

Queensland



**REVENUE LAWS  
AMENDMENT ACT (No. 2)  
1996**

**Act No. 70 of 1996**



Queensland



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(No. 2) 1996**

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Queensland



## **Revenue Laws Amendment Act (No. 2) 1996**

### **Act No. 70 of 1996**

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**An Act to amend certain Acts administered by the Treasurer**

*[Assented to 9 December 1996]*

**The Parliament of Queensland enacts—**

## **PART 1—PRELIMINARY**

### **Short title**

**1.** This Act may be cited as the *Revenue Laws Amendment Act (No. 2) 1996*.

### **Commencement**

**2.** Sections 22, 23(1) and 35(3) are taken to have commenced on 15 July 1996.

## **PART 2—AMENDMENT OF DEBITS TAX ACT 1990**

### **Act amended in pt 2**

**3.** This part amends the *Debits Tax Act 1990*.

### **Amendment of sch 2 (Modifications of Commonwealth Act)**

**4.(1)** Schedule 2, item (1), after ‘(1) in section 3(1)—’ —  
*insert—*

‘(aa)for the definition of “account” there were substituted—

‘**“account”** means:

- (a) a primary account; or
- (b) a source of funds account;

**“account certificate”** means a certificate under section 11B;’.

‘(ab)after the definition of “bank” the following definition were

inserted—

‘**“certificate account”** means an account of a class for which an account certificate is in force;’.

(2) Schedule 2, item (1), paragraph (e)—

*omit, insert—*

‘(e) for the definition of “exempt debit” there were substituted—

‘**“exempt debit”**, in relation to an account, means:

- (a) a debit that is made solely for the purpose of reversing a credit previously made to the account; or
- (b) a debit that is made for the purpose of deducting an amount under subsection 221YHZC(1A) of the *Income Tax Assessment Act 1936* (Cwlth); or
- (c) a debit that is made for the purpose of recovering from the account holder an amount equal to an amount of tax that the financial institution has paid or is liable to pay; or
- (d) a debit that is a transfer debit; or
- (e) if the account is a loan account to which transfer debits may be made (other than a loan account to which payments by a financial institution in respect of cheques or payment orders drawn on the institution by the account holder, or by any 1 or more of the account holders, may be directly debited)—a debit that is made to the account; or
- (f) if the account is a certificate account—a debit that is made to the account; or
- (g) a debit that is included in a kind or class of debits that are prescribed for the purposes of this paragraph;’.

(3) Schedule 2, item (1), after paragraph (h)—

*insert—*

‘(ha)after the definition of “person” the following definition were inserted—

‘**“primary account”** means:

- (a) an account kept with a bank, being an account to which payments

by the bank in respect of cheques drawn on the bank by the account holder, or by any 1 or more of the account holders, may be debited; or

- (b) an account kept with a non-bank financial institution, being an account to which payments by the institution in respect of payment orders drawn on the institution by the account holder, or by any 1 or more of the account holders, may be debited;’.

(4) Schedule 2, item (1), after paragraph (i)—

*insert—*

‘(ia) before the definition of “tax” the following definition were inserted—

- ‘**“source of funds account”** means an account (other than a primary account) kept with or by a financial institution to which transfer debits may be made;’.

(5) Schedule 2, item (1), after paragraph (k)—

*insert—*

‘(ka) after the definition of “taxable debit” the following definition were inserted—

- ‘**“transfer debit”** means a debit made by a financial institution to an account kept with or by the institution, but only to the extent the debit is made (whether directly or indirectly through 1 or more interposed accounts) in respect of a debit—

- (a) that is made, or is to be made, to a primary account kept with the institution; and
- (b) that is made, or is to be made, to satisfy a cheque or payment order drawn on the institution;’.

(6) Schedule 2, item (10), ‘3.1(1)’—

*omit, insert—*

‘7(1)’.

(7) Schedule 2, after item (12)—

*insert—*

‘(12A) in section 11A(2), for ‘a certificate of exemption’ there were

substituted ‘an account certificate or certificate of exemption’;

‘(12B) after section 11A the following section were inserted in Part III—

**‘Certificate accounts**

‘11B.(1) A financial institution may make written application to the commissioner for a certificate for a class of accounts—

- (a) that are not primary accounts to which payments by the financial institution in respect of cheques or payment orders drawn on the institution by an account holder, or by any 1 or more of the account holders, may be directly debited; and
- (b) that are kept in Queensland; and
- (c) to which transfer debits may be made.

