

RŌPŪ TAKE MANENE, TAKE WHAKAMARU  
AOTEAROA

**Appellant:** YZ (Skilled Migrant)

**Before:** M Benvie (Member)

**Representative for the Appellant:** T Delamere

**Date of Decision:** 27 January 2022

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**RESIDENCE DECISION**

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[1] The appellant is a 33-year-old citizen of India, whose application for residence under the Skilled Migrant category was declined by Immigration New Zealand. Her husband, aged 40, and child, aged 4, who are also citizens of India, were included in her application.

**THE ISSUE**

[2] Immigration New Zealand declined the appellant's residence application because it was not satisfied that her employment as manager of a liquor store was a substantial match to the *Australian and New Zealand Standard Classification of Occupations* (ANZSCO) description and core tasks of Retail Manager (General). Without points for skilled employment, the appellant's application could not succeed.

[3] The principal issue for the Tribunal is whether Immigration New Zealand was correct to find that the appellant's employment was not a substantial match to a Retail Manager (General) because it determined that she did not perform some of the core tasks of that occupation. It also determined that she did not organise and control the operations of her employer's store because of the involvement of a head office and her lack of managerial autonomy.

[4] For the reasons that follow, the Tribunal finds that Immigration New Zealand's decision to decline the application was not correct. Immigration New Zealand erred in its assessment of the appellant's performance of the core tasks of Retail Manager (General) and the involvement of head office in the store's operations. The application is returned to Immigration New Zealand for a correct assessment.

## **BACKGROUND**

[5] In March 2015, the appellant arrived in New Zealand as the holder of a student visa. In February 2016, she completed a Diploma in Business at a tertiary institution in Z city. Since then, the appellant has remained in New Zealand as the holder of a succession of work visas.

[6] The appellant commenced her employment as assistant manager of a Liquor Centre liquor store in a provincial town in February 2018. She became manager of the store in May 2018.

### **Residence Application**

[7] Following the selection of the appellant's Expression of Interest from the Pool on 12 June 2018, she was invited to apply for residence. On 3 July 2018, the appellant made her application for residence under the Skilled Migrant category. She claimed a total of 180 points, including 50 points for skilled employment and 30 points for skilled employment outside Auckland.

[8] In support of her claim to be in skilled employment, the appellant produced a copy of her individual employment agreement, which included a position description. At the time her application was filed, the appellant was paid \$25 per hour.

[9] The appellant claimed that her position substantially matched that of Retail Manager (General) (ANZSCO code 142111) which is described in the ANZSCO as someone who "organises and controls the operations of a retail trading establishment". Unit Group 1421, in which the occupation of Retail Manager is included, comprises eight core tasks:

- determining product mix, stock levels and service standards
- formulating and implementing purchasing and marketing policies, and setting prices

- promoting and advertising the establishment's goods and services
- selling goods and services to customers and advising them on product use
- maintaining records of stock levels and financial transactions
- undertaking budgeting for the establishment
- controlling selection, training and supervision of staff
- ensuring compliance with occupational health and safety regulations

### **Immigration New Zealand Verification**

[10] On 21 January 2019, and in response to a request from Immigration New Zealand, the appellant's former representative provided Immigration New Zealand with copies of her recent payslips and bank statements as well as documents said to demonstrate her undertaking of each of the eight core tasks, including copies of:

- (a) a service standard document prepared by the appellant;
- (b) computer screenshots showing the inputting of cost prices, sale price and profit margins for products into the store's database;
- (c) documents showing how the appellant calculated prices for products in the store;
- (d) photographs of in-store advertising and a screenshot of the Facebook page for the store;
- (e) documents relating to the ordering of stock and the recording of stock levels.

[11] On 9 October 2018, Immigration New Zealand requested that the employer complete a supplementary form and provide answers to a list of written questions concerning the appellant's employment.

[12] On 3 April 2019, Immigration New Zealand conducted a telephone interview with the appellant. The immigration officer's notes of this interview record that the appellant stated that, in addition to her, the store had two part-time employees. She stated that she worked by herself on quiet days (such as Tuesdays) and typically 10–15 hours per week.

[13] The appellant explained that the employer had no say in the running of the store as he was involved at another store in a city located some distance away. She made all decisions regarding stock levels, product mix and ordering. She

determined prices, which included store specials and the marketing of special promotions, and prepared a monthly budget for the store. She also selected, trained and supervised staff and was responsible for health and safety in the store.

