

## **EXPLANATORY STATEMENT**

Issued by the authority of the Minister for Home Affairs

*Criminal Code Act 1995*

*Criminal Code (Terrorist Organisation—Al-Shabaab) Regulations 2021*

The purpose of the *Criminal Code (Terrorist Organisation—Al-Shabaab) Regulations 2021* (the Regulations) is to specify the organisation known as al-Shabaab for the purposes of paragraph (b) of the definition of ‘terrorist organisation’ in subsection 102.1(1) of the *Criminal Code*.<sup>1</sup>

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*, which prescribes offences against humanity and related offences, and dangers to the community and national infrastructure.

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 for Home Affairs 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 Minister for Home Affairs is satisfied on reasonable grounds that the organisation al-Shabaab is directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act. In coming to this position, the Minister has taken into consideration unclassified information (the Statement of Reasons) provided by the Department of Home Affairs ([Attachment C](#)).

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<sup>1</sup> 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 Part 5.3 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 Part 5.3 of the *Criminal Code* apply to conduct relating to al-Shabaab.

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

The Regulations commence on 4 August 2021. 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.

A Statement of Compatibility with Human Rights (the Statement) has been completed in accordance with the *Human Rights (Parliamentary Scrutiny) Act 2011*. The overall assessment is that the Regulations are compatible with human rights. A copy of the Statement is at [Attachment A](#).

Further details of the Regulations are set out in [Attachment B](#).

### *Consultation*

The Department of Home Affairs sought advice from the Australian Government Solicitor (AGS) in relation to the unclassified information (the Statement of Reasons) at [Attachment C](#).

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 Minister for Home Affairs wrote to the Leader of the Opposition, enclosing the information upon which she was satisfied that al-Shabaab meets 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 paragraph (b) 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 timeframe nominated by the Commonwealth, and provide reasons for their objections, the Commonwealth will not make the regulation at that time.

The Minister for Home Affairs 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 timeframe nominated by the Minister.

## **Statement of Compatibility with Human Rights**

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

### ***Criminal Code (Terrorist Organisation—Al-Shabaab) Regulations 2021***

This Disallowable Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

#### ***Overview***

The *Criminal Code (Terrorist Organisation—Al-Shabaab) Regulations 2021* (the Regulations) specify al-Shabaab 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 specify al-Shabaab 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 that might constitute an offence under Division 102 of Part 5.3 of the *Criminal Code* in relation to al-Shabaab.

The Regulations, which are part of Australia’s terrorist organisation listing regime, support the application of the offences in Division 102 of Part 5.3 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 offence of associating with a terrorist organisation in section 102.8 of the *Criminal Code* applies in relation to associating with al-Shabaab as a listed terrorist organisation.

Terrorist organisations, including al-Shabaab, 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 an organisation directly or indirectly engages in, prepares, plans, assists in or fosters the doing of a terrorist act or, in relation to a listed terrorist organisation, that the organisation advocates the doing of a terrorist act.

#### ***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*

Under Article 6 of the ICCPR, 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 al-Shabaab. 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 al-Shabaab.

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 al-Shabaab, 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 in the House of Representatives 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 they take 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 being 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 15 sitting days after the Regulations are laid before that House, as provided for in section 42 of the *Legislation Act 2003*, and noting that this period may be extended by operation of subsection 102.1A(4) of the *Criminal Code* if the Parliamentary Joint Committee on Intelligence and Security reviews the Regulations and tables its report during the applicable disallowance period for that House.

### ***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 are for a legitimate purpose and are reasonable, necessary and proportionate.

**The Hon Karen Andrews MP**  
**Minister for Home Affairs**

**Details of the Criminal Code (Terrorist Organisation—Al-Shabaab) Regulations 2021**

Section 1 – Name

1. This section provides that the title of the proposed Regulations is the *Criminal Code (Terrorist Organisation—Al-Shabaab) Regulations 2021*.

