



Australian Capital Territory

Work Health and Safety Amendment Regulation 2022 (No 1)

Subordinate Law SL2022-12

The Australian Capital Territory Executive makes the following regulation under the *Work Health and Safety Act 2011*.

Dated 29 June 2022.

ANDREW BARR
Chief Minister

MICK GENTLEMAN
Minister



Australian Capital Territory

Work Health and Safety Amendment Regulation 2022 (No 1)

Subordinate Law SL2022-12

made under the

[Work Health and Safety Act 2011](#)

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Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

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1 Name of regulation

This regulation is the *Work Health and Safety Amendment Regulation 2022 (No 1)*.

2 Commencement

- (1) This regulation (other than sections 10 and 11 and schedule 1) commences on the 14th day after its notification day.

Note The naming and commencement provisions automatically commence on the notification day (see [Legislation Act](#), s 75 (1)).

- (2) Sections 10 and 11 commence on 1 July 2022.
(3) Schedule 1 commences on 1 July 2023.

3 Legislation amended

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

4 Section 223 (6) and note

omit

AS 2397:1993

substitute

AS 2397:2015

5 New section 338 (2)

after the note, insert

- (2) Subsection (1) does not apply to a hazardous chemical manufactured or imported before 1 January 2023 that was, at the time it was manufactured or imported, labelled in accordance with GHS 3.

6 Section 341 (2), except notes

substitute

- (2) Subsection (1) does not apply to a hazardous chemical—
- (a) supplied before 1 January 2017 that was, at the time it was supplied, labelled in accordance with the *National Code of Practice for the Labelling of Workplace Substances [NOHSC: 2012 (1994)]* as in force at that time; or
 - (b) supplied before 1 January 2023 that was, at the time it was supplied, labelled in accordance with GHS 3; or
 - (c) manufactured or imported before 1 January 2023 that was, at the time it was manufactured or imported, labelled in accordance with GHS 3.

7 Section 342 (1A), except notes

substitute

- (1A) Subsection (1) does not apply to a hazardous chemical—
- (a) manufactured at the workplace, or transferred or decanted from its original container at the workplace, before 1 January 2017 that was, at the time it was manufactured, or transferred or decanted from its original container, labelled in accordance with the *National Code of Practice for the Labelling of Workplace Substances [NOHSC: 2012 (1994)]* as in force at that time; or
 - (b) manufactured at the workplace before 1 January 2023 that was, at the time it was manufactured, labelled in accordance with GHS 3; or

- (c) transferred or decanted from its original container at the workplace that was—
 - (i) manufactured or imported before 1 January 2023; and
 - (ii) at the time it was manufactured or imported, labelled in accordance with GHS 3.

8 Section 342 (2A), except notes

substitute

- (2A) Subsection (2) does not apply to a container—
- (a) supplied before 1 January 2017 that was, at the time it was supplied, labelled in accordance with the *National Code of Practice for the Labelling of Workplace Substances [NOHSC: 2012 (1994)]* as in force at that time; or
 - (b) supplied before 1 January 2023 that was, at the time it was supplied, labelled in accordance with GHS 3; or
 - (c) manufactured or imported before 1 January 2023 that was, at the time it was manufactured or imported, labelled in accordance with GHS 3.

9 New chapter 7A

insert

Chapter 7A Crystalline silica

418A Definitions—ch 7A

- (1) In this chapter:

airborne crystalline silica means an airborne contaminant containing respirable crystalline silica.

Class H vacuum cleaner means a vacuum cleaner that complies with the requirements of Class H of AS/NZS 60335.2.69:2017 (Household and similar electrical appliances – Safety, Part 2.69: Particular requirements for wet and dry vacuum cleaners, including power brush, for commercial use), or requirements equivalent to the standard.

Class M vacuum cleaner means a vacuum cleaner that complies with the requirements of Class M of AS/NZS 60335.2.69:2017 (Household and similar electrical appliances – Safety, Part 2.69: Particular requirements for wet and dry vacuum cleaners, including power brush, for commercial use), or requirements equivalent to the standard.

