



New South Wales

Protection of the Environment Operations Legislation Amendment (Scheduled Activities) Regulation 2019

under the

Protection of the Environment Operations Act 1997

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Protection of the Environment Operations Act 1997*.

MATTHEW KEAN, MP
Minister for Energy and Environment

Explanatory note

Scheduled activities under the *Protection of the Environment Operations Act 1997* are activities for which an environment protection licence (a **licence**) is required.

The objects of this Regulation are as follows:

- (a) to provide that the scheduled activity of cement or lime handling does not apply to concrete batching,
- (b) to provide that the scheduled activity of crushing, grinding or separating does not apply to activities occurring as part of the scheduled activity of railway infrastructure construction or road construction,
- (c) to abolish the distinction between land-based and water-based activities in the scheduled activity of extractive activities and to provide that the scheduled activity applies only to extraction and processing of material where the primary purpose for the activity is the sale of extracted material,
- (d) to clarify the meaning of **dairy animal accommodation** for the purposes of the scheduled activity of livestock intensive activities,
- (e) to include a new scheduled activity of road tunnel emissions (but to limit that activity to emissions into the air from ventilation stacks) and to provide a licence fee for the activity,
- (f) to exclude from the scheduled activity of petroleum products and fuel production the activity of blending additives with fuel at a service station,
- (g) to omit the scheduled activity of railway systems activities and replace it with three separate scheduled activities: railway activities—railway infrastructure construction, railway activities—railway infrastructure operations and railway activities—rolling stock operations,
- (h) to extend the scheduled activity of road construction by including ancillary activities,
- (i) to clarify that the scheduled activity of contaminated soil treatment applies to contaminated sediment,
- (j) to modify the manner of determining the licence fees for the scheduled activities of extractive activities, railway activities—railway infrastructure construction, railway activities—railway infrastructure operations, railway activities—rolling stock operations and road construction,
- (k) to make consequential savings and transitional provisions.

This Regulation is made under the *Protection of the Environment Operations Act 1997*, including sections 5 (3), 52 (1) (a), 57 (1), 286 and 323 (the general regulation-making power).

Protection of the Environment Operations Legislation Amendment (Scheduled Activities) Regulation 2019

under the

Protection of the Environment Operations Act 1997

1 Name of Regulation

This Regulation is the *Protection of the Environment Operations Legislation Amendment (Scheduled Activities) Regulation 2019*.

2 Commencement

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

Schedule 1 Amendment of Protection of the Environment Operations Act 1997 No 156

[1] Schedule 1 Scheduled activities

Insert “, but not if the handling occurs as part of the production of pre-mixed concrete (concrete batching)” after “products” in the definition of *cement or lime handling* in clause 6 (1).

[2] Schedule 1, clause 16 (1A)

Insert after clause 16 (1):

- (1A) However, this clause does not apply to the processing of materials by crushing, grinding or separating that occurs as part of an activity that is declared to be a scheduled activity by:
- (a) clause 33 (Railway activities—railway infrastructure construction), or
 - (b) clause 35 (Road construction).

[3] Schedule 1, clause 19

Omit the clause. Insert instead:

19 Extractive activities

- (1) This clause applies to *extractive activities*, meaning the extraction (by any method, including by excavation, dredging, blasting or tunnelling) or processing of extractive materials for the primary purpose of the sale of extracted material.
- (2) However, this clause does not apply to cut and fill operations, or the excavation of foundations or earthworks, that are ancillary to development that is subject to development consent or approval under the *Environmental Planning and Assessment Act 1979*.
- (3) The activities to which this clause applies are declared to be scheduled activities if they involve the extraction or processing of more than 30,000 tonnes of extractive materials per year.
- (4) More than 30,000 tonnes of material are taken to have been extracted in a year at premises at which extraction occurs if the total amount of extractive material transported from those premises in that year is more than 30,000 tonnes.
- (5) In this clause, *extractive materials* means clay, sand, soil, stone, gravel, rock, sandstone or similar substances that are not minerals within the meaning of the *Mining Act 1992*.

[4] Schedule 1, clause 22 (1)

Omit the definition of *dairy animal accommodation*. Insert in alphabetical order:

dairy animal means an animal used for the production of milk.

dairy animal accommodation, meaning the accommodation of dairy animals in milking facilities for milk production.

milking facilities means free stall complexes, feed pads, loading pads, milking sheds or stand-off areas, but does not include pasture, calving areas or calving sheds.

