

25th November 2024

The Hon. Tara Moriarty, MLC
Minister for Agriculture
E: office@moriarty.minister.nsw.gov.au

Michael Rollin
Primary Industries
Department of Primary Industries and Regional Development

RE: Staffing ratios for dogs – follow-up

Thank you for the answers as outlined in Appendix 2.

While Animal Care Australia does not agree with the interpretation provided we do note that Jenny Thompson in her response (Appendix 3) states the Q&A will be posted on the Animal Welfare website. We presume this means the animal welfare section of the DPI/DPIRD website:
(<https://www.dpi.nsw.gov.au/animals-and-livestock/animal-welfare/>)

Animal Care Australia acknowledges the government has previously stipulated the amendments will not come into force until 1st December 2025 in order to provide sufficient time to educate the public, dog breeders and alike. For us, and our members, what is vital is that the interpretation of the department (therefore the government) is provided to the enforcement agencies with a clear directive that the changes AND this understanding are to be incorporated into all training and relevant updating of the inspectorate. This is particularly important as the RSPCA are known to read what is in black & white and enforce that without discretion.

In order to go on record, Animal Care Australia includes our interpretation and concerns within Appendix 1 of this document.

I hope that it doesn't take a breeder to be fined in order for the Government to hear what Animal Care Australia is trying to explain to you and what our members are now in fear of, as they too have experienced the indiscretion and intimidation tactics of the RSPCA.

Is the Minister prepared to go into bat for the breeders when the RSPCA take the Act word for word? We surely hope so.

Animal Care Australia has had a great working relationship as a key stakeholder with previous Agriculture Ministers and the department because we have the experience and understanding of the history in order to provide a balanced and responsible approach to matters where there is conflict or the potential for it.

Again with your assurances that we are misinterpreting the Act, we eagerly await a formal response including the Q & A responses that we can share publicly and provide to our members.

I am more than happy to discuss this further with you.

Kind Regards,



Michael Donnelly
President
0400 323 843

Appendix 1: Animal Care Australia's interpretation, comments and concerns

Mr Rollins comment: "There is not specific requirement in the Bill that a staff member has to be present 24 hours a day." In fact supports our position. Because there is no specific detail provided within the Act this will allow for any interpretation to be made.

In black & white Section 23I (2) of the Act clearly states:

*(2) The occupier of the dog premises **must ensure**—*

*(a) the minimum number of staff members **are present on the premises, AND***

(b) each dog on the premises receives proper and sufficient care, food and water.

(this **AND** is equally important because it separates a) as one requirement and b) as the next requirement)

Therefore if the 'staff' must BE PRESENT ON THE PREMISES when the RSPCA show up and no one is home, it is our interpretation that the Inspectorate will find the owner to be in breach.

Furthermore Section 23I (1):

Minimum number of staff members for dog breeding premises

(1) This section applies to dog premises if the dog premises are used for—

(a) dog breeding, or

(b) keeping or caring for dogs in relation to dog breeding

Because the above does not specify that 1 person for 20 dogs or more is the starting point. It implies even those with less than 20 dogs 'could' be in breach.

Section 23I (3) clearly states:

(3) The minimum number of staff members is to be calculated by—

(a) dividing the number of dogs at the dog premises by 20, and

(b) rounding the result up to the nearest whole number.

You provided the following examples:

- *A person has 15 female dogs. They each have a litter of 5 dogs. This means that there are 15 adult dogs and 15 litters of 5 dogs. This equates to 30 dogs, requiring 2 staff to provide proper and sufficient care, food and water.*
- *A person has a total of 10 dogs, which includes 2 breeding females, who each have a litter of 5 dogs. This equates to 20 dogs, requiring 1 staff to provide proper and sufficient care, food and water.*

To use these examples but with the full provisions of the Act:

** A person has 15 female dogs. They each have a litter of 5 dogs. This means that there are 15 adult dogs and 15 litters of 5 dogs. This equates to 30 dogs, requiring 2 staff to **BE PRESENT ON THE PREMISES TO** provide proper and sufficient care, food and water.*

** A person has a total of 10 dogs, which includes 2 breeding females, who each have a litter of 5 dogs. This equates to 20 dogs, requiring 1 staff to **BE PRESENT ON THE PREMISES TO** provide proper and sufficient care, food and water.*

'Must ensure is present' does in fact imply 24 hours a day.