‘(2) The financial institution must give the commissioner the information the commissioner asks for to help the commissioner decide the application.

‘(3) The commissioner may issue the certificate only if the commissioner is satisfied that accounts of the class are not sufficiently connected with any primary account.

‘(4) In deciding whether or not accounts of the class are sufficiently connected with any primary account, the commissioner must have regard to—

- (a) the terms on which the accounts and any primary account to which the accounts may be connected are established; and
- (b) the circumstances in which transfer debits may be made to the accounts in respect of debits made, or to be made, to a primary account; and
- (c) the frequency with which transfer debits may be made to the accounts; and
- (d) any other circumstances the commissioner considers appropriate.

‘(5) For subsection (4)(b), the circumstances to which the commissioner may have regard include, in particular—

- (a) if the primary account is an overdraft account—whether the sole purpose of any transfer debit is to reduce a debit balance in the primary account to an agreed overdraft limit (if the excess of the

debit balance over the limit arises inadvertently); and

- (b) in any other case—whether the sole purpose of any transfer debit is to offset a debit balance in the primary account (if the debit balance arises inadvertently).

‘(6) An account certificate—

- (a) may be issued on conditions the commissioner considers appropriate about the nature of any connection with a primary account; and
- (b) if issued on conditions—must state the conditions.

‘(7) If a certificate account ceases to satisfy the conditions of the account certificate, the account ceases to be a certificate account for the period the account does not satisfy the conditions.

‘(8) An account certificate—

- (a) comes into force on the day stated in the certificate (which may be a day before the day on which the certificate is issued); and
- (b) remains in force until—
  - (i) the expiry day stated in the certificate; or
  - (ii) if no expiry day is stated—no accounts of the class exist.’.

(8) Schedule 2, item (14), ‘3.1(2)’—

*omit, insert—*

‘7(2)’.

## **PART 3—AMENDMENT OF LAND TAX ACT 1915**

### **Act amended in pt 3**

**5.** This part amends the *Land Tax Act 1915*.

**Amendment of long title**

6. Title, before ‘unimproved values’—

*insert—*

‘relevant’.

**Amendment of s 3 (Definitions)**

7.(1) Section 3, definition “**exempt proprietary company**”—

*omit.*

(2) Section 3—

*insert—*

“**averaged unimproved value**” see section 3AA.

“**proprietary company**” see the Corporations Law, section 9.<sup>1</sup>

“**relevant proprietary company**” means a proprietary company (other than an exempt foreign company) no share or interest in which is held by a body corporate (other than another proprietary company that is not an exempt foreign company), whether directly or through interposed companies or trusts.

“**relevant unimproved value**”, of land, for a financial year, means the lesser of the following—

- (a) the unimproved value of the land that applies for the financial year;
- (b) the averaged unimproved value of the land for the financial year.’.

**Insertion of new s 3AA**

8. After section 3A—

*insert—*

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<sup>1</sup> Section 9 (Dictionary)

**‘Meaning of “averaged unimproved value”**

**‘3AA.(1)** The **“averaged unimproved value”**, of land, for a financial year, is—

- (a) if, in addition to the land having an unimproved value that applies for the financial year, the land had unimproved values that applied for each of the previous 2 financial years—the amount calculated as the average of the 3 unimproved values; or
- (b) in any other case—an amount equal to the unimproved value of the land that applies for the financial year multiplied by the averaging factor for the financial year.

**‘(2)** In this section—

**“averaging factor”**, for a financial year, means the number calculated, to 2 decimal places, using the formula—

$$\frac{T}{3V}$$

where—

**“T”** means the total of the unimproved values, applicable for the financial year and the previous 2 financial years, for all land for which a valuation under the *Valuation of Land Act 1944* was entered on a valuation roll under that Act at the 30 June immediately before each of the years, being the unimproved values of the land at those times;

**“V”** means the total of the unimproved values, applicable for the financial year, for all land for which a valuation under the *Valuation of Land Act 1944* was entered on a valuation roll under that Act at the 30 June immediately before the year, being the unimproved values of the land at that time.’.