[5] Schedule 1, clause 22, Table

Omit the matter relating to dairy animal accommodation from Column 2. Insert instead:

capacity to accommodate more than 800 dairy animals at any time

[6] Schedule 1, clause 31A (2)

Omit the subclause. Insert instead:

- (2) However, this clause does not apply to:
 - (a) the activity of blending a fuel with ethanol or biodiesel if that activity is carried on at a petroleum fuel storage terminal and the occupier of those premises is, at the time that activity is carried on, the holder of an environment protection licence that authorises the activity of petroleum products storage (within the meaning of clause 9), or
 - (b) the activity of blending additives with fuel to produce petroleum products if that activity is carried on at a service station and the petroleum products are sold only at that service station.

[7] Schedule 1, clause 31A (4)

Insert after clause 31A (3):

- (4) In this clause:
service station means premises that are used primarily for the fuelling of motor vehicles involving the sale by retail of petrol, oil or other petroleum products.

[8] Schedule 1, clauses 33–33B

Omit clause 33. Insert instead:

33 Railway activities—railway infrastructure construction

- (1) This clause applies to *railway activities—railway infrastructure construction*, meaning the following:
 - (a) the construction of railway infrastructure (including the widening or rerouting of existing railway infrastructure) and any related tunnels, earthworks and cuttings,
 - (b) any extraction of materials necessary for that construction,
 - (c) any on site processing (including crushing, grinding or separating) of any extracted materials or other materials used in that construction.
- (2) The activity to which this clause applies is declared to be a scheduled activity if the activity results in one or more of the following:
 - (a) the extraction or processing (over the life of the construction) of more than:
 - (i) 50,000 tonnes of materials in the case of premises in the regulated area or in the local government areas of Bega Valley, Eurobodalla, Goulburn Mulwaree, Queanbeyan-Palerang Regional or Snowy Monaro Regional, or
 - (ii) 150,000 tonnes of material in any other case,
 - (b) the construction of new railway track that is:
 - (i) in the metropolitan area—3 kilometres or more in length, or
 - (ii) outside the metropolitan area—5 kilometres or more in length.

- (3) For the purposes of calculating the length of a railway track, individual tracks constructed alongside one another are not to be added together.
- (4) In this clause:
railway infrastructure includes, but is not limited to, the following:
 - (a) railway tracks,
 - (b) sleepers and ballasts,
 - (c) embankments, bridges, tunnels and over track structures,
 - (d) signalling equipment.

33A Railway activities—railway infrastructure operations

- (1) This clause applies to *railway activities—railway infrastructure operations*, meaning the operation or the on-site repair, maintenance or replacement of existing railway infrastructure.
- (2) However, this clause does not apply to any of the following:
 - (a) railway activities—railway infrastructure construction to which clause 33 applies,
 - (b) the operation of rolling stock to which clause 33B applies,
 - (c) the operation or on-site repair, maintenance or replacement of existing railway infrastructure used solely by any of the following:
 - (i) light railway vehicles, including trams,
 - (ii) inclined railway vehicles,
 - (iii) monorail vehicles,
 - (iv) railway vehicles that are used solely for heritage purposes,
 - (d) the operation of signalling, communication or train control systems,
 - (e) any activity at any of the following places:
 - (i) a railway station building (including platforms and offices),
 - (ii) a railway workshop,
 - (iii) a freight depot or centre,
 - (iv) a railway fuel depot.
- (3) The activity to which this clause applies is declared to be a scheduled activity if it involves a continuous or connected length of track greater than 30 kilometres that is operated by the same person.
- (4) For the purposes of calculating the length of a railway track, individual tracks constructed alongside one another are not to be added together.
- (5) In this clause, *railway infrastructure* has the same meaning as in clause 33.

33B Railway activities—rolling stock operations

- (1) This clause applies to *railway activities—rolling stock operations*, meaning the operation of rolling stock.
- (2) The activity to which this clause applies is declared to be a scheduled activity if it is carried out on railway infrastructure, the operation of which is a scheduled activity by virtue of clause 33A.
- (3) In this clause:
rolling stock means railway vehicles used or intended to be used to transport passengers or freight for reward but does not include:

- (a) railway vehicles used, or intended to be used, solely for heritage purposes, or
- (b) railway vehicles used, or intended to be used, to construct or maintain railway infrastructure.

