



Queensland

Work Health and Safety (Engineered Stone) Amendment Regulation 2024

Subordinate Legislation 2024 No. 101

made under the

Work Health and Safety Act 2011

Contents

| | | Page |
|---|---|------|
| 1 | Short title | 3 |
| 2 | Commencement | 3 |
| 3 | Regulation amended | 3 |
| 4 | Insertion of new ch 8A | 3 |
| | Chapter 8A Engineered stone, porcelain products and sintered stone | |
| | Part 8A.1 Preliminary | |
| | 529A Meaning of engineered stone | 3 |
| | 529B When work involving processing engineered stone, porcelain products or sintered stone is controlled | 4 |
| | 529C Meaning of processing in relation to engineered stone, porcelain products or sintered stone | 6 |
| | Part 8A.2 Work involving engineered stone benchtops, panels or slabs | |
| | 529D Work involving engineered stone benchtops, panels or slabs—prohibition | 6 |
| | 529E Work involving engineered stone benchtops, panels or slabs—exception for particular supply and installation | 6 |
| | 529F Work involving engineered stone benchtops, panels or slabs—exception for particular processing | 7 |
| | Part 8A.3 Regulator to be notified of particular processing of engineered stone | |
| | 529G Notification of particular processing of engineered stone | 7 |

Contents

| | | | |
|----|-------------|---|----|
| | 529H | Notification of change in information | 8 |
| | 529I | Notification that work continues 12 months after last notice given | 9 |
| | 529J | Duty to keep notice | 10 |
| | Part 8A.4 | Processing engineered stone other than benchtops, panels or slabs | |
| | 529K | Duty to prevent uncontrolled processing of engineered stone other than benchtops, panels or slabs | 10 |
| | Part 8A.5 | Processing porcelain products and sintered stone | |
| | 529L | Duty to prevent uncontrolled processing of porcelain products and sintered stone | 11 |
| 5 | | Amendment of s 676 (Which decisions are reviewable) | 11 |
| 6 | | Amendment of s 684 (General power to grant exemptions) | 11 |
| 7 | | Insertion of new ch 11, pt 11.2, div 3A | 11 |
| | Division 3A | Engineered stone | |
| | 689A | Engineered stone—exemption | 12 |
| | 689B | Engineered stone—application for exemption | 12 |
| | 689C | Engineered stone—notifying persons of application for exemption | 13 |
| | 689D | Engineered stone—regulator to be satisfied about particular matters | 14 |
| | 689E | Safe Work Australia may issue and publish document in relation to exemptions | 15 |
| 8 | | Amendment of s 690 (Application for exemption) | 15 |
| 9 | | Amendment of s 692 (Form of exemption documents) | 15 |
| 10 | | Amendment of s 694 (Notice of decision in relation to exemption) | 16 |
| 11 | | Replacement of s 695 (Publication of notice of exemption) | 16 |
| | 695 | Publication of exemption | 16 |
| 12 | | Amendment of s 698 (Notice of amendment or cancellation) | 16 |
| 13 | | Amendment of sch 19 (Dictionary) | 17 |

1 Short title

This regulation may be cited as the *Work Health and Safety (Engineered Stone) Amendment Regulation 2024*.

2 Commencement

This regulation commences on 1 July 2024.

3 Regulation amended

This regulation amends the *Work Health and Safety Regulation 2011*.

4 Insertion of new ch 8A

After chapter 8—

insert—

Chapter 8A Engineered stone, porcelain products and sintered stone

Part 8A.1 Preliminary

529A Meaning of *engineered stone*

- (1) In this regulation, *engineered stone*—
- (a) is an artificial product that—
 - (i) contains 1% or more crystalline silica, determined as a weight/weight (w/w) concentration; and
 - (ii) is created by combining natural stone materials with other chemical constituents such as water, resins or pigments; and

[s 4]

- (iii) becomes hardened; but
- (b) does not include the following—
 - (i) concrete and cement products;
 - (ii) bricks, pavers and other similar blocks;
 - (iii) ceramic wall and floor tiles;
 - (iv) grout, mortar and render;
 - (v) plasterboard;
 - (vi) porcelain products;
 - (vii) sintered stone;
 - (viii) roof tiles.
- (2) In this section—
 - crystalline silica***—
 - (a) means crystalline polymorphs of silica; and
 - (b) includes the following substances—
 - (i) cristobalite;
 - (ii) quartz;
 - (iii) tridymite;
 - (iv) tripoli.

