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**Four yearly review of modern Awards
Animal Care and Veterinary Services Award 2010
From the Australian Veterinary Association Ltd**

6 December 2016

Fair Work Commission
11 Exhibition Street
Melbourne VIC 3000

By email: amod@fwc.gov.au

AM2014/199 – Animal Care and Veterinary Services Award

We write in relation to the Decision [2016] FWCFB 7254 paragraphs 23 to 28.

This decision concerns an issue originally raised in a letter from the Fair Work Ombudsman dated 24th November 2014. The letter listed provisions which had “*queries commonly raised with the FWO and issues which may be a source of uncertainty for workplace participants to understand and implement award entitlements.*”

The FWO letter stated “*Clause 22.3(c) provides that associates should receive a minimum of three full days off per fortnight, which will accumulate if not given. It may be unclear whether this reference to “days off” includes time when an associate is allocated to on call duties in accordance with clause 16.1(b), but does not attend work during that period.*”

When the Exposure Draft dated, 8th December was issued it included the instruction that “*Parties should make submissions on whether the three full days off per fortnight includes being off duty from on call*”

The AVA submits the intent of this clause had always been to include the provision of being off duty from on call, supporting this with the fact that 93% of our employers already interpret this to be the case. We do not believe this a variation of the award, just a clarification.

Clause 23 of Decision [2016] FWCFB 7254 refers to discussions in conference before Commissioner Roe. The AVA agrees that interested parties generally agreed to a note in clause 11.2 (a) (ii). However, the wording was not discussed at conference and was not agreed to. The reason put forward by the AVA for applying this note was specifically to clarify that the three days off **did** include being off on-call.

The AVA did not and does not support the note reading: “*Note: An associate is not in receipt of a day off for the purposes of Clause 8.3(c) if they perform scheduled active on call duty on that day*” as proposed by the AFEI. This note implies that an associate **can** be rostered to be on call on their rostered days off unless they are assigned **scheduled** work to attend to. We request that as such the note be removed.

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