[9] Schedule 1, clauses 35 and 35A

Omit clause 35. Insert instead:

35 Road construction

- (1) This clause applies to *road construction*, meaning the following:
 - (a) the construction of roads (including the widening or rerouting of existing roads) and any related tunnels, earthworks and cuttings,
 - (b) any extraction of materials necessary for that construction,
 - (c) any on site processing (including crushing, grinding or separating) of any extracted materials or other materials used in that construction.
- (2) However, this clause does not apply to:
 - (a) the maintenance or operation of any road, or
 - (b) the replacement of part of an existing road.
- (3) The activity to which this clause applies is declared to be a scheduled activity if the activity results in one or more of the following:
 - (a) the extraction or processing (over the life of the construction) of more than:
 - (i) 50,000 tonnes of materials in the case of premises in the regulated area or in the local government areas of Bega Valley, Eurobodalla, Goulburn Mulwaree, Queanbeyan-Palerang Regional or Snowy Monaro Regional, or
 - (ii) 150,000 tonnes of material in any other case,
 - (b) the existence of 4 or more traffic lanes (other than bicycle lanes or lanes used for entry or exit) for a continuous length of at least:
 - (i) 1 kilometre—where the road is in a metropolitan area and is classified, or proposed to be classified, as a freeway or tollway under the *Roads Act 1993*, or
 - (ii) 3 kilometres—where the road is in a metropolitan area and is classified, or proposed to be classified, as a main road (but not a freeway or tollway) under the *Roads Act 1993*, or
 - (iii) 5 kilometres—where the road is not in a metropolitan area and is classified, or proposed to be classified, as a main road, freeway or tollway under the *Roads Act 1993*.

35A Road tunnel emissions

- (1) This clause applies to the emission into the air of any air impurity by way of a ventilation stack from any of the following road tunnels:
 - (a) the Cross City Tunnel, being the eastbound and westbound tunnels connecting the Kings Cross Tunnel with the Western Distributor at Darling Harbour,
 - (b) the Eastern Distributor Tunnel, being the tunnel connecting the Cahill Expressway at Woolloomooloo to Southern Cross Drive at Kensington,
 - (c) the Lane Cove Tunnel, being the tunnel connecting Epping Road at Mowbray Road West with the Gore Hill Freeway,

- (d) the M5 East Tunnel, being the tunnel that forms part of the M5 East Freeway between Bexley Road, Earlwood and Marsh Street, Arncliffe,
 - (e) the M4 East Tunnel, being the eastbound and westbound tunnels that form part of the WestConnex M4 East Project on the M4 East Motorway between Underwood Road, Homebush to near Alt Street, Haberfield,
 - (f) the M5 Tunnel, being the tunnel that forms part of the WestConnex New M5 Project between the M5 East Motorway at Kingsgrove (east of King Georges Road, Beverly Hills) and St Peters,
 - (g) the M4–M5 Link Tunnel, being the tunnel that forms part of the WestConnex M4–M5 Link Project between the M4 East Motorway at Haberfield and the M5 East Motorway at St Peters,
 - (h) the NorthConnex Tunnel, being the northbound and southbound tunnels connecting the M1 Pacific Motorway at Wahroonga and the Hills M2 Motorway at West Pennant Hills,
 - (i) the Sydney Harbour Tunnel, being the tunnel connecting the Warringah Freeway at North Sydney and the Cahill Expressway at the entrance to the Domain Tunnel.
- (2) The activity to which this clause applies is declared to be a scheduled activity.
- (3) The maximum number of ventilation stacks to which a single licence can apply is 10. If a road tunnel has more than 10 ventilation stacks it is to be treated as more than one road tunnel and a separate licence is required for each of those road tunnels.

[10] Schedule 1, clause 50 (1), definition of “contaminated soil”

Omit the definition. Insert instead:

contaminated soil means soil or sediment that contains a substance at a concentration above the concentration at which the substance is normally present in soil or sediment from the same locality, being a presence that presents a risk of harm to human health or any other aspect of the environment, where *harm to the environment* includes any direct or indirect alteration of the environment that has the effect of degrading the environment.

[11] Schedule 1, clause 50 (1), definition of “mobile plant”

Omit “rolling stock”.

Insert instead “railway vehicles used or intended to be used to transport passengers or freight for reward or to maintain railway track and equipment”.

