

# Phillip Silver & Associates Lawyers



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12 April 2018

The Honourable Minister Peter Dutton  
Minister for Immigration and Border Protection  
PO Box 6022  
Parliament House  
Canberra ACT 2600  
Email: [minister@border.gov.au](mailto:minister@border.gov.au)

Dear Sir

**RE: LEGISLATIVE ISSUES FACED BY SOUTH AFRICAN FARMERS WISHING TO IMMIGRATE INTO AUSTRALIA VIA SKILLED VISAS ALREADY AVAILABLE**

1. I wish to introduce myself as Phillip Silver. I am an Australian Registered Migration Agent, an Australian Practicing Solicitor and an Attorney of the High Court of South Africa.
2. I practice primarily in Immigration Law in Sydney and I also have an existing law firm in Johannesburg, South Africa.
3. I represent numerous South African farmers who wish to immigrate into Australia on an appropriate permanent residence visa.
4. I am aware of the legislative difficulties many of these farmers may encounter in meeting the requirements of the regulations which govern refugees/humanitarian as well as the capping of the visas available to be issued overall. I am not dealing with this in this letter and am confining the issues faced by the South African farmers in relation to the comments of the Honourable Minister for Citizenship and Multicultural Affairs Alan Tudge on 11 April 2018.

**Difficulties with Farmers meeting Skilled Visa Criteria**

5. I refer to the statements made by the Honourable Minister for Citizenship and Multicultural Affairs Alan Tudge at the discussion forum convened by Federal Liberal MP Andrew Hastie in Mandurah, WA on 10 April 2018.

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6. I extract the following paragraph from The Australian published on 11 April 2018:

*Mr Tudge said he believed many South African farmers had skills that Australia needed and he urged people at the forum who were concerned about relatives in South Africa to research the skilled visas already available. (Article attached)*

7. I highlight that there are anomalies in the requirements for South African farmers to meet the criteria for the skilled visas currently available.

### **Skilled visas already available**

8. The 11 farming occupations available for skilled migration visa programs are all listed under the Short-term Skilled Occupation List (STSOL), excluding the possibility of permanent residence via the Employer Sponsored visas. The Temporary Skill Shortage visa is inappropriate given that these farmers will only be able to live in Australia temporarily.
9. The only routes to permanent residence for the 11 farming occupations are via the Skilled Nominated visa (subclass 190) and the Skilled Regional (Provisional) visa (subclass 489). **The difficulty with these 2 visa options is the necessity of having a bachelor's degree in order to obtain a positive skills assessment for the farming occupations.**
10. The skills assessing body for the 11 farming occupations is VETASSESS, and these occupations have been classified as Group B occupations which require a bachelor's degree and work experience to be positively assessed. The criteria for Group B occupations are attached.
11. All the farmers I have consulted do not have any qualifications, as they have been working on their family farms since leaving school.
12. Although these generation farmers are extremely skilled given that they have been operating their farms for many years, they are unable to obtain a positive skills assessment under the current VETASSESS requirements.
13. I would request that the legislation and skills assessing criteria be reviewed to move the farming occupations to the Medium and Long-term Strategic Skills List (MTLSSL) list and remove the need for formal qualifications for farmers in order for them to meet the skills assessing authority's criteria.
14. I note that the Australian and New Zealand Standard Classification of Occupations definitions for all 11 farming occupations state that:

*At least five years of relevant experience may substitute for the formal qualification.*

**The skills assessment criteria should be aligned with this requirement.**

15. In conclusion, the statements by The Honourable Alan Tudge MP (as set out above) are misguided as the current pathway to permanent residence via the skilled visas already available is prohibitive to the majority of skilled South African farmers

I thank you for your consideration of this letter. To the extent that I am able to assist your office in any manner, I will be more than happy to do so.

Kind Regards

A handwritten signature in black ink, appearing to read 'Phillip Silver', written in a cursive style.

Phillip Silver  
Managing Partner  
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