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## ATTENTION: Current 457 Employer Sponsor and Visa Applicants

Australian Prime Minister Malcolm Turnbull announced on 18 April 2017 a significant reform to the employer sponsored skilled migration visas programme as well as the abolishment and replacement of the current subclass 457 visa.

One of the immediate changes was the introduction of the Medium and Long Term Strategic Skills List (MLTSSL) and the Short-term Skilled Occupations List (STSOL) on 19 April 2017 replacing the Skilled Occupation List (SOL) and Consolidated Sponsored Occupation List (CSOL). The changes affect all 457 applications made on or after 19 April 2017 as well as 457 application lodged before 19 April 2017 but still in processing.

Under the new list, there are 59 occupations with nomination restrictions, referred to as ‘caveats’ by the Department of Immigration and Border Protection. These restrictions relates to work experience, regional location and/or sponsoring employer’s business operation.

A list of the occupation ‘caveats’ are attached.

We also carefully considered the relevant legislative instrument that makes these changes, we have identified an arguable legal ground that these occupation ‘caveats’ may be unlawful and a Court, when challenged judicially, may declare the ‘caveats’ to be **invalid**. **This challenge if successful would likely result in your 457 application to be processed as if the ‘caveats’ was never made.**

If you are affected by the occupation ‘caveats’ and believe these ‘caveats’ are wrong and unjust and wish to challenge, please email our 457 Caveat Taskforce to [457caveat@proactivelegal.com.au](mailto:457caveat@proactivelegal.com.au).

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20 April 2017

## 457 Nomination Occupation Specific Caveats

### Group A – No 2 years Work Experience Required

The following occupation are excluded from 457 nomination if the position that do **not** require a minimum of two relevant work experience.

| ANZSCO | Occupation             | ANZSCO | Occupation                                    |
|--------|------------------------|--------|---|
| 225111 | Advertising Specialist | 263212 | ICT Support Engineer                          |
| 511111 | Contract Administrator | 263213 | ICT System Test Engineer                      |
| 132211 | Finance Manager        | 224999 | Information and Organisation Professional nec |
| 242411 | Graphic Designer       |        |   |
| 391111 | Hairdresser            | 261314 | Software Tester                               |
| 135112 | ICT Project Manager    | 242111 | University Lecturer                           |

### Group B – Regional Australia location only

| ANZSCO | Occupation   | ANZSCO | Occupation                                    |
|--------|--|--------|---|
| 311111 | Agricultural Technician  | 121399 | Livestock Farmers nec                         |
| 121311 | Apiarist   | 121411 | Mixed Crop and Livestock Farmer               |
| 121111 | Aquaculture Farmer   | 121216 | Mixed Crop Farmer                             |
| 121312 | Beef Cattle Farmer   | 121317 | Mixed Livestock Farmer                        |
| 121211 | Cotton Grower  | 121318 | Pig Farmer                                    |
| 121299 | Crop Farmers nec   | 121321 | Poultry Farmer                                |
| 121313 | Dairy Cattle Farmer  | 311399 | Primary Products Inspectors nec               |
| 121212 | Flower Grower  | 133511 | Production Manager (Forestry)                 |
| 121213 | Fruit or Nut Grower  | 121322 | Sheep Farmer                                  |
| 121214 | Grain, Oilseed or Pasture Grower (Aus) /<br>Field Crop Grower (NZ) | 121217 | Sugar Cane Grower                             |
|        |  | 121221 | Vegetable Grower (Aus) / Market Gardener (NZ) |
| 121215 | Grape Grower   |        |   |
| 121316 | Horse Breeder  | 234213 | Wine Maker                                    |