**Amendment of s 8 (Land tax on unimproved value)**

**9.(1)** Section 8, heading, before ‘unimproved value’—

*insert—*

‘relevant’.

**(2)** Section 8, ‘the unimproved value of’—

*omit, insert—*

‘the relevant unimproved value of’.

### **Amendment of s 11 (Taxable value)**

**10.(1)** Section 11(2), (4)(a)(i), (6), (6A) and (6D), before ‘unimproved value’—

*insert—*

‘relevant’.

**(2)** Section 11(2), before ‘unimproved values’—

*insert—*

‘relevant’.

**(3)** Section 11(5)(a) and (b), ‘an exempt proprietary company’—

*omit, insert—*

‘a relevant proprietary company’.

### **Amendment of s 11B (Provisions relating to land comprised in a building units plan etc.)**

**11.(1)** Section 11B(1)(a), (2) and (3A), before ‘unimproved value’—

*insert—*

‘relevant’.

**(2)** Section 11B(1)(c), ‘an unimproved value’—

*omit, insert—*

‘a relevant unimproved value’.

### **Amendment of s 11C (Deduction—home unit companies)**

**12.** Section 11C(1), (1A)(a) and (3)(a), before ‘unimproved value’—

*insert—*

‘relevant’.

**Amendment of s 13 (Land exempted from tax)**

**13.** Section 13(1)(j), before ‘unimproved value’—

*insert—*

‘relevant’.

**Amendment of s 16 (Taxpayer to furnish returns)**

**14.** Section 16(1), before ‘unimproved value’—

*insert—*

‘relevant’.

**Amendment of s 25 (Joint owners)**

**15.** Section 25(2A), ‘an unimproved value’—

*omit, insert—*

‘a relevant unimproved value’.

**Amendment of s 26C (Liability of owner who subdivides certain land)**

**16.** Section 26C(3), before ‘unimproved value’—

*insert—*

‘relevant’.

**Amendment of s 27 (Appeal)**

**17.** Section 27(1A)—

*omit, insert—*

‘**(1A)** However, no right of appeal against an assessment exists under this Act, on the grounds that the relevant unimproved value assigned to an area of land or interest in land is excessive—

- (a) for a case in which the value is an unimproved value—if the value is the value of the area or interest made or caused to be made by the chief executive under the *Valuation of Land Act 1944*; or

- (b) for a case in which the value is an averaged unimproved value—if the value, or each value, used to work out the averaged unimproved value is the value of the area or interest made or caused to be made by the chief executive under the *Valuation of Land Act 1944*.’.

### **Insertion of new s 62**

**18.** After section 61—

*insert—*

### **‘Application of certain amendments**

‘**62.** This Act, as amended by the *Revenue Laws Amendment Act (No. 2) 1996*, part 3, applies to land tax levied for the financial year beginning on 1 July 1997 and each subsequent financial year.’.

## **PART 4—AMENDMENT OF PAY-ROLL TAX ACT 1971**

### **Act amended in pt 4**

**19.** This part amends the *Pay-roll Tax Act 1971*.

### **Amendment of s 3 (Interpretation)**

**20.(1)** Section 3(1)—

*insert—*

‘ **“agent”**, for the definition “employment agent”, means an individual or company (whether or not the individual or company is acting as a trustee).

**“client”**, for the definition “employment agent”, means an individual or company (whether or not the individual or company is acting as a trustee).

**“employment agent”** means an agent that, by an arrangement, procures

(either directly or indirectly through interposed individuals, companies or trusts) the services of an individual (the “**worker**”) for a client (other than the agent or worker) if, under the arrangement—

- (a) the worker does not become the employee of either the agent or the client but does carry out functions similar to the functions of an employee; and
- (b) remuneration is paid, or is payable, (either directly or indirectly) by the agent to—
  - (i) the worker; or
  - (ii) an individual (other than the worker), whether or not as trustee; or
  - (iii) a company, whether or not as trustee;
 for services supplied, or to be supplied, by the worker to the client; and
- (c) the agent receives, or is entitled to receive, (either directly or indirectly) a payment (whether by way of a lump sum or ongoing fee) during or for the period in which the services are supplied by the worker to the client.’.