Note AS/NZS 60335.2.69.2017 does not need to be notified under the [Legislation Act](#) because s 47 (5) does not apply (see s 15 and [Legislation Act](#), s 47 (7)). The standard may be purchased at www.standards.org.au.

cut includes crush, drill, grind, polish, sand and trim.

local exhaust ventilation system means an engineering control that reduces worker exposure to airborne crystalline silica in the workplace by capturing the emission of airborne crystalline silica at the source and transporting it to a safe emission point, filter or scrubber.

material containing crystalline silica means—

- (a) engineered stone; or
- (b) any cement, concrete, masonry, mortar or brick product containing crystalline silica; or
- (c) natural stone containing crystalline silica.

respiratory protective equipment means personal protective equipment that—

- (a) is designed to protect the wearer from inhaling airborne crystalline silica; and
- (b) complies with AS/NZS 1716:2012 (Respiratory protective devices) or requirements equivalent to the standard.

Note AS/NZS 1716:2012 does not need to be notified under the [Legislation Act](#) because s 47 (5) does not apply (see s 15 and [Legislation Act](#), s 47 (7)). The standard may be purchased at www.standards.org.au.

- (2) In this section:

engineered stone means a stone that is artificially produced by combining natural stone that contains crystalline silica with other materials such as resin and pigment.

418B Uncontrolled dry cutting of material containing crystalline silica

A person conducting a business or undertaking at a workplace must not direct or allow a worker to cut material containing crystalline silica with a power tool or use another mechanical process unless—

- (a) a water delivery system supplying a continuous feed of water over the cutting area is used to suppress airborne crystalline silica produced by the cutting; and
- (b) at least 1 of the following control measures is in place:
 - (i) the place where the cutting occurs is isolated from the rest of the workplace;
 - (ii) a Class H vacuum is attached to the tool used for cutting;
 - (iii) for material containing less than 25% crystalline silica—a Class M vacuum is attached to the tool used for cutting;
 - (iv) a local exhaust ventilation system is used.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

Note Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

418C Effective control measures for cutting material containing crystalline silica

A person conducting a business or undertaking at a workplace must ensure that the risk of cutting material containing crystalline silica with a power tool or using another mechanical process is—

- (a) eliminated so far as is reasonably practicable; or
- (b) if it is not reasonably practicable to eliminate the risk—minimised so far as is reasonably practicable by—
 - (i) using a water delivery system supplying a continuous feed of water over the cutting area to suppress airborne crystalline silica produced by the cutting with at least 1 of the following control measures:
 - (A) the place where the cutting occurs is isolated from the rest of the workplace;
 - (B) attaching a Class H vacuum to the tool used for cutting;
 - (C) for material containing less than 25% crystalline silica—attaching a Class M vacuum to the tool used for cutting;
 - (D) using a local exhaust ventilation system; and
 - (ii) ensuring each worker at the workplace who may be exposed to airborne crystalline silica produced by the cutting is wearing respiratory protective equipment.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

Note Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

10 Section 488 (1A)

substitute

- (1A) A person who holds an equivalent licence (other than a licensee who also holds a licence granted under an ACT law) must notify the regulator before undertaking asbestos removal work in the ACT for the first time after the commencement of this subsection, that the licensee intends to undertake the work in the ACT.

11 Section 490 (1A)

substitute

- (1A) A person who holds an equivalent licence (other than a licensee who also holds a licence granted under an ACT law) must notify the regulator before undertaking asbestos assessor work in the ACT for the first time after the commencement of this subsection, that the licensee intends to undertake the work in the ACT.

12 Schedule 5, subsection 5.1.1

omit

AS 4343:2005 (Pressure equipment—hazard levels)

substitute

AS 4343:2014 (Pressure equipment—Hazard levels)

13 Schedule 5, subsection 5.1.1, note

omit

AS 4343:2005

substitute

AS 4343:2014

14 Schedule 5, section 5.2 (1) (ab) and notes

substitute

(ab) any pressure equipment (other than a gas cylinder) excluded from the scope of AS/NZS 1200:2015 (Pressure equipment); or

Note 1 See paragraph A3 of AS/NZS 1200:2015, Appendix A.