529B When work involving processing engineered stone, porcelain products or sintered stone is *controlled*

- (1) In this regulation, work involving processing engineered stone, porcelain products or sintered stone is ***controlled*** if—
 - (a) control measures to eliminate or minimise risks arising from the processing of the stone or product are implemented so far as is reasonably practicable; and
 - (b) at least 1 of the following systems is used while the stone or product is processed—

- (i) an effective water delivery system that supplies a continuous feed of water over the stone or product to suppress the generation of dust;
 - (ii) an effective on-tool extraction system;
 - (iii) an effective local exhaust ventilation system; and
- (c) each person who is at risk from the processing of the stone or product—
- (i) is provided with respiratory protective equipment; and
 - (ii) wears the respiratory protective equipment while the work is carried out.

Note—

See also section 351.

(2) In this section—

respiratory protective equipment means personal protective equipment that—

- (a) is designed to prevent a person wearing the equipment from inhaling airborne contaminants; and
- (b) complies with—
 - (i) AS/NZS 1716:2012 (Respiratory protective devices); and
 - (ii) AS/NZS 1715:2009 (Selection, use and maintenance of respiratory protective equipment).

Note—

Sections 44, 45 and 46 apply to the provision and use of personal protective equipment, including the respiratory protective equipment provided under subsection (1)(c).

[s 4]

529C Meaning of *processing* in relation to engineered stone, porcelain products or sintered stone

In this regulation, *processing*, in relation to engineered stone, porcelain products or sintered stone, means using a power tool or other mechanical plant to crush, cut, grind, trim, sand, abrasive polish or drill the stone or product.

Part 8A.2 Work involving engineered stone benchtops, panels or slabs

529D Work involving engineered stone benchtops, panels or slabs—prohibition

A person conducting a business or undertaking must not carry out, or direct or allow a worker to carry out, work that involves manufacturing, supplying, processing or installing engineered stone benchtops, panels or slabs.

Maximum penalty—60 penalty units.

Note—

Under chapter 11, part 11.2, division 3A, work involving a type of engineered stone may be the subject of an exemption from this section.

529E Work involving engineered stone benchtops, panels or slabs—exception for particular supply and installation

Section 529D does not apply to work that involves supplying or installing engineered stone benchtops, panels or slabs if the work is—

- (a) for genuine research and analysis; or
- (b) to sample and identify engineered stone.

529F Work involving engineered stone benchtops, panels or slabs—exception for particular processing

Section 529D does not apply to work that involves processing engineered stone benchtops, panels or slabs if the work—

- (a) is carried out—
 - (i) for genuine research and analysis; or
 - (ii) to sample and identify engineered stone; or
 - (iii) to remove, repair or make minor modifications to installed engineered stone; or
 - (iv) to dispose of the engineered stone, whether it is installed or not; and
- (b) is controlled.

Part 8A.3 Regulator to be notified of particular processing of engineered stone

529G Notification of particular processing of engineered stone

- (1) This section applies if work that involves processing engineered stone benchtops, panels or slabs is carried out—
 - (a) to remove, repair or make minor modifications to installed engineered stone; or
 - (b) to dispose of the engineered stone, whether it is installed or not.
- (2) Before the work is carried out, a person

[s 4]

conducting a business or undertaking carrying out, or directing or allowing a worker to carry out, the work must give the regulator a written notice in the form approved by the regulator—

- (a) stating the work being carried out; and
- (b) describing the type of work being carried out; and
- (c) stating the frequency and duration of the work; and
- (d) stating the other information in relation to the work required by the approved form (if any).

Maximum penalty—36 penalty units.

- (3) A person conducting a business or undertaking does not contravene subsection (2) in relation to work if—
 - (a) the person does not know, and could not reasonably be expected to know, before the work is carried out that the work involves processing engineered stone benchtops, panels or slabs; and
 - (b) as soon as practicable after the person becomes aware that the work involves processing engineered stone benchtops, panels or slabs, the person gives the regulator a written notice under subsection (2) in relation to the work.
- (4) If the regulator receives a notice under subsection (2) or (3), the regulator must give the person conducting the business or undertaking an acknowledgement of receipt of the notice.