[12] Schedule 1, clause 50 (1), definitions of “regulated area” and “rolling stock”

Omit the definitions. Insert instead:

regulated area means the Greater Sydney Region within the meaning of the *Greater Sydney Commission Act 2015* and the local government areas of Ballina, Bellingen, Byron, Central Coast, Cessnock, Clarence Valley, Coffs Harbour, Dungog, Kempsey, Kiama, Kyogle, Lake Macquarie, Lismore, Maitland, Mid-Coast, Muswellbrook, Nambucca, Newcastle, Port Macquarie-Hastings, Port Stephens, Richmond Valley, Shellharbour, Shoalhaven, Singleton, Tweed, Upper Hunter Shire, Wingecarribee and Wollongong.

Schedule 2 Amendment of Protection of the Environment Operations (General) Regulation 2009

[1] Clause 92 EPA—non-scheduled activities

Omit “or concrete products” wherever occurring in clause 92 (1) (b).

[2] Clause 95A

Insert after clause 95:

95A Road tunnel emissions (licence limited to air pollution from stack)

- (1) Pollution (other than air pollution from a road tunnel ventilation stack) is exempt from the matters that the appropriate regulatory authority is to take into consideration when exercising its licensing functions with respect to a licence for the scheduled activity of road tunnel emissions (a *road tunnel emissions licence*).
- (2) The defences in sections 122 and 142C of the Act for pollution regulated by a licence do not apply if the licence is a road tunnel emissions licence.
- (3) Section 56 (2) of the Act does not apply to a road tunnel emissions licence and in such a case, the premises to which a road tunnel emissions licence applies may be specified as all or part of one or more ventilation stacks (including any associated works) that relate to a single road tunnel (even if those stacks are in separate locations).

[3] Schedule 1 Licensing fees

Omit the matter relating to EXTRACTIVE ACTIVITIES. Insert instead:

EXTRACTIVE ACTIVITIES

Extractive activities (see clause 19 (1) of Schedule 1 to the Act)

1 Units of measure: tonnes

2 Administrative fee

Annual extraction or processing amount	Administrative fee units
---	---------------------------------

More than 30,000 but not more than 50,000 tonnes	15
--	----

More than 50,000 but not more than 100,000 tonnes	50
---	----

More than 100,000 but not more than 500,000 tonnes	135
--	-----

More than 500,000 but not more than 2,000,000 tonnes	335
--	-----

More than 2,000,000 tonnes	600
----------------------------	-----

3 Load-based fee (there are no assessable pollutants and therefore no load-based fee in relation to this activity)

[4] Schedule 1

Insert after the heading “**PETROLEUM EXPLORATION, ASSESSMENT AND PRODUCTION**”:

Petroleum exploration, assessment and production (see clause 31 of Schedule 1 to the Act)

[5] Schedule 1

Insert after the heading “**PETROLEUM PRODUCTS AND FUEL PRODUCTION**”:

Petroleum products and fuel production (see clause 31A of Schedule 1 to the Act)

[6] Schedule 1

Omit the matter relating to RAILWAY SYSTEMS ACTIVITIES. Insert instead:

RAILWAY ACTIVITIES—RAILWAY INFRASTRUCTURE CONSTRUCTION

Railway activities—railway infrastructure construction—where the remaining extraction or processing is less than 50,000 tonnes (see clause 33 (1) of Schedule 1 to the Act)

1 Units of measure: kilometres

2 Administrative fee

Total length of railway track to be constructed	Administrative fee units
--	---------------------------------

Not more than 10 kilometres	50
-----------------------------	----

More than 10 kilometres but not more than 30 kilometres	135
---	-----

More than 30 kilometres	335
-------------------------	-----

3 Load-based fee (there are no assessable pollutants and therefore no load-based fee in relation to this activity)

Railway activities—railway infrastructure construction—where the remaining extraction or processing is 50,000 tonnes or more and the total length of the railway track to be constructed is not more than 10 kilometres (see clause 33 (1) of Schedule 1 to the Act)

1 Units of measure: tonnes

2 Administrative fee

Remaining extraction or processing	Administrative fee units
---	---------------------------------

50,000 tonnes or more, but not more than 100,000 tonnes	50
---	----

More than 100,000 but not more than 500,000 tonnes	135
--	-----

More than 500,000 but not more than 2,000,000 tonnes	335
--	-----

More than 2,000,000 tonnes	600
----------------------------	-----

3 Load-based fee (there are no assessable pollutants and therefore no load-based fee in relation to this activity)

Railway activities—railway infrastructure construction—where the remaining extraction or processing is 50,000 tonnes or more and the total length of the railway track to be constructed is more than 10 kilometres but not more than 30 kilometres (see clause 33 (1) of Schedule 1 to the Act)