[14] On 4 June 2020, Immigration New Zealand conducted a second telephone interview with the appellant. In the interview record, the appellant explained that, since becoming store manager, she had introduced some products and removed others from the store's product mix. Although the store operated under the Liquor Centre name, it did not report to a head office. She reiterated that she made all decisions regarding stock levels, product stock mix and ordering and did not need to discuss these decisions with her employer. Since taking over as manager of the store, she had not needed to enter into any new supply contracts and the suppliers to the store remained unchanged. The appellant provided examples of marketing and advertising she had undertaken for the store and said that all advertising was created by herself. She explained that she sent the store's accountant a report of the store's spending and profit margins and he produced a budget and financial reports for the store. The appellant stated that, as at the date of the interview, the store had two full-time staff: herself and one other employee.

### **Immigration New Zealand's Concerns**

[15] On 10 June 2020, Immigration New Zealand wrote to the appellant's former representative raising concerns that the appellant's employment did not appear to be a substantial match to the ANZSCO description, and core tasks, for a Retail Manager (General). It stated that the appellant appeared to be performing only two core tasks of the occupation: selling goods and services to customers; and ensuring compliance with occupational health and safety regulations. Her involvement in determining product mix and stock levels was minimal given that the majority of products in the store were "pre-determined" prior to her appointment as manager. Similarly, she appeared to lack the autonomy to formulate purchasing and marketing policies, to set prices and to promote and advertise the store's products. Further, the shared operational system, under which five of the employer's liquor stores operated, appeared to limit the ability of the appellant to organise and control the operations of her store.

### **The Appellant's Response**

[16] On 6 July 2020, the appellant's former representative responded to Immigration New Zealand's concerns. The representative contended that the

appellant's employment met the description of the ANZSCO occupation of Retail Manager (General) and that she performed the core tasks of the occupation. In respect of each of Immigration New Zealand's concerns a lengthy response was made on behalf of the appellant and copies of documents, including letters from the managing director and the operations manager of Liquor Centre Group, were provided.

[17] In their letters, both the managing director and operations manager of Liquor Centre Group stated that there was no contract or franchise agreement between the employer and Liquor Centre Group. As a result, the store was not part of a franchise or similar business system and was operated and managed wholly independently from the Liquor Centre Group. This independence meant that while the Liquor Centre Group provided a basic store manual, the store was not required to report to the Liquor Centre Group and the store was responsible for selecting which products to sell and to advertise.

### **Immigration New Zealand's Decision**

[18] By letter dated 28 May 2021, Immigration New Zealand declined the appellant's application. In summary, it was not satisfied that her employment substantially matched the occupation of Retail Manager (General). She did not perform three core tasks of the occupation, that is, determining product mix and stock levels, formulating and implementing purchasing and marketing policies and setting prices, and promoting and advertising the store's goods and services. Further, she did not organise and control the operations of her employer's store because of the involvement of Liquor Centre Group in formulating marketing and purchasing policies, and in setting prices. In addition, it considered that the involvement of Liquor Centre Group in formulating marketing and purchasing policies, as well as setting prices, limited the appellant's autonomy to manage the store.

[19] Immigration New Zealand awarded the appellant a total of 80 points. Without points for skilled employment, her application could not succeed.

### **STATUTORY GROUNDS**

[20] The appellant's right of appeal arises from section 187(1) of the Immigration Act 2009 (the Act). Section 187(4) of the Act provides:

- (4) The grounds for an appeal under this section are that—
- (a) the relevant decision was not correct in terms of the residence instructions applicable at the time the relevant application for the visa was made; or
  - (b) the special circumstances of the appellant are such that consideration of an exception to those residence instructions should be recommended.

[21] The residence instructions referred to in section 187(4) are the Government residence instructions contained in Immigration New Zealand's Operational Manual (see [www.immigration.govt.nz](http://www.immigration.govt.nz)).

### **THE APPELLANT'S CASE**

[22] On 4 July 2021, the appellant lodged this appeal on the ground that the decision was not correct in terms of the applicable residence instructions.

[23] In support of the appeal, her representative provides submissions. The representative contends that Immigration New Zealand failed to properly evaluate the appellant's application and the evidence she provided in support of her application. It is submitted that the appellant demonstrated that she performed each of the core tasks of a Retail Manager (General) and that she organised and controlled the operations of the liquor store.

