It also aims to recruit Iraqi security force members to gather intelligence and undermine the performance of those who oppose the group.

Although foreign fighters in Syria with an extremist mindset were initially drawn to the then Jabhat al-Nusra, Islamic State's effective social media messaging, willingness to accept members rejected by the then Jabhat al-Nusra and highly publicised military successes resulted in a greater flow of international recruits to Islamic State and the defection of some former Jabhat al-Nusra members. Islamic State attracted a large number of foreign fighters, including Westerners, following the announcement of the caliphate in June 2014. While foreign fighter numbers joining Islamic State in Iraq and Syria decreased throughout 2016, the group began encouraging potential recruits to go directly to other Islamic State outposts, or stay in their home countries to launch attacks as part of its global campaign.

Islamic State initially relied on funds donated for operations in Syria to also fund its activities in Iraq and transfers weapons, fighters and resources between the two countries. As Islamic State expanded, it began seizing assets from areas under its control, particularly oil refineries and banks. While oil is a major source of revenue, Islamic state also taxes and extorts those living in areas under its control. Additionally, Islamic State obtains funding through extortion, protection rackets, kidnapping, theft, black marketeering, smuggling and legitimate businesses.

Links to other terrorist organisations

Islamic State's success in Iraq, particularly in 2014, attracted the support of other terrorist groups around the world with a number of Islamist militant organisations declaring allegiance or support to Islamic State; particularly from the Middle East, North Africa and Central Asia. While some of these groups were created as a response to Islamic State's call for Muslim support, others were already in existence. Islamic State has accepted a number of pledges of allegiance; however, this does not always indicate a working relationship or operational ties. Islamic State has had contentious relationships with various Syrian opposition groups which have included cooperation where tactically useful.

Four groups currently listed as terrorist organisations under the Criminal Code are either official Islamic State affiliates or have publically pledged support for the group. They include the Abu Sayyaf Group, Boko Haram, Islamic State–Libya and Islamic State–Sinai.

Links to Australia

Islamic State's coordinated and effective propaganda campaign has exposed susceptible Australians to an extremist ideology and influenced some toward radicalisation. Around 100 Australians are currently in Syria/Iraq fighting with or supporting Islamic extremist groups—the majority are with Islamic State. Australians fighting with Islamic State have been involved in acts of violence including suicide bombings and holding the decapitated head of a Syrian soldier following Islamic State beheadings; incidents subsequently used in Islamic State's propaganda campaign.

Threats to Australian interests

Islamic State continues to openly call for attacks against Australia and its interests, both because of Australia's support to military operations against Islamic State in Iraq and Syria, and because of the

group's anti-Western ideology. Islamic State promotes its opposition to Australia through propaganda material, foreign fighter videos and speeches by senior leadership.

Islamic State has promoted terrorist attacks in Australia and has openly praised terrorist incidents in Australia, including:

- the 23 September 2014 stabbing of two counter-terrorism police officers in Victoria,
- the 15–16 December 2014 siege at Martin Place, Sydney, and
- the 2 October 2015 shooting of an unarmed police civilian, outside the New South Wales Police Force headquarters in Parramatta, NSW.

Listed by the United Nations or like-minded countries

Islamic State is listed as Islamic State of Iraq and the Levant under the United Nations Security Council resolution 2253 (2015) which expands on the United Nations Security Council resolution 1267 (1999) Sanctions Committee's consolidated list. It is also listed as a proscribed terrorist organisation by the United States, Canada, United Kingdom and New Zealand.

Engagement in peace or mediation processes

Islamic State is not engaged in any peace or mediation process.

5. Conclusion

On the basis of the above information, ASIO assesses that Islamic State continues to be directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of terrorist acts or advocates the doing of terrorist acts, involving threats to human life and serious damage to property.

In the course of pursuing its objectives, Islamic State is known to have committed or threatened actions that:

- a) cause, or could cause, death, serious harm to persons, serious damage to property, endanger life (other than the life of the person taking the action), or create a serious risk to the health or safety of the public or a section of the public;
- b) are intended to have those effects;
- c) are done with the intention of advancing the Islamic State's political, religious or ideological causes;
- d) are done with the intention of intimidating the government of one or more foreign countries; and
- e) are done with the intention of intimidating the public or sections of the public.