

Four yearly review of modern Awards Response to EXPOSURE DRAFT Animal Care and Veterinary Services Award 2014



From the Australian Veterinary Association Ltd

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Fair Work Commission
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1. The Australian Veterinary Association (AVA) is the national organisation representing veterinarians in Australia. Its 8500 members come from all fields within the veterinary profession and includes veterinary students. The majority of our members work in the veterinary surgery industry as defined under clause 3.1 of the Animal Care and Veterinary Services Award 2010. The AVA represents both 1653 employers and 2850 employees who are classified as veterinary surgeons (and also referred to as 'associates') under this award.
2. In 2014, the AVA surveyed its members on the provisions of this award and these results are supplied within this submission where relevant. The results are separated into responses from employers and employees.

Award-specific issues identified by the Australian Veterinary Association

3. Clause 8.3(a) Travel time provisions in relation to veterinary surgeons in the performance of active on call duty

In the present award the provisions relating to travel to and from active on-call duty are difficult to interpret. Employers are unclear whether the award requires payment for time to travel to and from active on call duty and whether they are required to pay for travel expenses for this travel.

We asked members if they thought that time travelled while on active on call duty should be included:

85% of employees said it should be included

36% of employers said it should be included

15% of employees said it should not be included

64% if employers said it should not be included.

4. Clause 10.3 Minimum wages relating to veterinary surgeons

The AVA recommends that there should be a review of the minimum wages relating to veterinary surgeons.

We undertook a member survey relating to the award. When asked whether members thought that minimum wages for veterinary associates are too high, about right, or too low.

96% of employees said too low

68% of employers said too low

4% of employees said about right

29% of employers said about right

3% of employers said too high

There are some anomalies in the current award in that there are no penalty rates or shift allowances for veterinarians within the award, while there are for those other than veterinary surgeons. If these penalties are not applied to veterinary surgeons then there needs to be a greater difference in the minimum wages between the veterinary surgeons and those covered under 14.2 (Practice managers, veterinary nurses, receptionists, animal attendants and assistants) to allow appropriate relativities between their total remuneration based on their qualifications and responsibilities in the workplace.

For example, a fairly typical working roster in a veterinary hospital has both veterinarians and veterinary nurses working 1 weekend in 3 with 2 days rostered off during the week following working the weekend. If we compare the remuneration for a newly AQF4 qualified veterinary nurse (Level 4 veterinary nurse in this award) with a new veterinary graduate with a AQF7 qualification (Level 1A veterinary surgeon under this award) the veterinary nurse will be paid more than the veterinary surgeon by about \$1000 a year.

To obtain a veterinary science degree requires 5 to 7 years of study depending on the university you attend. If we look at the Professional Employees Award for a new graduate with a 4 to 5 year scientific degree the minimum wage at a Level 1 Pay Point 1:2 (4 to 5 year degree) is \$45,696 which is above a Level 1A veterinary surgeon.

Another indicator that the minimum wages for veterinary surgeons needs reviewing is the change over the recent years in their remuneration levels compared with other professionals with comparable degrees. When looking at information contained on the Graduate Careers Australia site that ranks starting salary across graduate degrees, veterinary graduates starting salaries rank has fallen significantly since the introduction of the award covering veterinary surgeons in 2001. Veterinarians were ranked 9th highest in 2001 while in 2013 they have fallen to 20th.

5. Clauses 15.2 and 15.3 Removal of Shiftwork penalties (other than veterinary surgeons)

The veterinary profession is required by community needs to provide 24-hour emergency care and in most capital cities there are now 24-hour emergency hospitals. In other locations on call staff attend to after hours cases and practices keep longer opening hours.

There are no penalty rates or shift allowances for veterinarians within the award. All of these provisions apply only to those other than veterinary surgeons. (The provision for an extra week's leave as a shiftworker in clause 17.2 is the exception,)

The clauses within the award relating to shiftwork for people other than veterinary surgeons are difficult for veterinary practice employers to interpret. There have been several reports from members who have accidentally breached these provisions.

In particular, shiftwork provisions and when they apply are very different from day work provisions and it often difficult for employers to work out which of these provisions to apply to whom and when.

While clause 17.2 gives a definition of a shiftworker, it states that this is for the purpose of determining the additional week of annual leave provision. There is no general definition of a shiftworker within the Award.

AVA proposes the removal of shiftwork penalties to allow 24 hour clinics to function more effectively.

6. Clause 20.4: Public holidays provisions as related to veterinary surgeons

While the penalty rates for employees other than veterinary surgeons on public holidays are double time and half, there are no penalty rates for veterinary surgeons.

Our members were asked what rate they thought veterinary surgeons should be paid for working on a public holiday.

Employees responded:

No change	6%
1.5x	14%
2.0x	30%
2.5x	50%

Employers responded:

No change	23%
1.5x	3%
2.0x	28%
2.5x	13%

The AVA requests that clause 20.4 be simplified and aligned with those provided in clause 20.3 (Other than veterinary surgeons).

7. The definitions of "intern" and "internship"

The definition of the word “intern” in the Award needs to be more precisely described.

Presently in the award is the following definition: “intern” *a veterinary surgeon who is enrolled in a structured training program where the intern is provided direct supervision and training by at least one registered veterinary surgeon.*

When the Veterinary Surgeons Award 2001 (the origin of this definition) was established the intent of the internships were to allow continued professional development through a structured training program outside regular general practice. Some general practices have recently started to offer internships in what is really general practice with no more structured training other than would be expected in introducing a recent graduate into general practice and as such we would like to clarify the meaning. The AVA is presently working on a clearer definition and will provide the Commission with the definition once decided.