(2) Section 3(1), definition “**employer**”, ‘for the purposes of the definition “wages”, paragraph (f)’—

omit.

(3) Section 3(1), definition “**wages**”, paragraph (f)—

*omit, insert—*

‘(f) remuneration mentioned in the definition “employment agent”, paragraph (b); and’.

### **Insertion of new s 11E**

**21.** Part 3, after section 11D—

*insert—*

### **‘Avoidance arrangements involving employment agents**

**‘11E.(1)** This section applies if—

- (a) an avoidance arrangement exists in relation to an employment agency in a return period; and
- (b) the assumed non-adjusted tax for the period is less than the assumed adjusted tax for the period.

‘(2) If this section applies in a return period, for the period—

- (a) if the avoidance arrangement involves an employment agent acting as trustee for a client of the employment agent under a trust or acting as agent for a client of the employment agent under an agency agreement—section 42(1)(a), (b) and (f) does not apply to the trustee or agent, or in relation to the trust or agency agreement; and
- (b) if the avoidance arrangement involves a client of an employment agent acquiring, or clients of an employment agent jointly acquiring, a controlling interest in the business of the employment agent referable to the client or clients—the client or clients is or are taken not to have the controlling interest; and
- (c) the employment agent, or each employment agent, involved in the employment agency is answerable as an employer for doing everything required to be done under this Act for the payment of wages by the employment agent that are subject to pay-roll tax under this Act (including the giving of returns and payment of pay-roll tax); and
- (d) if the employment agency involves more than 1 employment agent—the employment agents constitute a group.

‘(3) For this section, a client has, or clients have, a controlling interest in a business if the client has, or the clients have, a controlling interest in the business under section 16D.<sup>2</sup>

‘(4) In subsection (1)—

- (a) a reference to the assumed non-adjusted tax for a return period is a reference to the total amount of pay-roll tax that would be payable by the employment agent or agents involved in the employment agency for the period if the amount were calculated without applying any resultant provision; and

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<sup>2</sup> Section 16D (Grouping of commonly controlled businesses)

- (b) a reference to the assumed adjusted tax for a return period is a reference to the total amount of pay-roll tax that would be payable by the employment agent or agents involved in the employment agency for the period if the amount were calculated applying each relevant resultant provision.

‘(5) To remove any doubt about the application of subsection (4)(b), it is declared that if an employment agency is involved in more than 1 avoidance arrangement in a return period, subsection (4)(b) is to be applied by first applying each relevant resultant provision to each avoidance arrangement and then calculating the total amount for the subsection.

‘(6) In this section—

**“avoidance arrangement”** means an arrangement involving an employment agency if the arrangement involves 1 or more of the following—

- (a) an employment agent acting as trustee for a client of the employment agent under a trust;
- (b) an employment agent acting as agent for a client of the employment agent under an agency agreement;
- (c) a client of an employment agent acquiring, or clients of an employment agent jointly acquiring, a controlling interest in the business of the employment agent referable to the client or clients.

**“client”** includes an individual or company that is related to the client—

- (a) in a way mentioned in the *Stamp Act 1894*, section 56FA(3);<sup>3</sup> or
- (b) in another way prescribed under a regulation.

**“employment agency”** means a business enterprise involving—

- (a) the business of an employment agent; or
- (b) the businesses of 2 or more employment agents.

**“resultant provision”** means subsection (2), paragraph (a), (b), (c) or (d).’.

<sup>3</sup> Section 56FA (Interpretation)

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## PART 5—AMENDMENT OF STAMP ACT 1894

### Act amended in pt 5

22. This part amends the *Stamp Act 1894*.

### Amendment of s 2 (Definitions)

23.(1) Section 2(1)—

*insert—*

‘ “**CUFS**” means a security, issued by or for CHESSE Depository Nominees Pty Ltd (A.C.N. 017 346 506), that represents a beneficial interest in—

- (a) a share, or right in respect of shares, that—
  - (i) is held in a foreign company (as defined in section 31B<sup>4</sup>); and
  - (ii) is listed on the market operated by Australian Stock Exchange Limited; or
- (b) a unit in a public unit trust scheme that is listed on the market operated by Australian Stock Exchange Limited.