### Group C – Occupation specific

| ANZSCO  | Occupation           |
|---|----------------------|
| 221111  | Accountant (General) |
| excludes any one of the following:  |                      |
| <ol style="list-style-type: none"> <li>clerical, book keeper and accounting clerk positions;</li> <li>positions in a business that have an annual turnover of less than AUD 1 million;</li> <li>positions in a business that have fewer than five employees.</li> </ol> |                      |

| ANZSCO  | Occupation |
|---|------------|
| 351411  | Cook       |
| 351311  | Chef       |
| Excludes positions in involved in mass production in a factory setting and positions in a limited service restaurant. A limited service restaurant includes, but is not limited to, any of the following:   |            |
| <ol style="list-style-type: none"> <li>fast food or takeaway food services;</li> <li>fast casual restaurants;</li> <li>drinking establishments that offer only a limited food service;</li> <li>limited service cafes including, but not limited to, coffee shops or mall cafes;</li> <li>limited service pizza restaurants.</li> </ol> |            |

| ANZSCO   | Occupation                           |
|--|--------------------------------------|
| 111111   | Chief Executive or Managing Director |
| 111211   | Corporate General Manager            |
| Excludes any one of the following:   |                                      |
| 4. positions in a business that have an annual turnover of less than AUD 1 million |                                      |
| 5. positions in a business that have fewer than five employees                     |                                      |
| 6. positions that have a nominated base salary of less than AUD 90,000.            |                                      |

| ANZSCO   | Occupation  |
|--|---|
| 121111   | Aquaculture Farmer  |
| 121211   | Cotton Crower   |
| 121212   | Flower Grower   |
| 121213   | Fruit or Nut Grower   |
| 121214   | Grain, Oilseed or Pasture Grower (Aus) / Field Crop Grower (NZ) |
| 121215   | Grape Grower  |
| 121216   | Mixed Crop Farmer   |
| 121217   | Sugar Cane Grower   |
| 121221   | Vegetable Grower (Aus) / Market Gardener (NZ)                   |
| 121299   | Crop Farmers (nec)  |
| 121311   | Apiarist  |
| 121312   | Beef Cattle Farmer  |
| 121313   | Dairy Cattle Farmer   |
| 121316   | Horse Breeder   |
| 121317   | Mixed Livestock Farmer  |
| 121318   | Pig Farmer  |
| 121321   | Poultry Farmer  |
| 121322   | Sheep Farmer  |
| 121399   | Livestock Farmers (nec)   |
| 121411   | Mixed Crop & Livestock Farmer                                   |
| Excludes positions that predominantly involve low-skilled tasks.<br><i>Examples: fruit picking or packing, feeding of livestock or animals</i> |   |

| ANZSCO  | Occupation                |
|---|---------------------------|
| 131112  | Sales & Marketing Manager |
| 149212  | Customer Service Manager  |
| 225113  | Marketing Specialist      |
| Excludes any one of the following:  |                           |
| 1. positions based in a front-line retail setting;  |                           |
| 2. positions that predominately involve direct client transactional interaction on a regular basis; |                           |
| 3. positions in a business that have an annual turnover of less than AUD 1 million;                 |                           |
| 4. positions that have a nominated base salary of less than AUD 65,000.                             |                           |

| ANZSCO  | Occupation                 |
|---|----------------------------|
| 132111  | Corporate Services Manager |
| Excludes any one of the following:  |                            |
| 1. positions in a business that have an annual turnover of less than AUD 1 million; |                            |
| 2. positions in a business that have fewer than five employees;                     |                            |
| 3. positions that have a nominated base salary of less than AUD 80,000.             |                            |

| ANZSCO   | Occupation                      |
|--|---------------------------------|
| 133611   | Supply and Distribution Manager |
| 223112   | Recruitment Consultant          |
| Excludes any one of the following:   |                                 |
| <ol style="list-style-type: none"> <li>positions in a business with an annual turnover of less than AUD 1 million;</li> <li>positions in a business with fewer than five employees;</li> <li>positions that have a nominated base salary of less than AUD 65,000.</li> </ol> |                                 |

| ANZSCO  | Occupation                 |
|---|----------------------------|
| 141111  | Cafe or Restaurant Manager |
| Excludes positions in a limited service restaurant. A limited service restaurant includes, but is not limited to, any of the following:   |                            |
| <ol style="list-style-type: none"> <li>fast food or takeaway food services;</li> <li>fast casual restaurants;</li> <li>drinking establishments that offer only a limited food service;</li> <li>limited service cafes including, but not limited to, coffee shops or mall cafes;</li> <li>limited service pizza restaurants.</li> </ol> |                            |