Section 2 – Commencement

2. This section provides for the commencement of each provision in the proposed Regulations, as set out in the table.
3. Subsection 2(1) provides that each provision in the proposed Regulations, as 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 provide that the proposed Regulations commence in their entirety on 4 August 2021.
4. The note to subsection 2(1) clarifies that the table only relates to the provisions of the proposed Regulations as originally made, and will not be amended to deal with any subsequent amendments of the instrument.
5. Subsection 2(2) provides that the information in column 3 of the table is not part of the proposed Regulations. It is designed to assist readers of the proposed Regulations.

Section 3 – Authority

6. This section provides that the proposed Regulations are made under the *Criminal Code Act 1995*.

Section 4 – Schedules

7. This section provides that each instrument that is specified in a Schedule to the Regulations is amended or repealed as set out in the applicable items in the Schedule concerned. Any other item in a Schedule to the Regulations has effect according to its terms.
8. Schedule 1 to the Regulations repeals the whole of the *Criminal Code (Terrorist Organisation—Al-Shabaab) Regulations 2018*.

Section 5 – Terrorist organisation—al-Shabaab

9. Subsection 5(1) provides that, for the purposes of paragraph (b) of the definition of ‘terrorist organisation’ in subsection 102.1(1) of the *Criminal Code*, the organisation known as al-Shabaab is specified.



10. The effect of specifying al-Shabaab as a terrorist organisation is to ensure that offences in Subdivision B of Division 102 of Part 5.3 of the *Criminal Code* that relate to terrorist organisations are able to operate, where the appropriate elements are satisfied, in relation to conduct in connection with al-Shabaab.
11. Subsection 5(2) provides a list of names by which the organisation al-Shabaab is also known:
  - (a) Al-Shabaab al-Islaam (paragraph (a))
  - (b) Al-Shabaab al-Islamiya (paragraph (b))
  - (c) Al-Shabaab al-Jihaad (paragraph (c))
  - (d) Al-Shabab (paragraph (d))
  - (e) Ash-Shabaab (paragraph (e))
  - (f) Harakat al-Shabaab al-Mujahideen (paragraph (f))
  - (g) Harakat Shabab al-Mujahidin (paragraph (g))
  - (h) Harakatul Shabaab al-Mujaahidiin (paragraph (h))
  - (i) Hisb'ul Shabaab (paragraph (i))
  - (j) Hizbul Shabaab (paragraph (j))
  - (k) Mujaahidiin Youth Movement (paragraph (k))
  - (l) Mujahideen Youth Movement (paragraph (l))
  - (m) Mujahidin al-Shabaab Movement (paragraph (m))
  - (n) Mujahidin Youth Movement (paragraph (n))
  - (o) Shabaab (paragraph (o))
  - (p) The Popular Resistance Movement in the Land of the Two Migrations (paragraph (p))
  - (q) The Unity of Islamic Youth (paragraph (q))
  - (r) The Youth (paragraph (r))
  - (s) Ugus (paragraph (s))
  - (t) Young Mujahideen Movement (paragraph (t))
  - (u) Young Mujahideen Movement in Somalia (paragraph (u)), and
  - (v) Youth Wing (paragraph (v)).

#### Schedule 1 — Repeals

12. Item 1 of Schedule 1 to the Regulations repeals the *Criminal Code (Terrorist Organisation—Al-Shabaab) Regulations 2018* (the repealed Regulations).

13. Subsection 102.1(3) of the *Criminal Code* provides that the repealed Regulations cease to have effect on 4 August 2021, being the third anniversary of the day on which they took effect. While the repealed Regulations cease to have effect on this date, the repeal provides clarity and ensures there is no duplication if the proposed Regulations were made before the repealed Regulations cease to have effect.

## Statement of Reasons

### Listing of al-Shabaab as a terrorist organisation under the *Criminal Code Act 1995*

This Statement of Reasons is based on publicly available information about al-Shabaab. To the Australian Government's knowledge, this information is accurate, reliable and has been corroborated by classified information where available.

