

EXPLANATORY STATEMENT

ISSUED BY THE AUTHORITY OF THE MINISTER FOR AGED CARE

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

GST-free Supply (Care) Determination 2017

Authority

Paragraph 177-10(1)(d) of *A New Tax System (Goods and Services Tax) Act 1999* (the GST Act) provides for the Minister for Aged Care to make a determination for the purpose of paragraph 38-30(4)(b) of the GST Act.

Paragraph 38-30(4)(b) of the GST Act covers the provision of GST-free services to aged or disabled people receiving government funded home care services which are similar to care and services that can be provided under the *Home and Community Care Act 1985*.

Purpose

The purpose of the Determination is to allow for care services, which are similar to those that can be provided as GST-free services to aged or disabled people that are targeted persons under the *Home and Community Care Act 1958* and are funded by the Commonwealth, a State or Territory, to be GST-free to the targeted persons who receive those care services.

In particular, the Determination lists specific services which, when provided to targeted persons, are GST-free. It also lists specific services which, when provided to the carers of targeted persons, are GST-free.

Background

The Determination carries on the arrangements made by *GST-free Supply (Care) Determination 2000* (the previous determination), which sunsets on 1 April 2017. The Determination ensures that the care and services made GST-free by the previous determination remain GST-free.

Consultation

The Determination maintains existing arrangements, and so its operation is machinery in nature. Therefore public consultation was not considered to be required. Consultation took place with Treasury.

The Determination commences on 1 April 2017.

The Determination is a legislative instrument for the purposes of the *Legislation Act 2003*.

Details of the GST-free Supply (Care) Determination 2017

1 Name of Determination

Section 1 states the Determination is called the *GST-free Supply (Care) Determination 2017*.

2 Commencement

Section 2 states that the Determination commences on 1 April 2017.

3 Definitions

Section 3 lists the defined terms for the purpose of the Determination.

4 Supply of care to targeted persons

Section 4 provides that the Minister for Aged Care has determined that the supply of care of a kind mentioned in Schedule 1 to targeted persons is GST-free because it is similar to care provided for under the *Home and Community Care Act 1985*.

The note under section 4 is a reminder that the care listed in Schedule 1 is only GST-free when a supplier of that care receives funding from the Commonwealth, or a State or Territory.

5 Supply of care to carer

Section 5 provides that the Minister has determined that the supply of care of a kind mentioned in Schedule 2 that substantially enables the carer to give care to a targeted person is GST-free because it is similar to care provided for under the *Home and Community Care Act 1985*.

The note under section 5 is a reminder that the care listed in Schedule 2 is only GST-free when a supplier of that care receives funding from the Commonwealth, or a State or Territory.

Schedule 1

This Schedule lists the care services which will be GST-free when provided to targeted persons.

Schedule 2

This Schedule lists the care services which will be GST-free when provided to the carers of targeted persons.

Statement of Compatibility with Human Rights

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

GST-free Supply (Care) Determination 2017

The *GST-free Supply (Care) Determination 2017* (the 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 legislative instrument

The *GST-free supply (Care) Determination 2017* (the Determination) provides that certain care services, when provided to aged or disabled persons that are targeted persons under the *Home and Community Care Act 1958* or their carers are GST-free.

Human Rights Implications

The Determination engages the following human rights:

- The right to an adequate standard of living; and
- The right to the enjoyment of the highest attainable standard of physical and mental health.

Specifically, the Determination engages the right to an adequate standard of living and the right to the enjoyment of the highest attainable standard of physical and mental health, as contained in Article 11(1) and Article 12(1) of the International Covenant on Economic, Social and Cultural Rights and Article 28 and Article 25 of the Convention on the Rights of Persons with Disabilities.

The Determination re-makes an existing GST-free determination that sunsets on 1 April 2017. It continues to reduce the cost of providing care services to targeted persons, as well as their carers, by making those services GST-free. By continuing to make care services more affordable to those who need them, it is promoting the right to an adequate standard of living, and the right to the enjoyment of the highest attainable standard of physical and mental health.

Conclusion

The determination is compatible with human rights as it promotes the human right to an adequate standard of living, and the human right to highest standard of physical and mental health.

The Hon Ken Wyatt MP
Minister for Aged Care