

TASMANIA

**WORK HEALTH AND SAFETY AMENDMENT
(ENGINEERED STONE) REGULATIONS 2024**

STATUTORY RULES 2024, No. 30

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**WORK HEALTH AND SAFETY AMENDMENT
(ENGINEERED STONE) REGULATIONS 2024**

I, the Governor in and over the State of Tasmania and its Dependencies in the Commonwealth of Australia, acting with the advice of the Executive Council, make the following regulations under the *Work Health and Safety Act 2012*.

Dated 20 June 2024.

B. BAKER
Governor

By Her Excellency's Command,

M. OGILVIE
Minister for Small Business and Consumer Affairs

1. Short title

These regulations may be cited as the *Work Health and Safety Amendment (Engineered Stone) Regulations 2024*.

2. Commencement

These regulations take effect on 1 July 2024.

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3. Principal Regulations

In these regulations, the *Work Health and Safety Regulations 2022** are referred to as the Principal Regulations.

4. Regulation 5 amended (Interpretation)

Regulation 5(1) of the Principal Regulations is amended as follows:

- (a) by inserting the following definition after the definition of *contaminant*:

controlled, in relation to work involving processing engineered stone, porcelain products or sintered stone – see regulation 529B(1);

- (b) by inserting the following definition after the definition of *emergency service worker*:

engineered stone see regulation 529A(1);

- (c) by inserting the following definition after the definition of *platform height*:

porcelain product does not include a porcelain product that contains resin;

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- (d) by inserting the following definition after the definition of *principal contractor*:

processing, in relation to work involving processing engineered stone, porcelain products or sintered stone – see regulation 529C;

- (e) by inserting the following definition after the definition of *signal word*:

sintered stone does not include a sintered stone product that contains resin;

5. Chapter 8A inserted

After regulation 529 of the Principal Regulations, the following Chapter is inserted:

**CHAPTER 8A – ENGINEERED STONE,
PORCELAIN PRODUCTS AND SINTERED
STONE
PART 8A.1 – PRELIMINARY**

529A. Meaning of engineered stone

- (1) In these regulations –

engineered stone –

- (a) is an artificial product that –

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- (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
 - (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 regulation –

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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 these regulations, 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 one of the following systems is used while the stone or product is processed:

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- (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 regulation 351.

(2) In this regulation –

respiratory protective equipment
means personal protective equipment that –

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- (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

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

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

In these regulations, *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.

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**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.

Penalty: In the case of –

- (a) an individual, a fine not exceeding \$3 600; or
- (b) a body corporate, a fine not exceeding \$18 000.

Note

Under Part 11.2, Division 3A, work involving a type of engineered stone may be the subject of an exemption from this regulation.

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

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

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- (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**

Regulation 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.

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**PART 8A.3 – REGULATOR TO BE NOTIFIED OF
PARTICULAR PROCESSING OF ENGINEERED
STONE**

**529G. Notification of particular processing of
engineered stone**

- (1) This regulation 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 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 a form approved by the regulator –
 - (a) stating the work to be carried out; and
 - (b) describing the type of work to be carried out; and
 - (c) stating the frequency and duration of the work; and

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- (d) stating the other information in relation to the work required by the approved form (if any).

Penalty: In the case of –

- (a) an individual, a fine not exceeding \$6 000; or
 - (b) a body corporate, a fine not exceeding \$30 000.
- (3) Subregulation (2) does not apply to a person conducting a business or undertaking if –
- (a) the person conducting the business or undertaking 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 conducting the business or undertaking becomes aware that the work involves processing engineered stone benchtops, panels or slabs, the person gives the regulator a written notice under subregulation (2) in relation to the work.

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- (4) If the regulator receives a notice under subregulation (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 given under Part 8A.3

- (1) If the information given to the regulator in a written notice under this Part in relation to work changes (other than because the work is no longer being carried out), a person conducting a business or undertaking carrying out, or directing or allowing a worker to carry out, the work must, within the period ending 30 days after the day on which the change occurs, give the regulator a written notice –
 - (a) stating that the information has changed; and
 - (b) describing the change to the information.

