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SUBSTANTIAL MATCH TO ANZSCO

The Immigration and Protection Tribunal (IPT) has recently made a ruling that Immigration New Zealand (INZ) has incorrectly approached the assessment of whether an occupation is a substantial match to the Australian and New Zealand Standard Classification of Occupations (ANZSCO). In the course of the assessments, INZ has incorrectly imputed a required skill level into the substantial match enquiry and failed to interpret the core tasks for the occupation in the context of either the occupation's description or the applicant's employment.

When assessing skilled employment, the first step an immigration officer (IO) must make is to establish whether an applicant's offer of employment or current employment substantially matches the description for the relevant occupation. The instructions do not specify a skill level in undertaking the tasks, just that an applicant is undertaking them. An IO cannot impute a skill level into assessing whether an applicant performs each of the core tasks.

The IPT has indicated that a substantial match enquiry is not a tick box exercise but a question of fact and degree in the context of the applicant's employment. The IPT has consistently stated that a substantial match is not achieved by simply ticking off a list of the actual tasks against a particular ANZSCO classification. It is a holistic assessment of the actual tasks undertaken by the applicant, the nature of their employment and the context in which the employment takes place. Where an ANZSCO Unit Group contains a number of occupations, only the core tasks, or parts of a core task, that are relevant to a specific occupation should be taken into account when assessing whether there is a substantial match.

IOs must ensure that the overarching description of an occupation is referred back to. For example, an occupation may refer to managing and controlling the operations of an organisation, or it may refer to the diagnosis and resolution of technical problems and issues. If an applicant is undertaking a task but not at the level of managing or controlling, or is only responding to non-technical issues, then it may be reasonable to conclude that the applicant is not undertaking the task at the level anticipated by ANZSCO and that the occupation is not a substantial match.