

EXPLANATORY STATEMENT

Issued by the Minister for Health

A New Tax System (Goods and Services Tax) Act 1999

GST-free Supply (Drugs and Medicinal Preparations) Determination 2015

The purpose of the *GST-free Supply (Drugs and Medicinal Preparations) Determination 2015* (“this Determination”) is to renew the grant of GST-free status to packs containing 25 or less tablets (small packs) of analgesics containing aspirin, ibuprofen and paracetamol, effective from 1 October 2015. Small packs of analgesics can be sold outside pharmacy settings, such as supermarkets, as they are not restricted for supply under the *Standard for the Uniform Scheduling of Medicines and Poisons*, which is implemented under State and Territory legislation. Since the commencement of the GST-regime in 2000, these items have been made GST-free in the interest of consistency, as larger packs of analgesics sold in pharmacies (whether or not through the Pharmaceutical Benefits Scheme (PBS)) have been GST-free.

Subsection 38-50(5) of the *A New Tax System (Goods and Services Tax) Act 1999* provides that packs of analgesics which are GST-free when sold in larger quantities can also be GST-free if the Health Minister makes a Determination, see paragraph 38-50(5)(b), along with subsection 177-10(4).

Small packs of analgesics containing aspirin and paracetamol were granted GST-free status by the *GST-free Supply (Drugs and Medicinal Preparations) Determination 2000 (No. 2)*. That Instrument was succeeded by the *GST-free Supply (Drugs and Medicinal Preparations) Determination 2004 (No. 2)*, which extended GST-free status to small packs of analgesics containing ibuprofen. The 2004 Instrument is set to sunset on 1 October 2015. This Determination is substantially the same as the 2004 Instrument.

The Office of Best Practice Regulation has advised that a Regulatory Impact Statement is not required.

Consultation

The 2000 and 2004 Instruments referred to above were endorsed by the Federal Treasurer and all the State and Territory Treasurers in accordance with clause 34 of the Intergovernmental Agreement on the Reform of Commonwealth-State Financial Relations (IGA). Further consultation with State and Territory Treasurers on this Determination was unnecessary and not undertaken as the Determination does not substantially alter existing arrangements and will continue to give effect to the agreement made under the IGA with respect to small packs of analgesics.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

GST –free Supply (Drugs and Medicinal preparations) Determination 2015

The *GST-free Supply (Drugs and Medicinal Preparations) Determination 2015* (“this Determination”) is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Determination

The purpose of this Determination is to renew the GST-free status of small packs of analgesics containing aspirin, ibuprofen and paracetamol.

A New Tax System (Goods and Services Tax) Act 1999 (the GST Act) provides that drugs and medicines are GST-free if they are supplied under the Pharmaceutical Benefits Scheme (PBS). The GST Act also provides, in effect, that drugs and medicines supplied outside the PBS will also be GST-free if they come within the scope of Schedules 2, 3, 4 and 8 in both *Standard for the Uniform Scheduling of Medicines and Poisons* and the current *Poisons Standard*.

Small packs of analgesics containing aspirin and paracetamol were made GST-free by the *GST-free Supply (Drugs and Medicinal Preparations) Determination 2000 (No. 2)*. That Instrument was succeeded by the *GST-free Supply (Drugs and Medicinal Preparations) Determination 2004 (No. 2)*, which extended the GST-free status to small packs of analgesics containing ibuprofen. The 2004 Instrument is set to expire on 1 October 2015.

Human rights implications

This Determination engaged Articles 2 and 12 of the International Covenant on Economic, Social and Cultural Rights by assisting with the progressive realisation by all appropriate means of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

Conclusion

This Determination is compatible with human rights because it advances the protection of human rights.

Minister for Health