529H Notification of change in information

- (1) This section applies if—

- (a) a person conducting a business or undertaking gives a notice under this part in relation to work; and
 - (b) information in the notice changes other than because the work is no longer being carried out.
- (2) A person conducting a business or undertaking carrying out, or directing or allowing a worker to carry out, the work must, within 30 days after the day the change occurs, give the regulator a written notice—
- (a) stating the information has changed; and
 - (b) describing the change to the information.
- Maximum penalty—36 penalty units.
- (3) If the regulator receives a notice under subsection (2), the regulator must give the person conducting the business or undertaking an acknowledgement of receipt of the notice.

529I Notification that work continues 12 months after last notice given

- (1) This section applies if—
- (a) a person conducting a business or undertaking gives a notice under this part in relation to work; and
 - (b) a period of 12 months, beginning on the day the last notice is given under this part about the work, ends; and
 - (c) the work is still being carried out.
- (2) A person conducting a business or undertaking carrying out, or directing or allowing a worker to carry out, the work must, within 30 days after the day the 12-month period ends, give the regulator a written notice stating—
- (a) the work is still being carried out; and

[s 4]

(b) any information, given to the regulator under this part, that has changed.

Maximum penalty—36 penalty units.

(3) If the regulator receives a notice under subsection (2), the regulator must give the person conducting the business or undertaking an acknowledgement of receipt of the notice.

529J Duty to keep notice

A person conducting a business or undertaking who gives the regulator a notice under this part must, for a period of 5 years beginning on the day the notice is given to the regulator—

- (a) keep a copy of the notice; and
- (b) ensure that a copy of the notice is readily accessible; and
- (c) allow a person to access a copy of the notice upon request.

Maximum penalty—36 penalty units.

Part 8A.4 Processing engineered stone other than benchtops, panels or slabs

529K Duty to prevent uncontrolled processing of engineered stone other than benchtops, panels or slabs

(1) A person conducting a business or undertaking must not process, or direct or allow a worker to process, engineered stone unless the processing of the stone is controlled.

Maximum penalty—60 penalty units.

- (2) Subsection (1) does not apply to engineered stone benchtops, panels and slabs.

Part 8A.5 Processing porcelain products and sintered stone

529L Duty to prevent uncontrolled processing of porcelain products and sintered stone

A person conducting a business or undertaking must not process, or direct or allow a worker to process, porcelain products and sintered stone unless the processing is controlled.

Maximum penalty—60 penalty units.

5 Amendment of s 676 (Which decisions are reviewable)

Section 676(1), table 676—

insert—

| | | |
|-----|---|-----------|
| 62A | 689A(1)—Refusal to exempt a particular type of engineered stone from section 529D | Applicant |
|-----|---|-----------|

6 Amendment of s 684 (General power to grant exemptions)

Section 684(4)—

insert—

- (c) section 529D in relation to exempting a type of engineered stone from that section.

7 Insertion of new ch 11, pt 11.2, div 3A

Chapter 11, part 11.2—

insert—

Division 3A Engineered stone

689A Engineered stone—exemption

- (1) The regulator may exempt a type of engineered stone from section 529D.

Note—

A decision to refuse to grant an exemption is a reviewable decision, see section 676.

- (2) A person conducting a business or undertaking is exempt from compliance with section 529D if the work involves a type of engineered stone that is the subject of an exemption granted under—
 - (a) subsection (1); or
 - (b) an equivalent provision of a corresponding WHS law.

689B Engineered stone—application for exemption

- (1) A person with an interest in having an exemption granted under section 689A(1) may apply to the regulator for an exemption.
- (2) However, before the person can apply under subsection (1), the person must give each social partner SWA member—
 - (a) a written notice stating—
 - (i) the person intends to make the application; and
 - (ii) the social partner SWA member may give the person submissions for the regulator about the application within the reasonable period stated in the notice; and
 - (iii) the person must provide the social partner SWA member's submissions to

the regulator as part of the person's application; and

- (b) a copy of the proposed application for the exemption.
- (3) The person's application must be—
- (a) in writing; and
 - (b) accompanied by a copy of the written notice the person gave each social partner SWA member under subsection (2); and
 - (c) accompanied by any submissions received by the person from social partner SWA members under subsection (2).
- (4) In this section—
- social partner SWA members* means—
- (a) the 2 members of Safe Work Australia who represent the interests of workers in Australia; and
 - (b) the 2 members of Safe Work Australia who represent the interests of employers in Australia.