| ANZSCO   | Occupation             |
|--|------------------------|
| 141311   | Hotel or Motel Manager |
| Excludes positions that predominately involve responsibility for managing hotel or motel staff. The specification does not exclude positions that predominately involve responsibility for organising and controlling the operations of a hotel or motel that may have limited duties requiring management of hotel or motel staff but is not the main function of the position. |                        |

| ANZSCO  | Occupation                   |
|---|------------------------------|
| 142114  | Hair or Beauty Salon Manager |
| Excludes any of the following:  |                              |
| <ol style="list-style-type: none"> <li>positions that predominately involve hair dressing and/or beauty therapy related non-managerial tasks; or</li> <li>positions in a business that employ fewer than five employees.</li> </ol> |                              |

| ANZSCO   | Occupation                   |
|--|------------------------------|
| 149311   | Conference & Event Organiser |
| Excludes any of the following:   |                              |
| <ol style="list-style-type: none"> <li>positions in a business that have an annual turnover of less than AUD 1 million;</li> <li>positions that have a nominated base salary of less than AUD 65,000.</li> </ol> |                              |

| ANZSCO   | Occupation                |
|--|---------------------------|
| 149413   | Transport Company Manager |
| Excludes any of the following:   |                           |
| <ol style="list-style-type: none"> <li>truck driver positions;</li> <li>fleet manager positions;</li> <li>container controller positions;</li> <li>positions in a business that have an annual turnover of less than AUD 1 million;</li> <li>positions in a business that have fewer than five employees.</li> </ol> |                           |

| ANZSCO  | Occupation         |
|---|--------------------|
| 149913  | Facilities Manager |
| Excludes any of the following: <ol style="list-style-type: none"> <li>positions that are not located in a commercial building or shopping centre environment;</li> <li>positions that predominately involve the management of the provision of only one particular service to a facility or managing one particular relationship.</li> </ol> <i>Example: a position that manages the cleaning contract for a facility but not other contracts relevant to the facility.</i> |                    |

| ANZSCO  | Occupation            |
|---|-----------------------|
| 224711  | Management Consultant |
| Excludes any of the following: <ol style="list-style-type: none"> <li>positions in a business that have an annual turnover of less than AUD 1 million;</li> <li>positions in a business that have fewer than five employees.</li> </ol> |                       |

| ANZSCO   | Occupation   |
|--|--|
| 225499   | Technical Sales Representatives (nec) including, but not limited to, education sales representatives |
| Excludes any of the following: <ol style="list-style-type: none"> <li>positions that are based in a front-line retail setting;</li> <li>positions that are based in a call centre and do not require a significant technical knowledge of products;</li> <li>positions that predominantly involve selling educational courses to individual students;</li> <li>positions that have a nominated base salary of less than AUD 65,000.</li> </ol> |  |

| ANZSCO   | Occupation                        |
|--|-----------------------------------|
| 312512   | Mechanical Engineering Technician |
| Excludes positions relating to mobile phone repairs. |                                   |

| ANZSCO  | Occupation |
|---|------------|
| 351111  | Baker      |
| 351112  | Pastrycook |
| Excludes positions related to mass or standardised production, including positions based in a franchise or factory, as opposed to specialist production. Positions excluded, but not limited to the following exclusions, are any of the following: <ol style="list-style-type: none"> <li>positions that involve full or partial production of food product for distribution to another location;</li> <li>positions that predominantly involve the use of pre-prepared food product from another location.</li> </ol> |            |

| ANZSCO  | Occupation                         |
|---|------------------------------------|
| 361199  | Animal Attendants & Trainers (nec) |
| Excludes positions related to animal husbandry including, but not limited to, caring for livestock on a farm setting. |                                    |

| ANZSCO  | Occupation        |
|---|-------------------|
| 411611  | Massage Therapist |
| Excludes any of the following: <ol style="list-style-type: none"> <li>non full-time positions;</li> <li>positions that are not based in a therapeutic setting;</li> <li>positions involving the provision of non-medical relaxation massage.</li> </ol> |                   |