



Legislation defining the status of New Zealanders in Australia

Legislation	Status of New Zealand Citizens
Health Insurance Act 1973	'Australian resident' is defined to include New Zealand citizens living in Australia.
Higher Education Support Act 2003	New Zealand citizens have been excluded since 2005 on the grounds that only Australian citizens and permanent humanitarian visa holders are eligible for HELP Loans.
Income Tax Assessment Act 1997	SCV holders are permanent residents.
Migration Act 1958 ss. 30, 32 and 204	There are four separate, and inconsistent definitions that apply to New Zealand citizens: <ul style="list-style-type: none"> • s30(1) - a permanent visa, due to its indefinite status; • s30(2)(c) - a temporary visa, on the basis that Special Category Visa holders have a specified status (New Zealand citizenship) under s32 of the Act; • Section 32 defines Special Category Visa as a class of temporary visas (also referenced in Regulation 5.15A of the Migration Regulations); • s204 defines permanent resident as a person (including an Australian citizen) whose continued presence in Australia is not subject to any limitation of time imposed by law. (An SCV is an indefinite, albeit temporary visa, therefore captured by s 204).
Migration Regulation 1.03	'Australian permanent resident' is defined as the holder of a permanent visa. This excludes all SCV holders, even though they are entitled to reside permanently in Australia.
Migration Regulation 5.15A	Defines the Special Category Visa as 'temporary visa'.
National Disability Insurance Scheme Act 2013	For the purposes of paying the NDIS levy New Zealanders are classed as residents under the Health Insurance Act 1973. But for the purpose of being entitled to NDIS services, a person must be an Australian citizen, permanent visa holder or a protected SCV-holder. Therefore, non-protected SCVs MUST pay levy, but cannot access the NDIS scheme.



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Social Security Act 1991	<p>s. 7 defines a 'resident' as an Australian citizen, permanent visa holder or Protected Special Category Visa holder. Therefore, does not capture New Zealand citizens who arrived post 26 February 2001, commonly referred to as 'non-protected' Special Category Visa holders. (Note: this is not a defined term in the Social Security Act or the Migration Act.) The current definition of resident was inserted by the Family and Community Services Legislation Amendment (New Zealand citizens) Act 2001, replacing an earlier definition that included all SCV holders.</p> <p>s. 861 (12) provides for a separate definition of 'resident' for the purposes of the Job Commitment Bonus. This definition is stated to have 'the meaning given by section 7 (disregarding subparagraph 7(2)(b)(iii))' – in other words, it excludes all SCV holders, including protected SCV holders. This definition was added by the Social Security Amendment (Increased Employment Participation) Act 2014.</p>
Superannuation Guarantee (Administration) Amendment Bill 2015	<p>1.23 A 'temporary resident' under the Migration Act 1958 would also include a New Zealand citizen, even though New Zealand citizens can generally stay indefinitely in Australia.</p> <p>2.122 [...] New Zealand residents would also be included in the exclusion of temporary residents from the prompt of choice as well so as not to cause confusion for employers.</p>
Norfolk Island Legislation Amendment Bill 2015	<p>Inserts a new subsection 7(2AA) into the Social Security Act 1991 that would exclude permanent visa holders who are New Zealand citizens on Norfolk Island from the definition of a 'resident' and thus social security eligibility. Permanent visa holders of all other nationalities on Norfolk Island will be included in the definition of 'resident'. This has the effect of placing restrictions on NZ citizen permanent visa holders on Norfolk Island that apply to no other group of permanent visa holders in any part of Australia.</p>