Penalty: In the case of –

- (a) an individual, a fine not exceeding \$6 000; or
- (b) a body corporate, a fine not exceeding \$30 000.

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- (2) If the regulator receives a notice under subregulation (1), 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 under Part 8A.3

- (1) This regulation 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 on which the last notice is given 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 the period of 30 days ending after the day the 12-month period ends, give the regulator a written notice stating –
 - (a) that the work is still being carried out; and
 - (b) any information given to the regulator that has changed.

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Penalty: In the case of –

- (a) an individual, a fine not exceeding \$6 000; or
 - (b) a body corporate, a fine not exceeding \$30 000.
- (3) If the regulator receives a notice under subregulation (2), the regulator must give the person conducting the business or undertaking an acknowledgement of receipt of the notice.

529J. Duty to keep notice given under Part 8A.3

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 on which 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.

Penalty: In the case of –

- (a) an individual, a fine not exceeding \$6 000; or

- (b) a body corporate, a fine not exceeding \$30 000.

**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) This regulation does not apply to engineered stone benchtops, panels and slabs.
- (2) 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.

Penalty: In the case of –

- (a) an individual, a fine not exceeding \$3 600; or
- (b) a body corporate, a fine not exceeding \$18 000.

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**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.

Penalty: In the case of –

- (a) an individual, a fine not exceeding \$3 600; or
- (b) a body corporate, a fine not exceeding \$18 000.

**6. Regulation 676 amended (Which decisions under
these regulations are reviewable)**

Regulation 676(1)(b) of the Principal Regulations is amended by inserting after item 65 in the table the following item:

- 65A. 689A(1) – Refusal to exempt a Applicant particular type of engineered stone from regulation 529D

7. Regulation 684 amended (General power to grant exemptions)

Regulation 684(4) of the Principal Regulations is amended as follows:

- (a) by omitting from paragraph (b) “facility.” and substituting “facility; or”;
- (b) by inserting the following paragraph after paragraph (b):
 - (c) regulation 529D in relation to exempting a type of engineered stone from that regulation.

8. Chapter 11, Part 11.2, Division 3A inserted

After regulation 689 of the Principal Regulations, the following Division is inserted in Part 11.2:

Division 3A – Engineered stone

689A. Engineered stone – exemption

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

Note

A decision to refuse to grant an exemption is a reviewable decision (see regulation 676).

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

689B. Engineered stone – application for exemption

- (1) In this regulation –
- 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.
- (2) A person with an interest in having an exemption granted under regulation 689A(1) may apply to the regulator for an exemption.

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- (3) However, before the person can apply under subregulation (2), the person must give each social partner SWA member –
- (a) a written notice stating that –
 - (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.
- (4) The person's application must be –
- (a) in writing; and
 - (b) accompanied by the written notice the person gives each social partner SWA member under subregulation (3); and

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- (c) accompanied by any submissions received by the person from social partner SWA members under subregulation (3).

689C. Engineered stone – notifying persons of application for exemption

- (1) In this regulation –

application documents, in relation to an application for an exemption under regulation 689A(1), means –

- (a) a written notice stating that –
 - (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 set out in the notice; and
- (b) a copy of –
 - (i) the application; and
 - (ii) any submissions that the regulator receives in relation to the application

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under regulation
689B(4)(c).

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

689D. Engineered stone – regulator to be satisfied about certain matters

- (1) The regulator must not grant an exemption under regulation 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

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have been achieved without that exemption.

- (2) For the purposes of subregulation (1), the regulator must have regard to all relevant matters, including –
 - (a) any submissions received under regulation 689B(4)(c) or 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 regulation 689E, the relevant matters contained in the document.

689E. Safe Work Australia may issue and publish documents 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 the Safe Work Australia website.

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Note

See the Safe Work Australia website (<https://www.safeworkaustralia.gov.au>).

9. Regulation 692 amended (Form of exemption document)

Regulation 692(b) of the Principal Regulations is amended by inserting “, if applicable” after “apply”.

