

Work Health and Safety (Codes of Practice) (Stone Benchtop Industry) Amendment Notice 2019

Explanatory notes for SL 2019 No. 190

made under the
Work Health and Safety Act 2011

General Outline

Short title

Work Health and Safety (Codes of Practice) (Stone Benchtop Industry) Amendment Notice 2019

Authorising law

Section 274(4) of the *Work Health and Safety Act 2011*

Policy objectives and the reasons for them

On 18 September 2018 the Minister for Education and Minister for Industrial Relations made a Parliamentary announcement alerting the community to safety concerns around worker exposure to respirable crystalline silica in the stone benchtop industry and announced the development of a new code of practice to support industry to meet the minimum standard required to manage worker exposure to respirable crystalline silica.

The Minister made this announcement immediately after becoming aware of the work health and safety implications revealed by the compliance audits undertaken by the Office of Industrial Relations across stone benchtop fabrication businesses in South East Queensland. The audits uncovered high rates of worker exposure to respirable crystalline silica occurring as a result of wide spread non-compliance across the industry with Queensland's existing work health and safety requirements and revealed a lack of maturity in health and safety across the industry.

The *Managing respirable crystalline silica dust exposure in the stone benchtop industry Code of Practice 2019* sets minimum health and safety standards to be followed as per section 26A of the *Work Health and Safety Act 2011* which explicitly requires persons conducting a business or undertaking to comply with approved codes of practice unless an equivalent or higher standard is implemented. Specifically, the code sets minimum safety standards for:

- dust control methods to eliminate or minimise respirable crystalline silica dust being generated during the mechanical processing of engineered or natural stone;
- the selection and use of appropriate respirable protective equipment to adequately protect worker health; and

- air monitoring and health monitoring of workers to verify and routinely check that dust controls are effective and worker health is monitored to identify any changes in their health status.

Achievement of policy objectives

This notice achieves the policy objectives by making the code.

Consistency with policy objectives of authorising law

Making the code is consistent with the object of the *Work Health and Safety Act 2011* to provide a framework for continuous improvement and progressively higher standards of work health and safety.

Inconsistency with policy objectives of other legislation

No inconsistencies with policy objectives other legislation have been identified.

Alternative ways of achieving policy objectives

The policy objective can only be achieved by this notice.

Benefits and costs of implementation

The requirements of the code do not go beyond the scope of existing regulatory requirements and assists in providing clarity on how these requirements should be implemented in practice during stone benchtop fabrication. The code also provides certainty for workers about how this work can be carried out safely.

Some fabrication businesses may incur costs when implementing the minimum standards outlined in the code, however these costs are associated with meeting existing health and safety duties. It should be noted that compliant fabrication businesses will already have appropriate systems and equipment in place to control respirable crystalline silica dust hazards and conduct air monitoring and health monitoring, although not in a consistent or necessarily safe manner.

Consistency with fundamental legislative principles

This notice does not conflict with the fundamental legislative principles.

Consultation

A tripartite stakeholder working group developed the code with representatives from:

- Affected Families Committee
- Australian Industry Group
- Australian Manufacturing Workers' Union
- Australian Stone Advisory Association
- Baron Forge Group
- Caesarstone
- Chamber of Commerce and Industry Queensland

- Construction, Forestry, Mining, Maritime and Energy Union
- Cosentino Group
- Electrical Trades Union
- Halifax Vogel Group Ltd
- Housing Industry Association
- Laminex Australia
- Lung Foundation Australia
- Master Builders Queensland
- Occupational physicians representing the Workers' Compensation Regulator and the University of Queensland, the Royal Australian College of Physicians and the Australasian Faculty of Occupational and Environmental Medicine
- Plumbing and Pipe Trades Employees Union QLD/NT
- Queensland Health
- The Thoracic Society of Australia & New Zealand
- Ultimate Splashbacks & Counters Pty Ltd
- WorkCover Queensland.

There was broad support for the code from the stakeholder working group and other key stakeholders consulted on the code. In addition, the Australian Institute of Occupational Hygienists and the Department of Natural Resources, Mines and Energy were also consulted during the code's development and support the code.

The Office of Best Practice Regulation was consulted and advised a consultation regulatory impact statement was not required.

Notes on Provisions

Short Title

Clause 1 provides the short title of the notice.

Commencement

Clause 2 provides the notice commences on 31 October 2019.

Amendment of the Work Health and Safety (Codes of Practice) Notice 2011

Clause 3 provides the notice amends the *Work Health and Safety (Codes of Practice) Notice 2011*.

Clause 4 inserts a new item at 19A of Schedule 1 - *Managing respirable crystalline silica dust exposure in the stone benchtop industry Code of Practice 2019* with a commencement date of 31 October 2019, approved as a code of practice by MI 2019 No. 2. Clause 4 also renumbers entries 19A to 41 of Schedule 1 to entries 20 to 42.

Clause 5 amends Schedule 3 (Dictionary) to insert the definition of MI 2019 No 2 as meaning the ministerial instrument titled 'Work Health and Safety Approval of Code of Practice (No. 1) 2019'.