1 Units of measure: tonnes

2 Administrative fee

RAILWAY ACTIVITIES—RAILWAY INFRASTRUCTURE CONSTRUCTION

Remaining extraction or processing	Administrative fee units
50,000 tonnes or more, but not more than 500,000 tonnes	135
More than 500,000 but not more than 2,000,000 tonnes	335
More than 2,000,000 tonnes	600

- 3 Load-based fee** (there are no assessable pollutants and therefore no load-based fee in relation to this activity)

Railway activities—railway infrastructure construction—where the remaining extraction or processing is 50,000 tonnes or more and the total length of the railway track to be constructed is more than 30 kilometres (see clause 33 (1) of Schedule 1 to the Act)

- 1 Units of measure: tonnes**

- 2 Administrative fee**

Remaining extraction or processing	Administrative fee units
50,000 tonnes or more, but not more than 2,000,000 tonnes	335
More than 2,000,000 tonnes	600

- 3 Load-based fee** (there are no assessable pollutants and therefore no load-based fee in relation to this activity)
-

RAILWAY ACTIVITIES—RAILWAY INFRASTRUCTURE OPERATIONS

Railway activities—railway infrastructure operations (see clause 33A (1) of Schedule 1 to the Act)

- 1 Units of measure:** (not applicable)

- 2 Administrative fee**

Annual capacity	Administrative fee units
Any capacity	50

- 3 Load-based fee** (there are no assessable pollutants and therefore no load-based fee in relation to this activity)
-

RAILWAY ACTIVITIES—ROLLING STOCK OPERATIONS

Railway activities—rolling stock operations (see clause 33B (1) of Schedule 1 to the Act)

- 1 Units of measure:** (not applicable)

- 2 Administrative fee**

Annual capacity	Administrative fee units
Any capacity	50

RAILWAY ACTIVITIES—ROLLING STOCK OPERATIONS

- 3 Load-based fee** (there are no assessable pollutants and therefore no load-based fee in relation to this activity)
-

[7] Schedule 1

Omit the matter relating to ROAD CONSTRUCTION. Insert instead:

ROAD CONSTRUCTION

Road construction—where the remaining extraction or processing is less than 50,000 tonnes (see clause 35 (1) of Schedule 1 to the Act)

- 1 Units of measure: kilometres**

- 2 Administrative fee**

Total length of road to be constructed	Administrative fee units
Not more than 10 kilometres	50
More than 10 kilometres but not more than 30 kilometres	135
More than 30 kilometres	335

- 3 Load-based fee** (there are no assessable pollutants and therefore no load-based fee in relation to this activity)

Road construction—where the remaining extraction or processing is 50,000 tonnes or more and the total length of the road to be constructed is not more than 10 kilometres (see clause 35 (1) of Schedule 1 to the Act)

- 1 Units of measure: tonnes**

- 2 Administrative fee**

Remaining extraction or processing	Administrative fee units
50,000 tonnes or more, but not more than 100,000 tonnes	50
More than 100,000 but not more than 500,000 tonnes	135
More than 500,000 but not more than 2,000,000 tonnes	335
More than 2,000,000 tonnes	600

- 3 Load-based fee** (there are no assessable pollutants and therefore no load-based fee in relation to this activity)

Road construction—where the remaining extraction or processing is 50,000 tonnes or more and the total length of the road to be constructed is more than 10 kilometres but not more than 30 kilometres (see clause 35 (1) of Schedule 1 to the Act)

- 1 Units of measure: tonnes**

- 2 Administrative fee**

Remaining extraction or processing	Administrative fee units
50,000 tonnes or more, but not more than 500,000 tonnes	135

ROAD CONSTRUCTION

More than 500,000 but not more than 2,000,000 tonnes	335
More than 2,000,000 tonnes	600
3 Load-based fee (there are no assessable pollutants and therefore no load-based fee in relation to this activity)	
Road construction—where the remaining extraction or processing is 50,000 tonnes or more and the total length of the road to be constructed is more than 30 kilometres (see clause 35 (1) of Schedule 1 to the Act)	
1 Units of measure: tonnes	
2 Administrative fee	
Remaining extraction or processing	Administrative fee units
50,000 tonnes or more, but not more than 2,000,000 tonnes	335
More than 2,000,000 tonnes	600
3 Load-based fee (there are no assessable pollutants and therefore no load-based fee in relation to this activity)	

ROAD TUNNEL EMISSIONS

Road tunnel emissions (see clause 35A of Schedule 1 to the Act)