Award-specific structural and other issues as identified by the Commission and outlined in the exposure draft.

8. Clause 6.5 (f) Casual employment

Parties are asked to provide a list of provisions that do not apply to casual employees

The AVA submits that the following list of provisions should not apply to casual employees

- annual leave
- annual leave loading
- paid personal/carer’s leave
- paid compassionate leave
- payment for public holidays not worked
- paid community service leave
- long service leave
- parental leave (except for an eligible casual under NES)
- overtime rates
- notice of termination
- redundancy provisions
- job search entitlement
- professional development provisions

The casual loading should be paid in addition to any penalty rates for shift, weekend and public holiday work payable to full-time employees.

9. Clause 8.3 (c) Ordinary hours of work and rostering – Veterinary surgeons

Parties should make submissions on whether the three full days off per fortnight includes being off duty from on call

The AVA supports the position that the three full days off per fortnight should include being off duty from on call.

10. Clause 11.2(a)(i) Wage related allowances – veterinary surgeons: On call duty

Is the payment in clause 11.2(a)(i) in addition to the allowance or instead of the \$37.76? Is the “relevant hourly rate” the overtime rate or the ordinary hourly rate?

The AVA supports that the allowance for active duty at 11.2(a)(i) should be paid in addition \$37.76 for each period of on call duty payable at 11.2(a).

Under the present award veterinary surgeons are paid overtime at the employee’s ordinary time rate Clause 16.2(a)(i) as such both ordinary hourly rate and the overtime rate are the same.

We asked members what rate they thought active on call duty should be paid compared to the employees ordinary time rate:

10% of employees said it should stay the same

62% of employers said it should stay the same

38% of employees said it should be 150%

20% of employers said it should be 150%

52% of employees said it should be 200%

18% of employers said it should be 200%

11. Clause 15.2(a) Shiftwork penalties

How does this interact with clause 8.2(a) that states that ordinary hours are worked until 9.00pm?

The Clauses within the award relating to shiftwork for employees other than veterinarian surgeons are difficult for veterinary practice employers to interpret. There have been several reports from members who have accidentally breached these provisions.

In particular, shiftwork provisions and when they apply are very different from day work provisions and it is often difficult for employers to work out which of these provisions to apply to whom and when.

While Clause 17.2 gives a definition of a shiftworker, it states that this is for the purpose of determining the additional week of annual leave provision. There is no general definition of a shiftworker within the Award.

The AVA proposes the removal of Clauses 15.2, 15.3 and 15.4 relating to shiftwork penalties, to allow 24 hour clinics to function more effectively

If the Commission finds against this position the AVA proposes:

- A definition of shiftworker be inserted into the definitions and interpretation section as follows:

shiftworker is an employee who is regularly rostered to work their ordinary hours outside the ordinary hours of a day worker.

and

- Replace Clause 25.1 as follows:

Where an employee is engaged in shiftwork the following penalty apply to ordinary hours of work:

(a) 15% loading for a shift finishing after 9.00pm or before 6.00am

12. Clause 15.3 Weekend and public holiday rates - shiftwork

Clause 15.3 has been amended to remove the references to ordinary hours in clauses (a),(b) and (c) as it makes the meaning unclear in the context of a payment made for a shift on the basis of the day upon which the majority of hours fall. Parties should make submissions about whether the interpretation is correct.

The AVA agrees with the Commission's interpretation

13. Clause 16.1(a)(ii) Overtime rates – Employees other than veterinary surgeons

As clause (a)(ii) was in a list of clauses covering overtime and penalty rates should it be repeated in the penalty rates clause?

The AVA supports repeating this clause in the penalty rate clause.

14. Clause 16.2(b) Overtime rates – Veterinary surgeons

Should the award specify when and/or how frequently the allowance in clause 17.2(b) is payable?

The AVA has assumed that this question was meant to refer to clause 16.2 (b).

The AVA supports the award specifying that this allowance should be paid on a pro-rata basis at least monthly to coincide with an associate's normal pay cycle at clause 12.1.

AVA also proposes that clause 16.2(b) be amended as follows:

Where an allowance is paid under clause 16.2(b), the employer must specify in writing the annual salary that is payable and which of the provisions of this award will be satisfied by payment of the annual salary. This is to be kept as part of the time and wages records kept by the employer.

Similarly, clause 11.2(a)(iii) relating to on call duty be amended to:

Where an allowance is paid under this clause the employer must specify in writing the annual salary that is payable and which of the provisions of this award will be satisfied by payment of the annual salary. This is to be kept as part of the time and wages records kept by the employer.

15. Clause 20.5(c) Public holidays – Special provisions for associates who normally work in weekends

The award does not contain a ‘substitution provision’. Should such a provision be inserted or should the award contain a definition of substitute day?

The AVA does not have a position on this.

16. Clause 20 Public holidays

There is no entitlement to Saturday or Sunday rates under this award for associates. Can reference in this clause to ‘normal Saturday and Sunday rate’ be replaced with the employees ‘rate of pay’ as the reference to rates which don’t exist is confusing

The AVA agrees with the replacement of this reference.

17. Schedule E 3.3

Parties are asked to identify “any training program which applies to the same occupation and achieves the same training outcome as an existing apprenticeship in an award as at 25th June 1997” which they consider should not be covered by this Schedule.

The AVA has not identified any training programs that it considers should not be covered by this Schedule.

18. Schedule E 7 – Allocation of traineeships to wage levels

Parties are asked to review the packages listed to ensure the lists are complete and up to date.

The training package that those other than veterinarians train under is the *Animal Care and Management Package* and this appears to be up to date in the exposure award.

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