Note 2 AS/NZS 1200:2015 does not need to be notified under the [Legislation Act](#) because s 47 (5) does not apply (see s 15 and [Legislation Act](#), s 47 (7)). The standard may be purchased at www.standards.org.au.

15 Schedule 5, subsections 5.3.1 and 5.3.2

omit

AS 4343:2005

substitute

AS 4343:2014

16 Schedule 5, section 5.4 (1) (a) and notes

substitute

- (a) any pressure equipment (other than a gas cylinder) excluded from the scope of AS/NZS 1200:2015 (Pressure equipment); or

Note 1 See paragraph A3 of AS/NZS 1200:2015, Appendix A.

Note 2 AS/NZS 1200:2015 does not need to be notified under the [Legislation Act](#) because s 47 (5) does not apply (see s 15 and [Legislation Act](#), s 47 (7)). The standard may be purchased at www.standards.org.au.

17 Schedule 6, table 6.1, note

substitute

Note Table 6.1 replaces table 3.4.5 in—

- (a) the GHS, p 159; and
(b) the GHS 3, p 151.

18 Schedule 6, table 6.2, note 2

substitute

Note 2 Table 6.2 replaces table 3.6.1 in—

- (a) the GHS, p 174; and
(b) the GHS 3, p 166.

19 Schedule 6, table 6.3, note 2

substitute

Note 2 Table 6.3 replaces table 3.7.1 in—

- (a) the GHS, p 187; and
(b) the GHS 3, p 180.

20 Schedule 6, table 6.4, note 2

substitute

Note 2 Table 6.4 replaces table 3.8.2 in—

- (a) the GHS, p 197; and
- (b) the GHS 3, p 192.

21 Schedule 6, table 6.5, note 2

substitute

Note 2 Table 6.5 replaces table 3.9.3 in—

- (a) the GHS, p 207; and
- (b) the GHS 3, p 203.

22 Schedule 7, section 7.1 (2) (a)

omit

: Product identifier and chemical identity

23 Schedule 7, section 7.1 (2) (g)

omit

, including how the chemical may be safely used

24 Schedule 8, table 8.2, item 13, column 3

omit

category 2A

substitute

category 2

25 Schedule 8, table 8.3, item 3, column 2*omit*

(category 2A)

substitute

(category 2)

26 Schedule 11, table 11.1 and notes*substitute***Table 11.1**

column 1	column 2	column 3	column 4	column 5
item	description of hazardous chemical		placard quantity	manifest quantity
1	flammable gases	category 1A or 1B or a combination of the categories	200L	5 000L
2	gases under pressure	with acute toxicity, categories 1, 2, 3 or 4	50L	500L
3		with skin corrosion categories 1A, 1B or 1C	50L	500L
4		not specified elsewhere in this table	1 000L	10 000L
5	flammable liquids	category 1	50L	500L
6		category 2	250L	2 500L
7		category 3	1 000L	10 000L

column 1	column 2	column 3	column 4	column 5
item	description of hazardous chemical		placard quantity	manifest quantity
8		any combination of chemicals from items 5 to 7 where none of the items exceeds the quantities in columns 4 or 5 on their own	1 000L	10 000L
9		category 4	10 000L	100 000L
10	self-reactive substances	type A	5kg or 5L	50kg or 50L
11		type B	50kg or 50L	500kg or 500L
12		type C to F	250kg or 250L	2 500kg or 2 500L
13	flammable solids	category 1	250kg	2 500kg
14		category 2	1 000kg	10 000kg
15		any combination of chemicals from items 11 to 14 where none of the items exceeds the quantities in columns 4 or 5 on their own	1 000kg or 1 000L	10 000kg or 10 000L
16	pyrophoric liquids and pyrophoric solids	category 1	50kg or 50L	500kg or 500L
17	self-heating substances and mixtures	category 1	250kg or 250L	2 500kg or 2 500L
18		category 2	1 000kg or 1 000L	10 000kg or 10 000L