1 Units of measure: (not applicable)	
2 Administrative fee	
Number of ventilation stacks servicing tunnel	Administrative fee units
Not more than 4	1,128
More than 4 but not more than 8	1,692
More than 8 but not more than 10	2,256
Additional fee if a licence has been in force in respect of a ventilation stack for less than 2 years but only in respect of a tunnel referred to in clause 35A (1) (e)–(h) of Schedule 1 to the Act	Administrative fee units
For each such ventilation stack	188
3 Load-based fee (there are no assessable pollutants and therefore no load-based fee in relation to this activity)	

[8] Schedule 8 Savings and transitional provisions

Insert after Part 5:

Part 6 Provisions consequent on commencement of Protection of the Environment Operations

Legislation Amendment (Scheduled Activities) Regulation 2019

16 Definitions

In this Part:

amending regulation means the *Protection of the Environment Operations Legislation Amendment (Scheduled Activities) Regulation 2019*.

commencement day means the day on which the amending regulation commenced.

licence application means an application for a licence or an application to vary a licence.

railway infrastructure construction licence means a licence for the scheduled activity of railway activities—railway infrastructure construction.

railway infrastructure operations licence means a licence for the scheduled activity of railway activities—railway infrastructure operations.

rolling stock operations licence means a licence for the scheduled activity of railway activities—rolling stock operations.

17 Licensing requirements—person not holding existing licence (railways)

For the purposes of section 52 (1) (a) of the Act (and despite clause 47 of this Regulation), the prescribed period is:

- (a) 3 months after the commencement day in the case a person who, because of the amending regulation, is required to be authorised by a railway infrastructure construction licence to continue to carry out any work or activity, or
- (b) 6 months after the commencement day in the case a person who, because of the amending regulation, is required to be authorised by a railway infrastructure operations licence or a rolling stock operations licence to continue to carry out any work or activity.

18 Licensing requirements—person holding existing licence (railways)

- (1) A person who held a licence for the scheduled activity of railway systems activities that was in force immediately before the commencement day is taken, on the commencement day, to hold a railway infrastructure construction licence, a railway infrastructure operations licence and a rolling stock operations licence.
- (2) A person who is taken to hold a licence under this clause is taken to hold that licence:
 - (a) in the case of a railway infrastructure operations licence—until 6 months after the commencement day or if the person makes a relevant licence application before the end of that period that is not determined before the end of that period, when that application is finally determined, or
 - (b) in the case of a rolling stock operations licence taken to be held by an occupier of land referred to in clause 19—until that clause ceases to apply to the occupier.
- (3) Nothing in subclause (2) prevents the earlier suspension, revocation or surrender of a licence referred to in that subclause in accordance with the Act.

- (4) A person who is taken to hold a railway infrastructure construction licence is taken to hold that licence until it is suspended, revoked or surrendered in accordance with the Act.
- (5) Nothing in this clause authorises a person to carry out an activity that the person was not permitted to carry out under the licence for the scheduled activity of railway systems activities held by the person.

19 Operator of rolling stock taken to include land occupier

- (1) In addition to any person who is required to hold a licence under clause 33B of Schedule 1 to the Act in respect of the operation of rolling stock on a track, the occupier of the land on which the track is situated is also required to hold a licence for the operation of that rolling stock.
- (2) This clause ceases to apply to an occupier of land 10 months after the commencement day or on the day on which each person who operates rolling stock on a track on the land holds a licence under clause 33B (whichever occurs first).

20 Licensing requirements for road construction

For the purposes of section 52 (1) (a) of the Act (and despite clause 47 of this Regulation), the prescribed period is 3 months after the commencement day in the case a person who, because of the substitution of clause 35 of Schedule 1 to the Act by the amending regulation, is required to be authorised by a licence to continue to carry out any work or activity.

21 Licensing requirements for road tunnel emissions

- (1) For the purposes of section 52 (1) (a) of the Act (and despite clause 47 of this Regulation), the prescribed period is 6 months after the commencement day in the case of a person who, because of the amending regulation, is required to be authorised by a licence for the scheduled activity of road tunnel emissions to continue to carry out any work or activity.
- (2) Section 52 of the Act and subclause (1) apply to a road tunnel (referred to in clause 35A of Schedule 1 to the Act) that commences to operate as a road tunnel within 6 months after the commencement day in the same way as those provisions apply to a road tunnel that commenced to operate as a road tunnel before the commencement day.