### **ASSESSMENT**

[24] The Tribunal has considered the submissions provided on appeal and the file in relation to the appellant's residence application which has been provided by Immigration New Zealand.

[25] An assessment as to whether the Immigration New Zealand decision to decline the appellant's application was correct in terms of the applicable residence instructions is set out below.

#### **Whether the Decision is Correct**

[26] The application was made on 3 July 2018 and the relevant criteria are those in residence instructions as at that time. Immigration New Zealand declined the application because it determined that the appellant's employment did not substantially match the ANZSCO description of Retail Manager (General).

[27] The relevant instructions in this case are:

**SM6.10 Skilled Employment**

- a. Skilled employment is employment that meets a minimum remuneration threshold and requires specialist, technical or management expertise obtained through:
  - i. the completion of recognised relevant qualifications; or
  - ii. relevant work experience; or
  - iii. the completion of recognised relevant qualifications and/or work experience.
- b. Assessment of whether employment is skilled for the purposes of the Skilled Migrant Category is primarily based on the Australian and New Zealand Standard Classification of Occupations (ANZSCO) which associates skill levels with each occupation, and the level of remuneration for the employment.

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**Note:** The ANZSCO is available at [www.immigration.govt.nz/ANZSCO](http://www.immigration.govt.nz/ANZSCO)

*Effective 21/05/2018*

[28] The appellant was required to demonstrate that his employment substantially matched the description of the occupation set out in the ANZSCO (SM6.10.5.b, also effective 21 May 2018). Residence instructions also set out how a substantial match was to be assessed:

**SM6.10.5.1 Assessment of 'substantial match'**

- a. For the purpose of SM6.10.5 (b) above, assessment of 'substantial match' involves a determination of whether the applicant's employment is substantially consistent with the ANZSCO 'Occupation' (6-digit) level description for that occupation and with the tasks listed at the ANZSCO 'Unit Group' (4-digit) level description for that occupational group, excluding any tasks which are not relevant to the 'Occupation' description.
- b. To be considered a substantial match to an occupation, the tasks that are relevant to the applicant's employment role must comprise most of that role.

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**For example:** An applicant's employment in the occupation 'Disabilities service officer' (411712) is not required to include the task set out at the ANZSCO Unit Group (4-digit) classification level for 'Welfare support workers' of "supervising offenders on probation and parole". Other listed tasks that are relevant to the role of a 'Disabilities services officer' must comprise most of their role.

**Note:** Where no description is stated at the ANZSCO Occupation (6-digit) level, an immigration officer should refer to the ANZSCO Unit Group (4-digit) description or higher ANZSCO group (3-digit or 2-digit) level as necessary to determine a substantial match with the stated occupation. Similarly, where no ANZSCO core tasks are listed at the ANZSCO Unit Group (4-digit) level, an immigration officer should refer to a higher ANZSCO group (3-digit or 2-digit) level as necessary to locate core tasks ANZSCO associates with the stated occupation.

**Note:** Determining whether an applicant’s employment substantially matches an ANZSCO occupation description may require consideration of the scope and scale of the employer’s organisation and operation (the size of the operation, the number of staff and managers, and whether management functions are centralised at a head office or undertaken by other managers).

*Effective 21/05/2018*

### *Retail Manager occupation*

[29] The appellant contends that her employment is a substantial match for Retail Manager (General) (ANZSCO code 142111), an ANZSCO Skill Level 2 occupation. The ANZSCO describes a Retail Manager (General) as someone who “[o]rganises and controls the operations of a retail trading establishment”. The core tasks for this occupation are (numbered for ease of reference):

1. determining product mix, stock levels and service standards
2. formulating and implementing purchasing and marketing policies, and setting prices
3. promoting and advertising the establishment's goods and services
4. selling goods and services to customers and advising them on product use
5. maintaining records of stock levels and financial transactions
6. undertaking budgeting for the establishment
7. controlling selection, training and supervision of staff
8. ensuring compliance with occupational health and safety regulations

[30] The Tribunal has consistently found that assessment of whether an applicant’s employment is a substantial match to an ANZSCO occupation is not achieved by simply “ticking off” a certain number of tasks, but must be determined on a holistic basis, taking into account the core tasks, the specific characteristics of the appellant’s employment and the overall nature of the organisation in which he or she is employed. It has also found that “substantially consistent with” means the same as “substantially matches” and that these two expressions may be used interchangeably, see *YR (Skilled Migrant)* [2018] NZIPT 204965 at [28]).

