



# Animal Defenders Office

Using the law to protect animals

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The Animal Defenders Office is accredited by Community Legal Centres Australia Inc.

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## Submissions in respect of the Customs Legislation Amendment (Commercial Greyhound Export and Import Prohibition) Bill 2021

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Dear Sir/Madam

On 10 May 2023 the Selection of Bills Committee referred the Customs Legislation Amendment (Commercial Greyhound Export and Import Prohibition) Bill 2021 (**the Bill**) to the Rural and Regional Affairs and Transport Legislation Committee (**the Committee**) for report. The Committee is seeking submissions from the public as part of that review.

The submissions of the Animal Defenders Office (**ADO**) on the Bill are set out below.

### 1 Overview of the ADO

The ADO is a nationally accredited not-for-profit community legal centre specialising in animal law, with a focus on providing free animal law services to the community.<sup>1</sup> The ADO is a member of Community Legal Centres Australia Inc., the national peak body representing community legal centres across Australia. The ADO does not receive government funding and exists on donations from members of the public. The ADO was established in 2013 and has been run by volunteers since that time.

### 2 ADO's submissions

#### 2.1 Background

The Bill seeks to ban exporting greyhounds to, and importing greyhounds from, any other country for commercial purposes including racing or breeding (**the proposed bans**). Exporting or importing a greyhound as a companion animal, or "domestic pet", would still be allowed. A person who wants to export their pet greyhound would have to apply for an exemption. The Minister (or their delegate) would be authorised to grant or refuse the exemption.

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<sup>1</sup> Further information about the Animal Defenders Office can be found at: [www.ado.org.au](http://www.ado.org.au).

The Minister (or delegate's) decision could be reviewed by the Administrative Appeals Tribunal in certain circumstances.

The proposed bans would apply to greyhounds and any reproductive material of a greyhound.

The Bill would protect the proposed bans by requiring both Houses of Parliament to approve any future laws that would remove or circumvent the bans.

## 2.2 *Exporting greyhounds for commercial use—inherent animal welfare concerns*

Significant animal welfare issues have long been associated with exporting greyhounds to other countries for commercial purposes.<sup>2</sup>

As early as 2004 an industry regime was established to regulate the export of greyhounds from Australia or New Zealand to any other country.<sup>3</sup> The regime represented 'an attempt, at least in part, to protect the welfare of Australian greyhounds exported overseas.'<sup>4</sup> Non-compliance was, however, rife, with Greyhound Racing NSW announcing in 2016 that 'it had charged 179 owners and trainers with breaches of the Rules in connection with the alleged unauthorised export of greyhounds to Macau'.<sup>5</sup> The inherent deficiencies in the industry's attempted regulatory regime have been well documented.<sup>6</sup> They include:<sup>7</sup>

- The regime does not prevent a person from exporting greyhounds to a country that does not comply with appropriate animal welfare standards.
- Persons who are not registered participants with relevant State controlling bodies are not required to comply with the industry scheme.
- The industry scheme is not a part of the export approval process undertaken by the relevant Commonwealth Department. The lack or refusal of permission provided through the industry regime does not preclude a greyhound from being exported.
- Live greyhounds continued to be exported to Macau after the industry suspended greyhound 'passports' to that destination because of continued animal welfare concerns arising.
- Once overseas, greyhounds can no longer be tracked so there is no way of knowing where they will end up. This means that while a greyhound may be exported to a jurisdiction where

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<sup>2</sup> See McHugh J, *Report of the Special Commission of Inquiry into the Greyhound Racing Industry in New South Wales*, 2016, (**Report**) Volume 2, Chapter 19 'Export of greyhounds': <https://apo.org.au/node/65365>; and RSPCA Australia: <https://kb.rspca.org.au/knowledge-base/why-does-the-rspca-oppose-the-export-of-racing-greyhounds/>.

<sup>3</sup> Report 19.41 p 214.

<sup>4</sup> Report 19.49 p 215.

<sup>5</sup> Report 19.48 p 215.

<sup>6</sup> Report pp 220-222.

<sup>7</sup> Report pp 225-226 and RSPCA Australia: <https://kb.rspca.org.au/knowledge-base/why-does-the-rspca-oppose-the-export-of-racing-greyhounds/>.

greyhounds are not used for racing, they may then be transported to jurisdictions which do use the dogs for racing and breeding.

The animal welfare concerns related to the export of live greyhounds are also well documented:

The concerns arising include the stress inflicted upon greyhounds during transport; the substandard conditions in which greyhounds are kept in particular countries; the high rate of injuries sustained at particular overseas race tracks leading to large numbers of greyhounds being euthanased; the inadequacy of animal welfare laws or standards in destination countries; and the lack of suitable post-racing arrangements for exported greyhounds should they survive their time at the race track.<sup>8</sup>

These concerns about the inherent flaws in the industry's own regulatory regime and the inherent animal welfare problems associated with exporting greyhounds led the Special Commission of Inquiry into the Greyhound Racing Industry in New South Wales in 2016 to find that:

The time is ripe for the Federal Government to step up to the plate. It is the only entity that can provide national leadership in respect of what is an important area concerning animal welfare.<sup>9</sup>

In the ADO's view this call for national leadership on this issue is just as urgent today as it was in 2016.