“**right in respect of shares**” includes—

- (a) a CUFS; and
- (b) a security (other than a CUFS, a unit in a unit trust scheme or a security prescribed under a regulation) that—
  - (i) is listed on a prescribed stock exchange (as defined in section 31B); and
  - (ii) represents a beneficial interest in a marketable security, or right in respect of shares, listed on a prescribed stock exchange (as defined in section 31B).’

(2) Section 2(1)—

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<sup>4</sup> Section 31B (Interpretation)

*insert—*

‘**“approved form”**’ see section 82A.<sup>5</sup>.

### **Amendment of s 2A (Meaning of “full unencumbered value”)**

**24.(1)** Section 2A(3), after ‘marketable security’—

*insert—*

‘or right in respect of shares’.

**(2)** Section 2A(9), ‘(other than stock or marketable security)’—

*omit, insert—*

‘(other than any stock, marketable security or right in respect of shares)’.

**(3)** Section 2A(9), ‘of any stock or marketable security’—

*omit, insert—*

‘of any stock, marketable security or right in respect of shares’.

### **Amendment of s 17 (Mode of calculating ad valorem duty in certain cases)**

**25.(1)** Section 17(1)(b)—

*omit, insert—*

‘(b) any stock, marketable security or right in respect of shares;’.

**(2)** Section 17(1), ‘the stock or security’—

*omit, insert—*

‘the stock, security or right’.

### **Amendment of s 31A (Transfers of marketable securities and share rights)**

**26.** Section 31A(1A), ‘or marketable security’—

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<sup>5</sup> Section 82A (Approval of forms)

*omit, insert—*

‘, marketable security or right in respect of shares’.

**Amendment of s 31H (Duty on transactions on registers of Queensland incorporated companies)**

**27.** Section 31H(1) and (3)(a), after ‘marketable security’—

*insert—*

‘or right in respect of shares’.

**Amendment of s 31K (Application of CHESS provisions)**

**28.(1)** Section 31K, after ‘marketable securities’—

*insert—*

‘or rights in respect of shares’.

**(2)** Section 31K(c)(ii), after ‘scheme’—

*insert—*

‘, or a CUFS in a unit in a public unit trust scheme.’.

**Amendment of s 31N (Record of SCH-regulated transfers)**

**29.** Section 31N(3)(e) and (f), after ‘marketable security’—

*insert—*

‘or right in respect of shares’.

**Amendment of s 31X (Liability to account for duty for a security loan or security lending scheme for more than 1 year)**

**30.** Section 31X(1)(b), after ‘marketable security’—

*insert—*

‘or right in respect of shares’.

**Amendment of s 50 (How ad valorem duty to be calculated in respect of stock and securities)**

**31.(1)** Section 50, heading, ‘stock and securities’—

*omit, insert—*

‘stock, marketable securities and share rights’.

**(2)** Section 50(1), ‘any stock or marketable security’—

*omit, insert—*

‘any stock, marketable security or right in respect of shares’.

**(3)** Section 50(1), ‘the stock or security’—

*omit, insert—*

‘the stock, security or right’.

**(4)** Section 50(2), after ‘marketable security’—

*insert—*

‘or right in respect of shares’.

**(5)** Section 50(2), after ‘the security’—

*insert—*

‘or right’.

**Insertion of new s 82A**

**32.** After section 82—

*insert—*

**‘Approval of forms**

**‘82A.** The commissioner may approve forms for use under this Act.’.

**Insertion of new s 86**

**33.** After section 85—

*insert—*

**‘Transitional provision about forms**

**‘86.(1)** This section applies if—

- (a) immediately before its commencement, there was a prescribed form, or a form approved by the commissioner, for a matter; and
- (b) on the commencement, there is to be an approved form for the matter or a form may be approved for the matter.

**‘(2)** Until there is an approved form for the matter, the form that was the prescribed form, or the form approved by the commissioner, for the matter immediately before the commencement is taken to be the approved form for the matter.

