Civil Liability Regulation 2009

under the

Civil Liability Act 2002

[The following enacting formula will be included if this Regulation is made:]

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

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Civil Liability Regulation 2003 which is repealed on 1 September 2009 by section 10 (2) of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.

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).
1 Name of Regulation
This Regulation is the Civil Liability Regulation 2009.

2 Commencement
This Regulation commences on 1 September 2009.
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 This Regulation replaces the Civil Liability Regulation 2003 which is repealed on 1 September 2009 by section 10 (2) of the Subordinate Legislation Act 1989.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 Interpretation
(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
Clause 6 Civil Liability Regulation 2009

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.