column 1	column 2	column 3	column 4	column 5
item	description of hazardous chemical		placard quantity	manifest quantity
19		any combination of chemicals from items 16 to 18 where none of the items exceeds the quantities in columns 4 or 5 on their own	1 000kg or 1 000L	10 000kg or 10 000L
20	substances which in contact with water emit flammable gas	category 1	50kg or 50L	500kg or 500L
21		category 2	250kg or 250L	2 500kg or 2 500L
22		category 3	1 000kg or 1 000L	10 000kg or 10 000L
23		any combination of chemicals from items 20 to 22 where none of the items exceeds the quantities in columns 4 or 5 on their own	1 000kg or 1 000L	10 000kg or 10 000L
24	oxidising liquids and oxidising solids	category 1	50kg or 50L	500kg or 500L
25		category 2	250kg or 250L	2 500kg or 2 500L
26		category 3	1 000kg or 1 000L	10 000kg or 10 000L
27		any combination of chemicals from items 24 to 26 where none of the items exceeds the quantities in columns 4 or 5 on their own	1 000kg or 1 000L	10 000kg or 10 000L

column 1	column 2	column 3	column 4	column 5
item	description of hazardous chemical		placard quantity	manifest quantity
28	organic peroxides	type A	5kg or 5L	50kg or 50L
29		type B	50kg or 50L	500kg or 500L
30		type C to F	250kg or 250L	2 500kg or 2 500L
31		any combination of chemicals from items 29 and 30 where none of the items exceeds the quantities in columns 4 or 5 on their own	250kg or 250L	2 500kg or 2 500L
32	acute toxicity	category 1	50kg or 50L	500kg or 500L
33		category 2	250kg or 250L	2 500kg or 2 500L
34		category 3	1 000kg or 1 000L	10 000kg or 10 000L
35		any combination of chemicals from items 32 to 34 where none of the items exceeds the quantities in columns 4 or 5 on their own	1 000kg or 1 000L	10 000kg or 10 000L
36	skin corrosion	category 1A	50kg or 50L	500kg or 500L
37		category 1B	250kg or 250L	2 500kg or 2 500L
38		category 1C	1 000kg or 1 000L	10 000kg or 10 000L
39	corrosive to metals	category 1	1 000kg or 1 000L	10 000kg or 10 000L

column 1	column 2	column 3	column 4	column 5
item	description of hazardous chemical		placard quantity	manifest quantity
40		any combination of chemicals from items 36 to 39 where none of the items exceeds the quantities in columns 4 or 5 on their own	1 000kg or 1 000L	10 000kg or 10 000L
41	unstable explosives		5kg or 5L	50kg or 50L
42	unstable chemicals	any combination of chemicals from item 10, item 28 and item 41 where none of the items exceeds the quantities in columns 4 or 5 on their own	5kg or 5L	50kg or 50L
43	aerosols	category 1, 2 or 3 or any combination of categories 1, 2 or 3	5 000L	10 000L

Note 1 In item 2, gases under pressure with acute toxicity, category 4 only applies up to a LC50 of 5 000 ppmV. This is equivalent to dangerous goods assigned as class 2, div 2.3 (Toxic gases) in the ADG Code.

Note 2 Item 43 includes flammable aerosols.

27 Dictionary, new definitions

insert

airborne crystalline silica, for chapter 7A (Crystalline silica)—see section 418A.

Class H vacuum cleaner, for chapter 7A (Crystalline silica)—see section 418A.

Class M vacuum cleaner, for chapter 7A (Crystalline silica)—see section 418A.

cut, for chapter 7A (Crystalline silica)—see section 418A.

28 Dictionary, definition of *GHS* and note 1

omit

3rd

substitute

7th

29 Dictionary, new definition of *GHS* 3

insert

GHS 3 means the *Globally Harmonized System of Classification and Labelling of Chemicals*, 3rd revised edition, published by the United Nations, as modified under schedule 6 (Classification of mixtures).

