



New South Wales

Civil Liability Regulation 2019

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*.

MARK SPEAKMAN, MP

Attorney General, and Minister for the Prevention of Domestic Violence

Explanatory note

The object of this Regulation is to repeal and remake, with minor amendments, the *Civil Liability Regulation 2014*, which would otherwise be repealed on 1 September 2019 by section 10 (2) of the *Subordinate Legislation Act 1989*.

The Regulation provides that non-government schools and Water NSW are public authorities for the purposes of provisions in the *Civil Liability Act 2002* relating to civil liability in tort and contains a transitional provision relating to the application of proportionate liability provisions in the *Civil Liability Act 2002*.

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

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.

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1 Name of Regulation

This Regulation is the *Civil Liability Regulation 2019*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

Note. This Regulation repeals and replaces the *Civil Liability Regulation 2014*, which would otherwise be repealed on 1 September 2019 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definition

(1) In this Regulation:

the Act means the *Civil Liability Act 2002*.

Note. The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

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

4 Liability of public authorities

The following are prescribed as authorities to which Part 5 of the Act applies:

- (a) a person or body that conducts a non-government school (within the meaning of the *Education Act 1990*), in respect of any function exercised by or on behalf of that person or body in connection with the conduct of that school,
- (b) Water NSW, in respect of any function exercised by or on behalf of Water NSW in the Sydney catchment area (within the meaning of the *Water NSW Act 2014*).

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 the following actions commenced on or after 1 December 2004 (even if liability arose before 26 July 2004):
 - (a) a building action or subdivision action (within the meaning of Part 4C of the *Environmental Planning and Assessment Act 1979* as in force immediately before 1 March 2018),

- (b) a civil action for loss or damage arising out of or in connection with defective building work or defective subdivision work (as referred to in Division 6.6 of Part 6 of the *Environmental Planning and Assessment Act 1979*).
- (3) Part 4 of the Act applies in respect of an action referred to in subclause (2).

6 Repeal and savings

- (1) The *Civil Liability Regulation 2014* is repealed.
- (2) Any act, matter or thing that, immediately before the repeal of the *Civil Liability Regulation 2014*, had effect under that Regulation continues to have effect under this Regulation.