#### Legislative basis for listing a terrorist organisation

Division 102 of the *Criminal Code Act 1995* (the *Criminal Code*) provides that for an organisation to be listed as a terrorist organisation, the AFP Minister (the Minister for Home Affairs) must be satisfied on reasonable grounds that the organisation:

- a) is directly or indirectly engaged in, preparing, planning, 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.

#### Background to this listing

Al-Shabaab was first listed as a terrorist organisation under the *Criminal Code* on 22 August 2009. Al-Shabaab was re-listed on 18 August 2012, 11 August 2015 and 4 August 2018.

#### Details of the organisation

##### *Name of the organisation*

al-Shabaab

##### *Known aliases*

- Al-Shabaab al-Islam
- Al-Shabaab al-Islamiya
- Al-Shabaab al-Jihaad
- Al-Shabab
- Ash-Shabaab
- Harakat al-Shabaab al-Mujahideen
- Harakat Shabab al-Mujahidin
- Harakatul Shabaab al-Mujaahidiin
- Hisb'ul Shabaab
- Hizbul Shabaab
- Mujaahidiin Youth Movement
- Mujahideen Youth Movement
- Mujahidin al-Shabaab Movement

- Mujahidin Youth Movement
- Shabaab
- The Popular Resistance Movement in the Land of the Two Migrations
- The Unity of Islamic Youth
- The Youth
- Ugus
- Young Mujahideen Movement
- Young Mujahideen Movement in Somalia
- Youth Wing

### ***Organisational overview and objectives***

Al-Shabaab is a religiously motivated violent extremist organisation based in Somalia. The group is an officially recognised affiliate of al-Qa'ida, adhering to al-Qa'ida's global anti-Western jihadist narrative and promotion of sectarian violence against those who do not agree with its extreme religious interpretation. Al-Shabaab's primary local objective is the establishment of an Islamist state in the Horn of Africa based on Sharia law and the elimination of secular and foreign influence, including through violent means.

Currently, al-Shabaab controls territory in southern Somalia. However, this is fluid and frequently changes depending on United Nations African Mission in Somalia (AMISOM) counter-terrorism activity and troop movements.

### ***Organisation history***

In 2006, al-Shabaab emerged as the most prominent militia group within the militant wing of the Council of Islamic Courts. The Council of Islamic Courts was a group of Sharia courts in Somalia who united to form a rival administration, but was ousted in December 2006 by the Somali Transitional Federal Government and Ethiopian forces.

Following this, al-Shabaab established itself as an oppositionist government and insurgency fighting for the overthrow of the Somali Transitional Federal Government and for Sharia law to be installed in Somalia.

Between January 2009 and 2011, al-Shabaab controlled the majority of Somalia. In 2011, al-Shabaab was forced from Mogadishu and much of southern and central Somalia through renewed military intervention by both Kenyan and Ethiopian forces.

### ***Leadership***

Al-Shabaab has a centralised command structure and is currently led by Sheikh Ahmed Umar (also known as Ahmed Diriye), who took over as leader following the September 2014 death of long-time emir, Ahmad Abdi Aw Muhammad Godane.

### ***Membership and recruitment***

Al-Shabaab members range from those focused on the domestic insurgency in Somalia to elements that support al-Qa'ida's global jihadist ideology. The number of al-Shabaab members vary from 5,000 to 14,000.

Most members are ethnic Somalis from Somalia and Kenya. However, a small number of members are from other countries, including Western nations.

Al-Shabaab recruits widely within Somali society, predominantly spreading its message through Radio al-Andalus. Al-Shabaab also recruits internationally from within the Somali diaspora using propaganda campaigns, which are often in video format. Al-Shabaab has posted increasingly

sophisticated videos online, including videos with English subtitles—most via its al-Kata'ib media platform.

