



New South Wales

Civil Liability Regulation 2014

under the

Civil Liability Act 2002

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Civil Liability Act 2002*.

BRAD HAZZARD, MP
Attorney General

Explanatory note

The object of this Regulation is to remake, with minor amendments, the provisions of the *Civil Liability Regulation 2009*, which is repealed on 1 September 2014 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation makes provision with respect to the following:

- (a) the prescribing of certain non-government schools as authorities for the purposes of the *Civil Liability Act 2002*,
- (b) the exclusion of certain civil liabilities from the operation of that Act,
- (c) savings and formal matters.

This Regulation comprises or relates to matters set out in Schedule 3 to the *Subordinate Legislation Act 1989*, namely matters of a machinery nature and matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

This Regulation is made under the *Civil Liability Act 2002*, including sections 3B (3), 41 (definition of *public or other authority*) and 4 (2) (the general regulation-making power).

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1 Name of Regulation

This Regulation is the *Civil Liability Regulation 2014*.

2 Commencement

This Regulation commences on 1 September 2014 and is required to be published on the NSW legislation website.

Note. This Regulation replaces the *Civil Liability Regulation 2009* which is repealed on 1 September 2014 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definition

(1) In this Regulation:

the Act means the *Civil Liability Act 2002*.

(2) Notes included in this Regulation do not form part of this Regulation.

4 Non-government schools

A person or body that conducts a non-government school:

(a) that is registered under Division 3 of Part 7 of the *Education Act 1990*, or

(b) that is exempted from registration under Division 7 of Part 7 of that Act, is prescribed as an authority to which Part 5 of the Act applies in respect of any function exercised by or on behalf of that person or body in connection with the conduct of that school.

5 Proportionate liability

(1) Any civil liability to which Part 4 of the Act would have applied but for this clause is excluded from the operation of that Part, and from the operation of clauses 6 and 13 of Schedule 1 to the Act in their application to that Part, if the liability arose before 26 July 2004.

(2) Subclause (1) does not apply to any civil liability in respect of a building action or subdivision action (within the meaning of Part 4C of the *Environmental Planning and Assessment Act 1979*) commenced on or after 1 December 2004 (even if liability arose before 26 July 2004). Accordingly, Part 4 of the Act applies in respect of such an action.

Note. Clause 8 of Schedule 1 to the Act provides that Part 4 of the Act does not apply to building or subdivision actions commenced before the commencement of Part 4 on 1 December 2004. Section 109ZJ (Apportionment of liability) of the *Environmental Planning and Assessment Act 1979* continues to apply to such actions despite its repeal by the *Civil Liability Amendment (Personal Responsibility) Act 2002*.

6 Saving

Any act, matter or thing that, immediately before the repeal of the *Civil Liability Regulation 2009*, had effect under that Regulation continues to have effect under this Regulation.