10. Regulation 694 amended (Notice of decision in relation to exemption)

Regulation 694 of the Principal Regulations is amended as follows:

- (a) by renumbering the text of the regulation as subregulation (1);
- (b) by inserting the following subregulation after subregulation (1):
 - (2) If the regulator grants an exemption under regulation 689A(1), the regulator must notify each corresponding regulator that the exemption is granted.

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11. Regulation 695 substituted

Regulation 695 of the Principal Regulations is rescinded and the following regulation is substituted:

695. Publication of notice of exemption

- (1) This regulation applies to an exemption that –
 - (a) relates to a class of persons; or
 - (b) is granted under regulation 689A(1).
- (2) The regulator must publish a copy of the exemption –
 - (a) on an appropriate government website; and
 - (b) in the *Gazette*.
- (3) If the regulator grants an exemption under regulation 689A(1), the regulator must publish, on an appropriate government website, the reasons for the decision within 14 days after the day on which the exemption is granted.

Note

The exemptions may be viewed on the Safe Work Australia website (<https://www.safeworkaustralia.gov.au>).

12. Regulation 698 amended (Notice of amendment or cancellation)

Regulation 698(2) of the Principal Regulations is amended by inserting “or is granted under regulation 689A(1)” after “persons”.

13. Chapter 11, Part 11.4 substituted

Part 11.4 of Chapter 11 of the Principal Regulations is rescinded and the following Part is substituted:

**PART 11.4 – SAVINGS AND TRANSITIONAL
PROVISIONS IN RELATION TO WORK HEALTH
AND SAFETY AMENDMENT (ENGINEERED STONE)
REGULATIONS 2024**

**703. Particular work involving engineered stone –
exception if carried out before 1 July 2024**

Regulation 529D does not apply to work that involves engineered stone benchtops, panels or slabs if –

- (a) the work is carried out before 1 July 2024; and
- (b) for work that involves processing engineered stone – the work is controlled.

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**704. Particular work involving engineered stone –
exception if carried out under pre-2024
contract**

- (1) Regulation 529D does not apply to work that involves installing engineered stone benchtops, panels or slabs if the work is carried out –
 - (a) under a contract originally entered into on or before 31 December 2023; and
 - (b) on or before 31 December 2024.
- (2) Regulation 529D does not apply to work if –
 - (a) the work involves supplying or processing engineered stone benchtops, panels or slabs to be installed under a contract referred to in subregulation (1)(a); and
 - (b) the work occurs on or before 31 December 2024; and
 - (c) for work that involves processing the engineered stone – the work is controlled.

705. Application of Part 8A.3 to processing of engineered stone carried out before 1 July 2024

- (1) Regulation 529G(2) does not apply to a person conducting a business or undertaking carrying out, or directing or allowing a worker to carry out, work to which regulation 529G(1) applies if the work is carried out before 1 July 2024 and –
 - (a) the work is no longer being carried out on or after 1 July 2024; or
 - (b) the work is being carried out on or after 1 July 2024 and the person gives the regulator a written notice described in regulation 529G(2) in relation to the work –
 - (i) on or before 1 July 2024; or
 - (ii) as soon as practicable after 1 July 2024.
- (2) A notice given under subregulation (1)(b) is taken, for the purposes of Part 8A.3, to be a notice given under regulation 529G(2).

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Printed and numbered in accordance with the *Rules Publication Act 1953*.

Notified in the *Gazette* on 26 June 2024.

These regulations are administered in the Department of Justice.

EXPLANATORY NOTE

(This note is not part of the regulations)

These regulations amend the *Work Health and Safety Regulations 2022* to provide for –

- (a) a prohibition on the use of engineered stone slabs, panels and benchtops; and
- (b) transitional arrangements in relation to engineered stone contracts that were entered into on or before 31 December 2023; and
- (c) a national notification framework for managing work with legacy engineered stone products; and
- (d) a national framework for exempting engineered stone products from the prohibition.