### **Financing**

Al-Shabaab derives some of its financing from taxing communities in areas it controls, and private fundraising activities outside of Somalia. Al-Shabaab also demands protection money from Somali-based businesses, and conducts its own business activities.

### **Links to other terrorist organisations**

Al-Shabaab is an officially recognised affiliate al-Qa'ida, which is a listed terrorist organisation under Australia's *Criminal Code*.

On 9 February 2012, a publicly released video by al-Shabaab leader Mukhtar Abu al-Zubair pledged al-Shabaab's allegiance to al-Qa'ida. In the video, al-Qa'ida leader, Ayman al-Zawahiri, also announced al-Shabaab had joined al-Qa'ida. On 6 September 2014, al-Shabaab officially reiterated its allegiance to al-Qa'ida and al-Zawahiri.

While al-Shabaab largely operates independently, al-Qa'ida senior leadership has previously supported some al-Shabaab activities.

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

In the past 12 months, al-Shabaab has conducted attacks and engaged in attack planning against Western, Jewish, Somali, Kenyan, and Ethiopian interests. To our knowledge, al-Shabaab is assessed as responsible or can be reasonably assessed as responsible for conducting at least 1,630 attacks in the last 12 months and at least 3,630 attacks in the last three years. Significant examples include:

- On 10 April 2021, an al-Shabaab member conducted a suicide bombing outside a hotel in Baidoa, Somalia killing, at least three people.
- On 4 April 2021, an al-Shabaab member conducted a suicide bombing at a tea shop in Mogadishu, Somalia, killing five people.
- On 3 April 2021, al-Shabaab conducted mortar attacks on Bariire and Awdhigle military bases in Southern Somalia, killing at least nine soldiers.
- On 6 March 2021, al-Shabaab conducted a suicide vehicle bombing at a restaurant near Mogadishu, Somalia, killing at least 10 people.
- On 17 August 2020, an al-Shabaab member detonated a suicide vest on a military base in Gofgadud Burey District, Somalia, killing at least seven soldiers and officials.
- On 16 August 2020, al-Shabaab conducted a suicide vehicle bombing at the Elite Hotel in Mogadishu, Somalia, killing at least 16 people.
- On 8 August 2020, al-Shabaab conducted a vehicle bomb attack on a military base in Mogadishu, Somalia, killing nine people.
- On 5 January 2020, al-Shabaab attacked the joint United States (US)-Kenyan airbase in Lamu, Kenya, destroying six aircraft and killing one US military service member and two US contractors.
- On 28 December 2019, al-Shabaab attacked a Turkish convoy with a vehicle bomb in Mogadishu, Somalia killing 87 people, including at least two Turkish contractors.
- On 30 September 2019, al-Shabaab attacked the joint US-Somali Base at Baledogle in southern Somalia with a vehicle bomb and firearms, killing at least 12 Somali soldiers.

- On 14 July 2019, al-Shabaab attacked a meeting of government election officials at the Asasey Hotel in Kismayo, Somalia, killing 26 people, including two Americans and one British journalist.
- On 23 March 2019, al-Shabaab conducted a suicide vehicle bombing and raid on a government building in Mogadishu, Somalia, killing five people including Somalia's deputy labour minister, Saqar Ibrahim Abdala.
- On 5 February 2019, al-Shabaab conducted a vehicle bomb attack in Mogadishu, Somalia, killing at least 11 people.
- On 4 February 2019, al-Shabaab conducted an assassination of a senior manager of P&O Ports in Puntland, Somalia as well as a vehicle bombing in Mogadishu, Somalia that killed 11 people.
- On 15 January 2019, al-Shabaab attacked the DusitD2 Hotel in Nairobi, Kenya, with a suicide bomb and firearms, killing 21 people, including an American and a British-South African dual national.
- On 22 December 2018, al-Shabaab detonated a vehicle bomb at a checkpoint near the Somali presidential palace in Mogadishu, Somalia, killing 16 people, including three staff from the London-based Universal TV station.
- On 22 November 2018, al-Shabaab kidnapped an Italian non-governmental organisation aid worker in Kilifi, Kenya, and held her captive for 18 months. She was released in May 2020 after a ransom of 1.5 million Euros was reportedly paid.

