

## 7 *Australian residence definitions*

- (1) In this Act, unless the contrary intention appears:

***Australian resident*** has the meaning given by subsection (2).

***former refugee*** means a person who was a refugee but does not include a person who ceased to be a refugee because his or her visa or entry permit (as the case may be) was cancelled.

***holder***, in relation to a visa, has the same meaning as in the *Migration Act 1958*.

***new PRC (temporary) entry permit*** means an entry permit within class 437 of Division 2.6—Group 2.6 in Part 2 of Schedule 1 to the Migration (1993) Regulations as in force before 1 September 1994.

***old PRC (temporary) entry permit*** means a PRC (temporary) entry permit within the meaning of the Migration (1989) Regulations as in force before 1 February 1993.

***permanent visa, special category visa*** and ***visa*** have the same meaning as in the *Migration Act 1958*.

***protected SCV holder*** has the meaning given by subsections (2A), (2B), (2C) and (2D).

***qualifying Australian residence*** has the meaning given by subsection (5).

***qualifying residence exemption*** has the meaning given in subsections (6) and (6AA).

- (2) An ***Australian resident*** is a person who:

- (a) resides in Australia; and
- (b) is one of the following:
  - (i) an Australian citizen;
  - (ii) the holder of a permanent visa;
  - (iii) a special category visa holder who is a protected SCV holder.

Note: For ***holder*** and ***permanent visa*** see subsection (1).

- (2A) A person is a ***protected SCV holder*** if:

- (a) the person was in Australia on 26 February 2001, and was a special category visa holder on that day; or
- (b) the person had been in Australia for a period of, or for periods totalling, 12 months during the period of 2 years immediately before 26 February 2001, and returned to Australia after that day.

- (2B) A person is a ***protected SCV holder*** if the person:

- (a) was residing in Australia on 26 February 2001; and
- (b) was temporarily absent from Australia on 26 February 2001; and
- (c) was a special category visa holder immediately before the beginning of the temporary absence; and
- (d) was receiving a social security payment on 26 February 2001; and
- (e) returned to Australia before the later of the following:
  - (i) the end of the period of 26 weeks beginning on 26 February 2001;

	(ii) if the Secretary extended the person’s portability period for the payment under section 1218C—the end of the extended period.
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