



New South Wales

Civil Liability Amendment (Proportionate Liability) Regulation 2004

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*.

BOB DEBUS, M.P.,
Attorney General

Explanatory note

The object of this Regulation is to bring the application of the *Civil Liability Act 2002* (*the Act*) into line with Commonwealth legislation in respect of proportionate liability.

Part 4 (Proportionate liability) is inserted into the Act by the *Civil Liability Amendment (Personal Responsibility) Act 2002* (*the amending Act*) and Schedule 1 to the Act provides that the amendments made by the amending Act apply to civil liability arising before the commencement of the amendments, but not to or in respect of proceedings commenced in a court before that commencement.

Schedule 3 to the *Corporate Law Economic Reform Program (Audit Reform and Corporate Disclosure) Act 2004* of the Commonwealth (*the Commonwealth Act*) contains the Commonwealth's provisions in relation to proportionate liability. However, those provisions apply only to causes of action that arise on or after 26 July 2004 (the day on which that Schedule commenced).

The amendments made by this Regulation provide that any civil liability to which Part 4 of the Act would have applied but for the proposed clause is excluded from the operation of that Part, and from clauses 6 and 13 of Schedule 1 to the Act in their application to that Part, if the liability arose before 26 July 2004 (the day on which Schedule 3 to the Commonwealth Act commenced).

This Regulation is made under the *Civil Liability Act 2002*, including sections 3B and 4 (2) (the general regulation-making power).

2004 No 758

Clause 1 Civil Liability Amendment (Proportionate Liability) Regulation 2004

Civil Liability Amendment (Proportionate Liability) Regulation 2004

under the

Civil Liability Act 2002

1 Name of Regulation

This Regulation is the *Civil Liability Amendment (Proportionate Liability) Regulation 2004*.

2 Commencement

This Regulation commences on 1 December 2004.

3 Amendment of Civil Liability Regulation 2003

The *Civil Liability Regulation 2003* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Clause 3)

[1] Clause 1A

Insert after clause 1:

1A Definition

In this Regulation:

the Act means the *Civil Liability Act 2002*.

[2] Clause 2 Non-government schools

Omit “the *Civil Liability Act 2002*”. Insert instead “the Act”.

[3] Clause 3

Insert after clause 2:

3 Proportionate liability

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.