

Australian Capital Territory

Working with Vulnerable People (Background Checking) Declaration 2024 (No 2)

Disallowable instrument DI2024–300

made under the

Working with Vulnerable People (Background Checking) Act 2011, section 12 (When is a person required to be registered?)

EXPLANATORY STATEMENT

The FIBA Under 15 Oceania Cup (FIBA U15 Cup) is an international youth tournament that qualifies teams for the FIBA Asia Cup and FIBA World Cup Youth events. The FIBA Under 15 Oceania Cup 2024 (the tournament) will be hosted by Basketball Australia—the national governing body for basketball, at the Australian Institute of Sport in Canberra from 11 to 16 November 2024. Nine national federations across Oceania will participate in the tournament.

The *Working with Vulnerable People (Background Checking) Declaration 2024 (No 2)* (the Declaration) exempts international visitors from registration under the Working with Vulnerable People (WWVP) scheme, while engaged in a ‘regulated activity’ for a purpose related to the tournament in the period 8 to 17 November 2024 which includes pre-competition activities and the competition. The definition of a ‘regulated activity’ is prescribed by section 8 of the *Working with Vulnerable People (Background Checking) Act 2011*.

The Declaration must be notified on the Legislation Register and presented to the Legislative Assembly within six (6) sitting days under the *Legislation Act 2001*.

Human rights implications

During the development of this Instrument, due regard was given to its effect in relation to the compatibility with human rights as set out in the *Human Rights Act 2004* (HRA).

The Declaration engages the right to liberty and security of person (section 18 of the HRA) in relation to vulnerable people accessing regulated activities regarding their vulnerability.

The Declaration engages this right because the Commissioner for Fair Trading (the Commissioner) will engage in a higher level of risk by exempting international visitors.

The Declaration does not limit this right because international teams and support personnel are subject to other regulatory obligations, including conditions of entry to Australia and the framework for safeguarding children and young people which applies to all activities organised or authorised by the national governing body for basketball. Exempt individuals are also limited to engaging in a regulated activity for a purpose related to the tournament.

The Commissioner maintains the power to revoke the exemption in relation to any person, where the individual is subsequently assessed as an unacceptable risk of harm to children and vulnerable people. This reduces the risk of potential harm to children and vulnerable people and protects the rights and dignity of vulnerable people by limiting their exposure to people who pose a risk to their safety, welfare and wellbeing.

The Declaration expires on 18 November 2024.