689C Engineered stone—notifying persons of application for exemption

- (1) The regulator must give the application documents for an application for an exemption under section 689A(1) to each corresponding regulator.
- (2) The regulator may also give the application documents for an application for an exemption under section 689A(1) to—
 - (a) an employer organisation that includes employers who engage in work involving engineered stone; or

[s 7]

- (b) a union representing employees whose work includes work involving engineered stone; or
 - (c) a person who has qualifications, knowledge, skills and experience relating to engineered stone.
- (3) In this section—
- application documents***, for an application for an exemption under section 689A(1), means—
- (a) a written notice stating—
 - (i) the regulator has received the application; and
 - (ii) the person receiving the notice may make submissions to the regulator about the application within the reasonable period stated in the notice; and
 - (b) a copy of—
 - (i) the application; and
 - (ii) any submissions accompanying the application under section 689B(3)(c).

689D Engineered stone—regulator to be satisfied about particular matters

- (1) The regulator must not grant an exemption under section 689A(1) unless satisfied that granting the exemption will result in a standard of health and safety that is at least equivalent to the standard that would have been achieved without that exemption.
- (2) For the purposes of subsection (1), the regulator must have regard to all relevant matters, including—

-
- (a) any submissions accompanying the application under section 689B(3)(c) or received under section 689C; and
 - (b) whether the regulator is satisfied that, if the exemption were granted, the risk associated with the type of engineered stone that is the subject of the application would not be significant; and
 - (c) if Safe Work Australia publishes a document under section 689E—the relevant matters contained in the document.

689E Safe Work Australia may issue and publish document in relation to exemptions

- (1) Safe Work Australia may issue a document setting out the matters to be considered when granting an exemption under this division.
- (2) Safe Work Australia must publish the document on Safe Work Australia’s website.

8 Amendment of s 690 (Application for exemption)

Section 690, notes—

insert—

- 3 See also section 689B in relation to an application to exempt a type of engineered stone from section 529D.

9 Amendment of s 692 (Form of exemption documents)

Section 692(b), ‘apply;’—

omit, insert—

apply, if applicable;

[s 10]

10 Amendment of s 694 (Notice of decision in relation to exemption)

Section 694—

insert—

- (2) If the regulator grants an exemption under section 689A(1), the regulator must notify each corresponding regulator that the exemption is granted.

11 Replacement of s 695 (Publication of notice of exemption)

Section 695—

omit, insert—

695 Publication of exemption

- (1) This section applies to an exemption that—
 - (a) relates to a class of persons; or
 - (b) is granted under section 689A(1).
- (2) The regulator must publish a copy of the exemption—
 - (a) on the regulator’s website; and
 - (b) in the gazette.
- (3) If the regulator grants an exemption under section 689A(1), the regulator must publish on the regulator’s website the reasons for the decision within 14 days after the day the exemption is granted.

Editor’s note—

The exemptions may also be viewed on Safe Work Australia’s website.

12 Amendment of s 698 (Notice of amendment or cancellation)

- (1) Section 698(1)(b), before ‘subsection’—

insert—

whom

(2) Section 698(2), after ‘persons,’—

insert—

or is granted under section 689A(1),

13 Amendment of sch 19 (Dictionary)

Schedule 19—

insert—

controlled, in relation to work involving processing engineered stone, porcelain products or sintered stone, see section 529B.

engineered stone see section 529A.

porcelain product does not include a product that contains resin.

processing, in relation to engineered stone, porcelain products or sintered stone, see section 529C.

sintered stone does not include a product that contains resin.

ENDNOTES

- 1 Made by the Governor in Council on 27 June 2024.
- 2 Notified on the Queensland legislation website on 28 June 2024.
- 3 The administering agency is the Department of State Development and Infrastructure.

© State of Queensland 2024