Additionally the examples as stated by Mr Rollins are misleading. Section 23I (5) states:

In this section—

dog, for the purposes of calculating the minimum number of staff members, means—

- (a) 1 dog that is more than 12 weeks of age, or
- (b) 1 litter of dogs that are 12 weeks of age or younger.

Both of the examples are counting each puppy within the litter as 1 dog – when in fact the examples need to state the age of the litters before attempting to determine whether they count collectively as 1 dog or (over 12 weeks) as individual dogs.

Please ensure when publicly posting the Q & A that you are clear as to the age of the litters in any examples provided.

Animal Care Australia does agree that the Breeding Code of Practice does not directly imply 24 hours a day care is required but the wording in the Act now does and the Act oversees the implementation of the COP - not the other way around. Simply because the COP does not state a 24/7 level of supervision is required does not supersede the fact the Act does imply it is required.

To take your statement:

"Instead the Bill requires the staffing ratios (which can include the owner, occupier, family member, employee etc) to ensure that they can provide proper and sufficient care, food and water for the animals. The Breeding Code provides guidance on what this means."

and correct it to what the Act actually states:

"Instead the ~~Bill~~ Act requires the staffing ratios (which can include the owner, occupier, family member, employee etc) to ensure staff are present on the premises so that they can provide proper and sufficient care, food and water for the animals..."

Animal Care Australia is concerned with the word: 'Present'.

When? For how long? Who determines what 'being present' means if it doesn't mean 24 hours a day? Does it mean for sufficient time to feed, water, etc? This is all open to interpretation and the mood of the inspector.

How does a breeder respond to an inspector who is on their property at the time that no one was home and they return to find the dogs have knocked their water bowls over and the inspector is stating *"You weren't present to provide water to these dogs"* and yet they were only gone an hour and still have a further 12 hours of daylight to replenish the water (or the food, or to pick up the faeces) BUT they were not PRESENT at the time of the inspectors visit.

Let's not discount the fact the RSPCA has entered because they'd received a complaint and felt it was urgent - no warrant. They enter without warrants all the time.

In her response to the proposed amendment to change the staff ratio - even Ms Hurst is under the belief the dogs are receiving full time care - not simply being fed etc:






*"By increasing the staffing ratio, we can ensure that dogs receive better care, attention, exercise and enrichment, which is absolutely critical for their physical and psychological health. In my second reading speech I mentioned how little time each dog would receive with staff under a ratio of one to 20. **Anyone who has a dog at home would know that they need more than 20 minutes of care per day.** When people buy a dog from a breeder, they expect and hope that the dog's mother has had a life worth living, and that includes interacting with other dogs and people. **Dogs should not just be bred and given the bare minimum of veterinary care and food.**"*

Is this semantics? Possibly.








Please know that Animal Care Australia is not trying to be difficult here. We've been here before where the literal wording of the Act has been enforced without taking into account the intent or the common sense that should accompany that. Animal Care Australia spent hours meeting with Adam Marshall's staff debating the difference between the exact wording that was in the Breeding Code and the interpretation made by the RSPCA during their onslaught of inspecting responsible and registered dog breeders rather than pursuing puppy farms as part of the Task Force.

That literal interpretation by the RSPCA and subsequent fining and issuing of PINs was what forced the review and updating of the Breeding Code - public outcry that resulted in parliamentary debate.

Appendix 2: Email from Michael Rollin

From: Michael Rollin 
To: ACA President 
Cc: Felicity Millner , Jenny Thomson , Moriarty Office Email 
Subject: **Re: Staffing ratios for dogs**

22/11/2024, 4:24 pm

Reply  Reply All  Forward  Archive  Junk  Delete  More 

Hi Michael,

Jenny is away today and I am responding on her behalf.

In summary the Bill does not require staff members to be present 24 hours a day. Instead the Bill requires the staffing ratios (which can include the owner, occupier, family member, employee etc) to ensure that they can provide proper and sufficient care, food and water for the animals. The Breeding Code provides guidance on what this means.

