

25 July 2016

4 Yearly Review of Modern Awards (2014/199)

The following submissions concern outstanding issues described as ‘technical and drafting’ issues in the ***Animal Care and Veterinary Services Award 2010 (the award)***.

Clause 11.2(a)(i)

1. This issue remains outstanding having been first framed in terms of a question asked by the Fair Work Question asking parties to make submissions as to whether the three full days off per fortnight includes times when an employee is off duty from being on call.
2. The current award provides a clear definition of on call duty, mirrored in the exposure draft as follows:

“on call duty means duty where the associate is not required to remain at the veterinary practice but is required to be available to attend unscheduled cases and that duty commences outside the associate’s ordinary hours of duty and extra hours of duty. **On call duty is not counted towards ordinary hours of duty or extra hours of duty under this award**”
(our emphasis)
3. Furthermore the current award defines “active on call duty”. The following definition is also included in the present exposure draft:

“duty where the associate, who is on on call duty, actually attends cases. **Active on call duty is not counted towards ordinary hours of duty or extra hours of duty under this award unless the associate undertakes scheduled work**” *(our emphasis)*.

4. AFEI submits that the current award is clear in terms of its intention. Unless an associate actually performs scheduled work, the associate has no ordinary hours during the time that the associate is “on-call”. As a result, it is clear in the present award that unless scheduled work is actually undertaken, the hours- on call do not amount to ordinary hours of work.
5. As a result, AFEI opposes the note proposed by the AVA which states that:

“for the purposes of Clause 8.3 (c), the associate’s entitlement to three full days off per fortnight, including not being required for on call duty on these days off”
6. This note would have the effect of substantially changing the effect of the award and would amount to a substantive variation of the award. AFEI submits that the award is sufficiently clear and does not require the provision of a note.