**‘(3)** This section expires 1 year after it commences.’.

**Amendments about forms**

**34.(1)** Sections 22(7)(d), (12)(b) and (13)(a), 26(12), 31D(1)(a), 31J(4)(a), 35A(4), 35B(1)(a), 35B(1AC), 46F(1) and (2), 55A(2F), 56FD(1), 56FH(4), 56FJ(1), 57A(3), 64B(3)(a) and 75(2), ‘prescribed’—

*omit, insert—*

‘approved’.

**(2)** Section 22(14), definition “prescribed form”—

*omit.*

**(3)** Section 26(4), ‘the prescribed form of requisition for impressed duty stamps in respect of the instrument’—

*omit, insert—*

‘the approved form for the instrument’.

**(4)** Section 26(6), ‘the said prescribed form’—

*omit, insert—*

‘the approved form’.

**(5)** Section 29A(3), ‘, in the prescribed form,’—

*omit.*

**(6)** Section 31D(1)(aa), ‘the prescribed form, or until a form is

prescribed, in a form acceptable to the commissioner, with the commissioner’—

*omit, insert*—

‘the approved form’.

(7) Sections 31Q(1)(a), 31X(2) and 54AC(3), ‘form approved by the commissioner’—

*omit, insert*—

‘approved form’.

(8) Section 31U(1)(a)—

*omit, insert*—

‘(a) lodge a return in the approved form; and’.

(9) Section 32A(4), ‘such form as may be prescribed’—

*omit, insert*—

‘the approved form’.

(10) Section 35A(3), ‘prescribed form or in a form to the like effect’—

*omit, insert*—

‘approved form’.

(11) Sections 35H(1) and 84(1), ‘accordance with the prescribed form and manner’—

*omit, insert*—

‘the approved form and in the way prescribed under a regulation’.

(12) Sections 42B(2) and (5) and 56FC(1)(a), ‘a form approved by the commissioner’—

*omit, insert*—

‘the approved form’.

(13) Sections 54A(2) and (3) and 54AB(2), ‘prescribed form’ to ‘information’—

*omit, insert*—

‘approved form’.

(14) Section 56FI(1), ‘, which shall be in the prescribed form’—

*omit, insert—*

‘in the approved form’.

### **Amendment of sch 1 (Stamp duties on instruments)**

**35.(1)** Schedule 1, under the heading ‘Application for registration or application for transfer of registration of a motor vehicle’, exemption 5(b)—

*omit, insert—*

‘(b) a local government, a regional health authority established under the *Health Services Act 1991*, the Queensland Ambulance Service or the Queensland Fire and Rescue Authority;’.

(2) Schedule 1, under the heading ‘Conveyance or transfer’, paragraph (2A)(c), after ‘unit trust scheme’—

*insert—*

‘, or a right in respect of shares (being a right of a kind mentioned in section 2(1), definition “right in respect of shares”, paragraph (a) or (b) that relates to a unit in a public unit trust scheme,’.

(3) Schedule 1, under the heading ‘Conveyance or transfer’, exemptions—

*insert—*

‘**18.** A transfer of a marketable security or right in respect of shares to or from CHES Depositary Nominees Pty Ltd (A.C.N. 017 346 506) that—

(a) relates to the issue or redemption of a CUFS in the marketable security or right in respect of shares; and

(b) is entered into in the ordinary course of business.’.

(4) Schedule 1, under the heading ‘Lease’, exemption 1—

*omit, insert—*

‘**1.(1)** A lease, agreement or other document made for the lease of premises as a private dwelling house.

‘(2) A relevant agreement under the *Mobile Homes Act 1989*.<sup>6</sup>

‘(3) Subsections (1) and (2) apply only if—

- (a) the premises are, or, for a relevant agreement, the mobile home is, used for the purpose of residence; and
- (b) the premises are not, or the mobile home is not, used for carrying on any profession, trade, business or commercial venture in the premises or mobile home.’

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<sup>6</sup> *Mobile Homes Act 1989*, section 3(1)—

- “**relevant agreement**” means an agreement under which a person is entitled—
- (a) to position a mobile home on a site; and
  - (b) to occupy the mobile home as the person’s only or principal place of residence.