Please see some Q&A below regarding queries on the staffing ratios which may help to explain these requirements.

How many people do I need to have to look after my dogs?

- 1 person per 20 dogs on a premise to ensure that each dog receives proper and sufficient care, food and water. Such as feeding, cleaning and exercising.
 - Includes every dog over 12 weeks of age
 - For every litter under 12 weeks of age, this accounts for 1 dog.
- There is not specific requirement in the Bill that a staff member has to be present 24 hours a day.
- The Breeding Code of Practice requires all persons who care for and manage dogs must be knowledgeable, competent and aware of their daily responsibilities to provide for:
 - The care and welfare of dogs
 - The feeding, watering, of dogs
 - The protection of dogs from distress or injury caused by other animals or interference by people
 - Cleaning and hygiene in the premises, and
 - Identifying signs of common disease.
- The Breeding Code of Practice also specifies that trainees and volunteers must work under the supervision of trained and experienced assistances or the person in charge of the premises.
- Example:
 - A person has 15 female dogs. They each have a litter of 5 dogs. This means that there are 15 adult dogs and 15 litters of 5 dogs. This equates to 30 dogs, requiring 2 staff to provide proper and sufficient care, food and water.
 - A person has a total of 10 dogs, which includes 2 breeding females, who each have a litter of 5 dogs. This equates to 20 dogs, requiring 1 staff to provide proper and sufficient care, food and water.
- Staff members must be over 14 years of age.

Part 2:

- Staff members must be over 14 years of age.

Do I have to provide 24 hours a day care to my breeding females and her puppies?

- The Breeding Code of Practice specifies that you must ensure that all dogs are inspected at least once daily, to check:
 - Eating
 - Drinking (particularly in the case of puppies drinking milk)
 - Defecating
 - Urinating
 - Behaving normally
 - Showing any obvious signs of illness or distress
 - Ability to move around freely
 - Display of a normal coat.
- The Breeding Code of Practice also acknowledges that there may be particular times though, where the breeding female and her puppies may be ill or distressed and may need additional care and supervision. These individual circumstances will dictate how long you must be there.
- Practically – the Breeding Code of Practice does not require 24 hours a day care, unless this may be required as outlined in the circumstances above.

Can my family, volunteers or part time workers be counted as staff?

- Yes - persons involved in the breeding of, or in providing care, food and water to, dogs on the premises, whether the person is working full-time or part-time includes:
 - An employee
 - A volunteer
 - An owner or occupier of the premises, and
 - A family member of the owner or occupier.
- By law, they must also be over 14 years of age.

We hope this clarifies, but happy to discuss further if there are any residual queries.

Michael Rollin

Primary Industries

**Department of Primary Industries
and Regional Development**

Appendix 3: Email from Jenny Thompson

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Inbox - ACA President

Re: Staffing ratios for dogs

21/11/2024, 7:03 pm

From: Jenny Thompson

To: ACA President, Moriarty Office Email

Cc: Felicity Milliner, Michael Rollin

Subject: **Re: Staffing ratios for dogs**

Hi Michael

Thank you for your email there appears to be some misunderstanding with the staffing ratios. I will come back to formally with advice that you can forward on to your members confirming the specific arrangements. We are in the process of preparing updated information to outline the key changes on the Animal Welfare website. We will include a Q&A to address this specific query.

Regards, Jenny

Jenny Thompson
Principal Policy Officer
Policy & Industry Insights | Strategy and Engagement
Department of Primary Industries
and Regional Development

dpir@nsw.gov.au A 105 Prince Street, Orange

Working Days: Monday to Thursday

NSW
Government

**Department of Primary Industries and
Regional Development**

We work flexibly, if you have received an email from me outside of normal business hours, I'm sending it at a time that suits me. Unless it's urgent, I'm not expecting you to read or reply until normal business hours.

From: ACA President <president@animalcareaustralia.org.au>
Sent: Wednesday, November 20, 2024 11:28 AM
To: Moriarty Office Email <office@moriarty.ministers.nsw.gov.au>
Cc: Jenny Thompson <jenny.thomson@dpi.nsw.gov.au>
Subject: Staffing ratios for dogs

Hello Jenny,

Today Pane 12:45 PM 25/11/2024