

# Plastic Reduction (Single-use Plastic Products) Exemption 2021 (No 1)

## Disallowable instrument DI2021–158

made under the

**Plastic Reduction Act 2021, section 17 (Exemptions – Minister may exempt person or plastic product)**

## EXPLANATORY STATEMENT

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Section 17 of the *Plastic Reduction Act 2021* (the Act) provides that the Minister may exempt a person or a plastic product from provisions of the Act. The Minister may make an exemption on application or on the Minister's own initiative.

The Minister may make an exemption under this clause only if satisfied that:

- it is not practical or in the public interest for the person to comply with the provision; or
- it is not consistent with the person's human rights for the person to comply with the provision; and
- non-compliance will not have any significant adverse effect on public health, property or the environment.

In deciding whether it is not consistent with a person's human rights for the person to comply with the provision, the Minister must comply with section 40B of the *Human Rights Act 2004* (Human Rights Act). Section 40B provides that a public authority (including a Minister) must act consistently with human rights, and must give proper consideration to a relevant human right in making a decision, including a decision of whether or not to exempt a person under section 17 of the Act. A decision is still consistent with human rights if the decision limits human rights but the limitations are reasonably justified under section 28 of the Human Rights Act.

This instrument is not expected to impose any significant impact on a person's human rights.

This instrument acknowledges feedback from impacted businesses indicating that there is no appropriate alternative for single-use plastic soup spoons or expanded polystyrene gelato tubs. There are no non-plastic disposable spoons that have sufficient volume for holding liquid; and there is no expanded-polystyrene alternative to gelato tubs that provide sufficient insulation to allow gelato to be delivered without melting. This does not make it practicable for a person to comply with the provision if these items are banned.

## **Clause notes**

### **1. Name of instrument**

This clause sets out the name of the instrument.

### **2. Commencement**

This clause sets out when the instrument commences.

### **3. Exemption**

This clause sets out the provisions of the Act under which the exemption is made. It also provides that the Minister is satisfied that the requirements for the exemption have been met.

In making this exemption there will likely be only a minor impact on the environment, because these single use plastic items will only make up a relatively small of component of single use plastics compared to the total single use plastics being phased out. In addition, this exemption will expire after 12 months so any environmental impact will be time limited.

### **4. Expiry**

This clause sets out the date that the instrument expires. The exemption is time limited to ensure that due diligence is conducted to test whether alternatives to the single-use plastic products in the schedule exist.

### **Schedule**

The schedule provides a list of the exempt single-use plastic items and a description of these items and the circumstances in which they are exempt.