[31] Instructions also address the requirements of fairness in decision-making, at A1.5.a, relevantly as follows:

#### **A1.5 Fairness**

- a. Whether a decision is fair or not depends on such factors as:
  - whether an application is given proper consideration;

...



- whether appropriate reasons are given for declining an application;
- ...
- whether all known relevant information is considered.

*Effective 29/11/2010*

[32] Immigration New Zealand was satisfied that the appellant performed the core tasks of a Retail Manager (General) numbered 4 through 8 (inclusive). However, it determined that the appellant did not perform three core tasks of the occupation, that is, determining product mix and stock levels, formulating and implementing purchasing and marketing policies and setting prices, and promoting and advertising the store's goods and services. Further, it found that she did not organise and control the operations of her employer's store because of the involvement of Liquor Centre Group in formulating marketing and purchasing policies, and in setting prices. However, for the reasons explained below, this finding was not correct as it was not supported by the evidence before Immigration New Zealand and, as a result, its repeated misstatement of the role of the Liquor Centre Group had the effect of fatally tainting its assessment of the application.

## **Core Tasks**

### *Task 1 – Determining product mix*

[33] Immigration New Zealand was not satisfied that the appellant determined product mix. In making this finding it relied on the letter from the operations manager of Liquor Centre Group, in which he stated:

...Liquor Centre Group neither monitors nor restricts the store's operation and management, and the store does not need to comply with or report to Head Office...

We expect the store to use our Brand in good ethics and within the guidelines of New Zealand (MPI) rules...

[34] Immigration New Zealand said that this reference to the store using the Liquor Centre brand with good ethics and "within the guidelines of New Zealand (MPI) rules" meant that the Liquor Centre Group had guidelines and terms that the store, as a "franchisee", was required to adhere to, including determining the product mix.

[35] The Tribunal finds that Immigration New Zealand misdirected itself and did not properly consider the appellant's performance of this part of task 1. There was no explanation as to how its assumption that the branding of the store and the

requirement to operate “ethically” and follow certain guidelines were relevant to determining product mix. Further, the evidence from the general manager and operations manager was that the store was *not* part of a franchise.

[36] A requirement that a store utilising a proprietary brand name conduct its business ethically does not amount to “guidelines and terms” that limited the appellant’s ability to determine the product mix. As to the store being a part of a franchise, the only evidence that was before Immigration New Zealand’s on this issue was that there was *no* franchise (or similar) contract between the employer and Liquor Centre Group. Moreover, the Tribunal interpolates that the operation manager’s reference to “MPI” (presumably, and erroneously, the Ministry for Primary Industries) rules almost certainly related to no more than the fact that the retail sale of liquor in New Zealand is subject to legal requirements that are overseen and enforced by a government ministry or department. It was not explained by Immigration New Zealand why the existence of such legal requirements reduced or limited the appellant’s ability to determine the product mix for the store.

[37] Immigration New Zealand also found that the appellant did not determine the product mix because it was not clear how many products she had introduced, and how many products she had removed, from the store since she became store manager. The appellant stated during her second interview that she had introduced non-alcoholic spirit products, as well as no-sugar and low-carbohydrate products, to the store. During the same interview, she also stated that she had removed some slow-selling sparkling wines and “Sundown drinks” from the products sold by the store. The key issue to be determined was who had the *authority* to determine the product mix for the subject store, rather than a simple ‘tallying up’ of how many new products were introduced or removed by the appellant. As the Tribunal (differently constituted) held in *NL (Skilled Migrant)* [2020] NZIPT 205839 at [48] (emphasis added);

...When ascertaining whether the appellant was determining the product mix and service standards for the store, Immigration New Zealand was required to look at whether the appellant was the person responsible for doing so, or whether he had the autonomy to do so, given the scope and scale of the store. **There was no requirement for the appellant to have made substantial changes to the product mix** or service standards from those previously in place for the store prior to the appellant becoming manager. **What was important was to ascertain whether the appellant had the *authority to determine the product mix*** and service standards for the store...

[38] There was no information before Immigration New Zealand showing that the employer or Liquor Centre Group, or anyone other than the appellant, had the

authority to determine the product mix for the store. To the contrary, the only available evidence before Immigration New Zealand indicated that the appellant determined the product mix. Accordingly, Immigration New Zealand's decision does not set forth a proper evidential basis for its finding that the appellant did not determine the product mix.