On the basis of these examples, al-Shabaab is responsible for directly or indirectly engaging in, preparing, planning, assisting in or fostering the doing of terrorist acts.

#### **Advocates the doing of a terrorist act**

Al-Shabaab publicly advocates terrorist attacks against Western interests, including:

- In a 30 March 2021 video released on the al-Shabaab al-Kataib official website, al-Shabaab's leader called for attacks against US and French interests in Djibouti. The video also reiterated that al-Shabaab members had the responsibility to attack all foreigners in Djibouti and Somalia.
- In a 28 January 2021 video celebrating the anniversary of the 5 January 2020 attack on the joint US-Kenya airbase in Lamu, Kenya, al-Shabaab reiterated the duty of its members to attack US and foreign forces in Africa, and elsewhere if necessary, to protect Islam and ensure that Jerusalem is not controlled by Jewish people.
- In January 2020, al-Shabaab released a statement calling on its jihadists to make US interests in Kenya their primary targets as well as tourists. The statement also said Kenya 'should never be safe again'.

On the basis of these examples, al-Shabaab advocates the doing of terrorist acts.

#### **Other considerations**

##### ***Links to Australia and threats to Australian interests***

Al-Shabaab has no known intent to conduct an attack in Australia. Al-Shabaab has not made statements specifically threatening Australians or Australian interests. However, it is possible Australians or Australian interests could be harmed in future attacks carried out by al-Shabaab.

Al-Shabaab has issued statements threatening Westerners and Western interests and has attacked locations known to be popular with Westerners, including shopping malls and cafes. Al-Shabaab spreads propaganda to inspire followers worldwide to conduct terrorist attacks, using its websites and social media accounts.

Historical examples of al-Shabaab's connections to Australia and Australians include:

- In September 2013, Australian-British dual national Ross Langdon was killed during an al-Shabaab attack on a shopping complex in Nairobi, Kenya.
- Some individuals convicted of terrorist offences in Australia have had links to al-Shabaab. On 5 June 2017, al-Shabaab-trained Australian citizen, Yacqub Khayre, shot and killed Kai Hao, a receptionist at the Buckingham International Serviced Apartments in Brighton, Victoria. He also took an escort hostage and called Channel Seven reportedly stating 'this is for ISIL' and 'this is for al-Qa'ida'. Kharye later fired on Victoria Police Special Operations Group officers—injuring three—before police responded by fatally shooting him.
- In late 2011, al-Shabaab-linked Australian citizens Wissam Fattal, Saney Edow Aweys and Nayef El Sayed were found guilty in the Victorian Supreme Court of conspiring to do acts in preparation for a terrorist act contrary to Section 11.5 and 101.6(1) of the *Criminal Code*. They were linked to Australian al-Shabaab member, Hussein Hashi Farah, who was arrested in Kenya in 2010 for his involvement in coordinating plans to attack the Holsworthy Army Base near Sydney.

#### ***Listings by likeminded countries or the United Nations***

Al-Shabaab is listed in the United Nations 1267 Committee's consolidated list and is proscribed as a terrorist organisation by the governments of Canada, New Zealand, the United Kingdom and the United States.

#### ***Engagement in peace or mediation processes***

Since it was last listed, al-Shabaab is not known to have participated in peace or mediation processes despite Federal Government of Somalia and AMISOM appeals to the group to disarm and join the Somali peace process.

#### **Conclusion**

On the basis of the information above, the Australian Government assesses that al-Shabaab is directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of terrorist acts, and advocates the doing of terrorist acts.