Despite attempted regulation and prohibitions by the industry itself since 2004 and by a major airline in 2015<sup>10</sup>, greyhounds continue to be exported live from Australia. Australian Government statistics reveal that 1,216 dogs were legally exported to other countries between January 2018 and May 2023.<sup>11</sup>

Moreover, the industry's own rules continue to be breached even allegedly by prominent industry figures exporting to 'banned' destinations such as China.<sup>12</sup>

The ADO submits that the Bill is a proportionate, balanced and reasonable national response to the animal welfare concerns inherent in exporting (and importing) greyhounds for commercial purposes. A legislative response enforced by government authorities is clearly warranted given the rates of non-compliance with the industry's own scheme and its unenforceability outside of the industry. Moreover, the application of the proposed ban to exports and imports regardless of destination or origin countries is clearly warranted given the impossibility of stopping greyhounds ending up in destinations where they will be used for commercial purposes in conditions that are impossible to regulate from Australia.

The ADO therefore submits that the Bill should be passed.

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<sup>8</sup> Report 19.103 p 225.

<sup>9</sup> Report 19.109 p 226.

<sup>10</sup> 'Qantas ceases greyhound exports to Asia following damning report', *ABC News*, 12/12/2015, <https://www.abc.net.au/news/2015-12-12/qantas-ceases-greyhound-exports-to-asia-following-damning-report/7023742>.

<sup>11</sup> <https://www.agriculture.gov.au/biosecurity-trade/export/controlled-goods/live-animals/live-animal-export-statistics/greyhound-exports>

<sup>12</sup> Sarah Hawke, 'Prominent owner-breeder charged over alleged greyhound exports to China', *ABC News*, 9/8/2018, <https://www.abc.net.au/news/2018-03-09/greyhound-breeder-charged-with-three-others/9533494>.

### 2.3 Legal precedents

The ADO notes that the proposed bans are modelled on the existing bans on exporting and importing dog and cat fur.<sup>13</sup> This supports the ADO's submission that the Bill is a balanced and measured response, in that it follows existing legislative precedents that have been in place since 2004.<sup>14</sup>

### 2.4 Possible enhancements

#### 2.4.1 Guidelines re "domestic pet"

The ADO suggests that the implementation of the Bill would be enhanced by guidelines to assist decision-makers in determining when a greyhound is a "domestic pet". This is necessary to ensure the exemption would not be exploited to continue exporting greyhounds for commercial purposes. Independent (ie not industry-related) greyhound rescue organisations would need to be consulted as part of this process.

Guidelines to assist decision-makers on when a greyhound may be a pet could also help allay concerns that the Bill does not sufficiently define the administrative powers it is proposing (ie making a decision on an application for an exemption).<sup>15</sup>

#### 2.4.2 Additional options for review

Finally, the ADO suggests that the Bill should allow administrative review to be sought of a decision to grant an exemption for an alleged pet greyhound even where no conditions are placed on the permission. This would allow such a decision to be challenged where there is evidence suggesting the greyhound is not a companion animal.<sup>16</sup>

## 3 ADO's recommendations

The ADO makes the following recommendations:

1. That the Bill be passed in full.
2. If further amendments to the Bill are contemplated, that consideration be given to:
  - (1) Inserting a provision that would:
    - (a) allow the Minister to issue guidelines about the exercise of the Minister's or authorised person's functions under proposed paragraph 9ABA(3)(a); and

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<sup>13</sup> *Customs (Prohibited Exports) Regulations 1958* reg 9AB and *Customs (Prohibited Imports) Regulations 1956* reg 4W.

<sup>14</sup> Endnote 4—Amendment history for both Regulations.

<sup>15</sup> Senate Standing Committee for the Scrutiny of Bills; [Scrutiny Digest 4 of 2022](#) [1.68].

<sup>16</sup> Greyhound rescue organisations refer to reports of greyhounds being exported as companion animals but ending up being used for breeding eg 'Canya Cruise and Turbo Thomas who were both exported to China in 2021 just days after racing at Melbourne tracks. While they were exported as "companion animals", they are now both listed on a Chinese breeding website.' (<https://greyhoundcoalition.com/ban-greyhound-exports/> and <https://freethehounds.com.au/ban-greyhound-export/>).

(b) require the Minister or authorised person to comply with any guidelines under the inserted provision.

(2) Amending proposed subregulation 9ABA(12) to allow review of the grant of a permission that is not subject to a condition or requirement.

Thank you for taking these submissions into consideration.

Yours sincerely

Tara Ward

Volunteer | Manager and Principal Lawyer

Animal Defenders Office