Note 1 The *Globally Harmonized System of Classification and Labelling of Chemicals*, 3rd revised edition does not need to be notified under the [Legislation Act](#) because s 47 (5) does not apply (see s 15 and [Legislation Act](#), s 47 (7)). The System is available at www.unece.org.

Note 2 The sch 6 tables replace some tables in the *GHS* 3.

30 Dictionary, definition of *hazardous chemical* and note

substitute

hazardous chemical means a substance, mixture or article that satisfies the criteria for any one or more hazard classes in the *GHS* (including a classification referred to in Schedule 6), unless the only hazard class or classes for which the substance, mixture or article satisfies the criteria are any 1 or more of the following:

- (a) acute toxicity—oral—category 5;

- (b) acute toxicity—dermal—category 5;
- (c) acute toxicity—inhalation—category 5;
- (d) skin corrosion/irritation—category 3;
- (e) aspiration hazard—category 2;
- (f) flammable gas—category 2;
- (g) acute hazard to the aquatic environment—category 1, 2 or 3;
- (h) chronic hazard to the aquatic environment—category 1, 2, 3 or 4;
- (i) hazardous to the ozone layer.

Note The sch 6 tables replace some tables in the GHS.

31 Dictionary, new definitions

insert

local exhaust ventilation system, for chapter 7A (Crystalline silica)—see section 418A.

material containing crystalline silica, for chapter 7A (Crystalline silica)—see section 418A.

respiratory protective equipment, for chapter 7A (Crystalline silica)—see section 418A.

Schedule 1 Other amendments

(see s 3)

[1.1] Chapter 7A

substitute

Chapter 7A Crystalline silica

418A Definitions—ch 7A

- (1) In this chapter:

airborne crystalline silica means an airborne contaminant containing respirable crystalline silica.

Class H vacuum cleaner means a vacuum cleaner that complies with the requirements of Class H of AS/NZS 60335.2.69:2017 (Household and similar electrical appliances – Safety, Part 2.69: Particular requirements for wet and dry vacuum cleaners, including power brush, for commercial use), or requirements equivalent to the standard.

Class M vacuum cleaner means a vacuum cleaner that complies with the requirements of Class M of AS/NZS 60335.2.69:2017 (Household and similar electrical appliances – Safety, Part 2.69: Particular requirements for wet and dry vacuum cleaners, including power brush, for commercial use), or requirements equivalent to the standard.

Note AS/NZS 60335.2.69.2017 does not need to be notified under the [Legislation Act](#) because s 47 (5) does not apply (see s 15 and [Legislation Act](#), s 47 (7)). The standard may be purchased at www.standards.org.au.

cut includes crush, drill, grind, polish, sand and trim.

high risk crystalline silica work means work carried out in a workplace in relation to a crystalline silica process that is reasonably likely to result in a risk to the health of a person at the workplace.

local exhaust ventilation system means an engineering control that reduces worker exposure to airborne crystalline silica in the workplace by capturing the emission of airborne crystalline silica at the source and transporting it to a safe emission point, filter or scrubber.

material containing crystalline silica means—

- (a) engineered stone; or
- (b) any cement, concrete, masonry, mortar or brick product containing crystalline silica; or
- (c) natural stone containing crystalline silica.

respiratory protective equipment means personal protective equipment that—

- (a) is designed to protect the wearer from inhaling airborne crystalline silica; and
- (b) complies with AS/NZS 1716:2012 (Respiratory protective devices) or requirements equivalent to the standard.

Note AS/NZS 1716:2012 does not need to be notified under the [Legislation Act](#) because s 47 (5) does not apply (see s 15 and [Legislation Act](#), s 47 (7)). The standard may be purchased at www.standards.org.au.

- (2) For subsection (1), definition of **high risk crystalline silica work**, a person may not rely upon a control measure required under this chapter when assessing if work is likely to result in a risk to the health of a person at the workplace.