*Task 1 – Determining stock levels*

[39] The appellant's job description required her to maintain stock levels and there was some evidence as to her undertaking weekly and monthly stocktakes for the store. This evidence included copies of 'Inventory Checklist' documents which listed for each product the quantity in stock and the order level (such as per case/per box/per four-pack) for that product.

[40] Immigration New Zealand stated that the need for the store to use the Liquor Centre brand with "goods ethics and within the guidelines of New Zealand MPI rules" meant that the Liquor Centre Group had guidelines or terms and conditions that the store, as a "franchisee", was required to adhere to. This in turn, it stated, "may impact on your ability to determine the stock level for the store". Immigration New Zealand also referred to the appellant's response to its concerns where it was stated that the appellant would continue to stock levels of a popular and affordable brand of beer (Speights) until the beer was no longer popular or stopped selling. It found that this showed the appellant to be merely replenishing stock levels rather than determining the stock levels.

[41] For the reasons set out in paragraph [36] above, the Tribunal finds that Immigration New Zealand misdirected itself as to both the role of the Liquor Centre Group in the store and legal requirements as to the sale of liquor, as the evidence did not show either to have any bearing on the appellant determining stock levels for the store. Furthermore, decisions by the appellant to replenish, or to simply maintain, a level of stock for each product, particularly a popular product, was a function of determining the stock levels for the store.

*Task 1 – Determining service standards*

[42] Immigration New Zealand was not satisfied that the 'service standards' document provided by the appellant did not amount to evidence of "improved service standards". The Tribunal finds that Immigration New Zealand did not consider all known relevant information that the appellant determined service

standards. Further, the core task required the appellant to *determine* service standards, not “improve” service standards.

*Task 2 – Formulating purchasing and marketing policies*

[43] Immigration New Zealand found that the letter provided from the operations manager of Liquor Centre Group “demonstrates that the Liquor Centre expects your store to use their brand in good ethics which suggests that Liquor Centre has some kind of involvement in formulating purchasing policies for the store at the managerial level while your role is to implement these policies”.

[44] As noted above, the Tribunal has found that Immigration New Zealand misdirected itself; the available evidence did not disclose any involvement of the Liquor Centre Group head office in the management of the store. The appellant provided some evidence of her formulating purchasing policies for the store, such as seasonal purchasing and product testing with customers, however Immigration New Zealand did not engage with any of this evidence.

[45] The appellant’s evidence was that the main marketing vehicle she used for the store was Facebook. An example of a prize for customers posting feedback on the store’s Facebook page was provided as an example of a marketing initiative devised by the appellant. Advertising of products and ‘specials’ was facilitated using Facebook. Evidence was provided to Immigration New Zealand that the appellant decided what marketing material was placed on the store’s Facebook page.

[46] The Tribunal has previously held that in small stores, ‘unsophisticated’ and unwritten policies relating to purchasing or marketing are not uncommon and may sometimes be sufficient and appropriate, depending on the store in question (see *GZ (Skilled Migrant)* [2019] NZIPT 205241 at [15]).

[47] Immigration New Zealand found that the use of the Liquor Centre brand logo on advertising materials indicated that the involvement of the Liquor Centre head office was “quite significant” and, as a result, it could not be satisfied that the appellant was formulating marketing policies for the store. The Tribunal finds that Immigration New Zealand did not properly consider the involvement of the Liquor Centre Group in purchasing and marketing policies. The requirement for the appellant to use the Liquor Centre logo on advertising did not, by itself, justify a finding that the Liquor Centre Group formulated and implemented purchasing and marketing policies for the store.

### *Task 2 – Setting prices*

[48] The appellant provided Immigration New Zealand with copies of her 'price book' showing how she calculated profit margins and prices and computer screenshots showing the input of prices into the store's database. While acknowledging this evidence, Immigration New Zealand stated that such evidence did not explain how she considered supply and demand or local competitors. It also considered that a requirement, where the store elects to participate in group advertising undertaken the Liquor Centre Group, to honour advertised special prices indicated that a "franchisor", not the appellant, set prices for the store.

[49] The Tribunal finds that Immigration New Zealand erred in its assessment of the appellant's performance of this task. It failed to properly consider the evidence provided to it; for example, the appellant's evidence was that the store's only competition within the town it operated was a Four Square general store which sold a limited range of liquor products. Furthermore, an obligation to honour the special prices for selected products advertised, if the store elected to participate in that advertising campaign, could not abrogate the appellant's ability to set prices in the store other than for a limited number of products for a limited time (the applicable period of the advertising campaign).

