



New South Wales

# Civil Liability Regulation 2009

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*.

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Attorney General

## Explanatory note

The object of this Regulation is to remake, with minor amendments, the provisions of the *Civil Liability Regulation 2003* which is repealed on 1 September 2009 by section 10 (2) of the *Subordinate Legislation Act 1989*.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 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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## Civil Liability Regulation 2009

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Civil Liability Act 2002

### 1 Name of Regulation

This Regulation is the *Civil Liability Regulation 2009*.

### 2 Commencement

This Regulation commences on 1 September 2009 and is required to be published on the NSW legislation website.

**Note.** This Regulation replaces the *Civil Liability Regulation 2003* which is repealed on 1 September 2009 by section 10 (2) of the *Subordinate Legislation Act 1989*.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.

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- (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 2003*, had effect under that Regulation continues to have effect under this Regulation.