- (3) In this section:

crystalline silica process consists of 1 or more of the following processes carried out at a workplace:

- (a) the use of a power tool or another mechanical process to—
 - (i) crush, drill, grind, polish, sand or trim material containing crystalline silica; or

- (ii) carry out any other activity involving material containing crystalline silica that produces airborne crystalline silica;
- (b) the use of a roadheader on an excavated face if the material in the face contains crystalline silica;
- (c) a process that exposes a person to airborne crystalline silica arising from the manufacture or handling of material that contains crystalline silica;
- (d) the mechanical screening of crushed material containing crystalline silica;
- (e) a quarrying process involving material containing crystalline silica;
- (f) a tunnelling process involving material containing crystalline silica;
- (g) any other process prescribed by regulation.

engineered stone means a stone that is artificially produced by combining natural stone that contains crystalline silica with other materials such as resin and pigment.

418B Uncontrolled dry cutting of material containing crystalline silica

A person conducting a business or undertaking at a workplace must not direct or allow a worker to cut material containing crystalline silica with a power tool or use another mechanical process unless—

- (a) a water delivery system supplying a continuous feed of water over the cutting area is used to suppress airborne crystalline silica produced by the cutting; and
- (b) at least 1 of the following control measures is in place:
 - (i) the place where the cutting occurs is isolated from the rest of the workplace;

- (ii) a Class H vacuum is attached to the tool used for cutting;
- (iii) for material containing less than 25% crystalline silica—a Class M vacuum is attached to the tool used for cutting;
- (iv) a local exhaust ventilation system is used.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

Note Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

418C Effective control measures for cutting material containing crystalline silica

A person conducting a business or undertaking at a workplace must ensure that the risk of cutting material containing crystalline silica with a power tool or using another mechanical process is—

- (a) eliminated so far as is reasonably practicable; or
- (b) if it is not reasonably practicable to eliminate the risk—minimised so far as is reasonably practicable by—
 - (i) using a water delivery system supplying a continuous feed of water over the cutting area to suppress airborne crystalline silica produced by the cutting with at least 1 of the following control measures:
 - (A) the place where the cutting occurs is isolated from the rest of the workplace;
 - (B) attaching a Class H vacuum to the tool used for cutting;
 - (C) for material containing less than 25% crystalline silica—attaching a Class M vacuum to the tool used for cutting;

- (D) using a local exhaust ventilation system; and
- (ii) ensuring each worker at the workplace who may be exposed to airborne crystalline silica produced by the cutting is wearing respiratory protective equipment.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

Note Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

418D Duty to train workers about crystalline silica awareness

- (1) In addition to the training required by division 3.2.1 (Information, training and instruction), a person conducting a business or undertaking must ensure that the following people are trained in a course in crystalline silica awareness declared under subsection (2) (a):
 - (a) a worker engaged by the person who the person reasonably believes will carry out high risk crystalline silica work in the business or undertaking;
 - (b) a worker engaged by the person in an occupation declared under subsection (2) (b).

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

Note Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (2) The Minister may declare—
 - (a) a VET course, or other course or qualification, in crystalline silica awareness; and

- (b) an occupation for which training in crystalline silica awareness is required.
- (3) A declaration is a notifiable instrument.
- (4) The person must ensure that a record is kept of the training undertaken by the worker—
 - (a) while the worker is carrying out work in the business or undertaking; and
 - (b) for 5 years after the day the worker stops working for the person.

Maximum penalty:

- (a) in the case of an individual—\$1 250; or
- (b) in the case of a body corporate—\$6 000.

Note Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (5) The person must keep the record available for inspection under the Act.

Maximum penalty:

- (a) in the case of an individual—\$1 250; or
- (b) in the case of a body corporate—\$6 000.

Note Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

[1.2] Dictionary, new definition of *high risk crystalline silica work*

insert

high risk crystalline silica work, for chapter 7A (Crystalline silica)—see section 418A.

Endnotes

1 Notification

Notified under the [Legislation Act](#) on 30 June 2022.

2 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

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