### *Task 3 – Promoting and advertising the establishment's goods and services*

[50] Immigration New Zealand acknowledged that the appellant was involved with aspects of promotion and advertising for the store but found that the use of the Liquor Centre logo in promotional displays and on the store's Facebook page, as well as the ability of the store to use Liquor Centre group advertising, meant that the appellant had not demonstrated that she performed this task.

[51] The Tribunal disagrees. The use of the Liquor Centre logo was itself part of the marketing of the store and did not operate to limit the appellant undertaking this task. Similarly, any use of the group advertising by the store was simply one option for promotion and advertising that was available to the appellant. The appellant had made it clear during her interview that she used Facebook as her principal method of promotion and advertising for the store.

### *Conclusion on correctness*

[52] Immigration New Zealand's decision to decline the appellant's application was incorrect. It did not adequately take account of the evidence provided by the

appellant and made erroneous assumptions about the role of the Liquor Centre Group which were not founded on the evidence before it. It also failed to give appropriate reasons in its decision to decline the application, and so did not fulfil the requirements of fairness in decision-making, as set out in instruction A1.5.a.

## **DETERMINATION**

[53] This appeal is determined pursuant to section 188(1)(e) of the Immigration Act 2009. The Tribunal considers the decision to refuse the visa was made on the basis of an incorrect assessment in terms of the applicable residence instructions. However, the Tribunal is not satisfied the appellant would, but for that incorrect assessment, have been entitled in terms of those instructions to the immediate grant of a visa.

[54] The Tribunal therefore cancels the decision of Immigration New Zealand. The appellant's application is referred back to the chief executive of the Ministry of Business, Innovation and Employment for a correct assessment by Immigration New Zealand in terms of the applicable residence instructions, in accordance with the directions set out below.

### **Directions**

[55] It should be noted that while these directions must be followed by Immigration New Zealand, they are not intended to be exhaustive and there may be other aspects of the application which require further investigation, remain to be completed or require updating.

1. The application is to be reassessed by an Immigration New Zealand officer not previously associated with the application in accordance with the instructions in existence at the date the residence application was made. No further lodgement fee is payable.
2. Immigration New Zealand is to invite the appellant to update her application within a reasonable time frame, if she sees fit. The appellant may wish to consider providing Immigration New Zealand with further documents demonstrating her performance of the core tasks of a Retail Manager (General). In this regard, the appellant should be able to clearly detail, by referring to evidence and practical examples, how she is undertaking the first three core tasks of a

Retail Manager and is organising and controlling the operations of the store.

3. Immigration New Zealand shall take into account any new evidence produced by the appellant, along with the relevant evidence submitted on appeal and as already held on her residence application file.
4. If the appellant is still employed in the same role, Immigration New Zealand shall determine whether her employment is a substantial match, that is, substantially consistent with the occupation description and the core tasks of a Retail Manager (General). The appellant will need to satisfy Immigration New Zealand that the scope and scale (nature of the retail operation) requires a “manager”, not just a supervisory presence, and that her performance of the core tasks comprises most of her role. Immigration New Zealand may wish to undertake a further interview of the appellant in order to ascertain what tasks comprise most of her role.
5. If the appellant is no longer employed as a store manager, she is to be given a reasonable opportunity to put forward evidence of being in skilled employment or having an offer of skilled employment
6. Given that the 2021 Residence Category has now come into effect, it will be for the appellant to discuss with her representative and Immigration New Zealand as to whether her application for residence under the Skilled Migrant category which has been returned for a correct assessment is to be treated as an application under the 2021 Residence Category.

[56] The appellant is to understand that the success of this appeal does not guarantee that her application will be successful, only that it will be subject to reassessment by Immigration New Zealand.

[57] The appeal is successful in the above terms.

### **Order as to Depersonalised Research Copy**

[58] Pursuant to clause 19 of Schedule 2 of the Immigration Act 2009, the Tribunal orders that, until further order, the research copy of this decision is to be

depersonalised by removal of the appellant's name and any particulars likely to lead to the identification of the appellant, her husband or child.

"M Benvie"  
M Benvie  
Member

Certified to be the Research  
Copy released for publication.

M Benvie  
Member