



Australian Capital Territory

# Work Health and Safety Amendment Regulation 2024 (No 1)

Subordinate Law SL2024-8

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

Dated 26 June 2024.

ANDREW BARR  
Chief Minister

MICK GENTLEMAN  
Minister

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[Work Health and Safety Act 2011](#)

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## **1 Name of regulation**

This regulation is the *Work Health and Safety Amendment Regulation 2024 (No 1)*.

## **2 Commencement**

- (1) This regulation (other than section 32 and schedule 1) commences on 1 July 2024.

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

- (2) Section 32 commences on 1 November 2024.  
(3) Schedule 1 commences on 19 August 2024.

## **3 Legislation amended**

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

## **4 Section 9A**

*substitute*

### **9A Meaning of *corresponding WHS law*—Act, dict**

For the Act, dictionary, definition of *corresponding WHS law*, the following laws are prescribed:

- (a) the following laws of the Commonwealth:  
(i) the *Work Health and Safety Act 2011*;

*Note* A reference to an Act includes a reference to any regulation or statutory instrument made or in force under the Act (see [Legislation Act](#), s 104).

- (ii) the *Occupational Health and Safety Act 1991* (repealed);

*Note* A reference to a repealed Act includes a reference to any regulation or statutory instrument made under that Act (see [Legislation Act](#), s 104).

- (iii) any other law relating to work health and safety matters;
- (b) the following laws of NSW:
    - (i) the *Work Health and Safety Act 2011*;
    - (ii) the *Occupational Health and Safety Act 2000* (repealed);
    - (iii) any other law relating to work health and safety matters;
  - (c) the following laws of Victoria:
    - (i) the *Occupational Health and Safety Act 2004*;
    - (ii) the *Occupational Health and Safety Act 1985* (repealed);
    - (iii) any other law relating to work health and safety matters;
  - (d) the following laws of Queensland:
    - (i) the *Work Health and Safety Act 2011*;
    - (ii) the *Workplace Health and Safety Act 1995* (repealed);
    - (iii) any other law relating to work health and safety matters;
  - (e) the following laws of Western Australia:
    - (i) the *Work Health and Safety Act 2020*;
    - (ii) the *Industrial Relations Act 1979*;
    - (iii) the *Occupational Safety and Health Act 1984* (repealed);
    - (iv) any other law relating to work health and safety matters;
  - (f) the following laws of South Australia:
    - (i) the *Work Health and Safety Act 2012*;



- (ii) the *Occupational Health, Safety and Welfare Act 1986* (repealed);
- (iii) any other law relating to work health and safety matters;
- (g) the following laws of Tasmania:
  - (i) the *Work Health and Safety Act 2012*;
  - (ii) the *Workplace Health and Safety Act 1995* (repealed);
  - (iii) any other law relating to work health and safety matters;
- (h) the following laws of the Northern Territory:
  - (i) the *Work Health and Safety (National Uniform Legislation) Act 2011*;
  - (ii) the *Workplace Health and Safety Act 2007* (repealed);
  - (iii) any other law relating to work health and safety matters.

**5 Section 291 (1), definition of *high risk construction work*, paragraph (s)**

*substitute*

- (s) involves processing crystalline silica material using a power tool or another mechanical method.

**6 Section 291 (2)**

*substitute*

- (2) In this section:

***crystalline silica material***—see section 418A (1).

***light rail***—see the *Road Transport (General) Act 1999*, dictionary.

***mechanical method***—see section 418A (1).

***process***—see section 418A (1).

**7 New part 7A.1 heading**

*insert*

**Part 7A.1 Preliminary**

**8 Section 418A (1), new definition of *crystalline silica***

*insert*

***crystalline silica***—

- (a) means crystalline polymorphs of silica; and
- (b) includes the following substances:
  - (i) cristobalite;
  - (ii) quartz;
  - (iii) tridymite;
  - (iv) tripoli.

**9 Section 418A (1), definitions of *crystalline silica control measure* and *crystalline silica material***

*substitute*

***crystalline silica control measure***—each of the following control measures is a ***crystalline silica control measure*** in relation to the processing of engineered stone, stone-substitute material or other crystalline silica material:

- (a) a water delivery system supplying a continuous feed of water over the processing area is used to suppress airborne crystalline silica produced by the processing;
- (b) a wet dust suppression method;

- (c) the attachment of a Class H vacuum to the tool used for processing;
- (d) for other crystalline silica material containing less than 25% crystalline silica—the attachment of a Class M vacuum to the tool used for processing;
- (e) the use of a local exhaust ventilation system;
- (f) the isolation of the place where the processing occurs from other workers.

***crystalline silica material*** means—

- (a) engineered stone; or
- (b) natural stone containing crystalline silica; or
- (c) any of the following containing crystalline silica:
  - (i) a concrete or cement product;
  - (ii) a brick, paver or other similar block;
  - (iii) a ceramic wall or floor tile;
  - (iv) grout, mortar or render;
  - (v) plasterboard;
  - (vi) a porcelain product;
  - (vii) sintered stone;
  - (viii) a roof tile.

*Note* An item mentioned in par (b) or par (c) containing crystalline silica and other materials may be engineered stone (see def ***engineered stone***).

**10 Section 418A (1), definition of *cut***

*omit*

**11 Section 418A (1), definition of *engineered stone***

*substitute*

***engineered stone***—

- (a) means 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 with other materials; and

**Examples—other materials**

pigment, resin, water

- (iii) becomes hardened; but
- (b) does not include any of the following:
- (i) a concrete or cement product;
  - (ii) a brick, paver or other similar block;
  - (iii) a ceramic wall or floor tile;
  - (iv) grout, mortar or render;
  - (v) plasterboard;
  - (vi) a porcelain product;
  - (vii) sintered stone;
  - (viii) a roof tile.

**12 Section 418A (1), new definition of *mechanical method***

*insert*

*mechanical method* does not include a method that involves plant or a tool that—

- (a) relies exclusively on manual power for its operation; and
- (b) is designed to be primarily supported by hand.

**13 Section 418A (1), definition of *mechanical process***

*omit*

**14 Section 418A (1), new definitions**

*insert*

*porcelain product* does not include a porcelain product containing resin.

*process* includes crush, cut, drill, grind, polish, sand or trim.

**15 Section 418A (1), definition of *respiratory protective equipment*, paragraph (b) and note**

*substitute*

- (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* AS/NZS 1716:2012 and AS/NZS 1715:2009 do 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 standards may be purchased at [www.standards.org.au](http://www.standards.org.au).

**16 Section 418A (1), new definitions**

*insert*

*sintered stone* does not include a sintered stone product containing resin.

*stone-substitute material* means—

- (a) engineered stone; or
- (b) either of the following containing crystalline silica:
  - (i) a porcelain product;
  - (ii) sintered stone.

**17 Section 418A (3), definition of *crystalline silica process*, paragraph (a)**

*omit*

mechanical process

*substitute*

mechanical method

**18 New part 7A.2 heading**

*after section 418A, insert*

**Part 7A.2                      General controls on work  
involving crystalline silica  
material**

**19 Section 418B heading**

*substitute*

**418B Dry processing of stone-substitute material—prohibition**

**20 Section 418B**

*omit*

direct or allow a worker to cut engineered stone with a power tool or use another mechanical process to cut

*substitute*

process, or direct or allow a worker to process, stone-substitute material with a power tool or by using another mechanical method to process

**21 Section 418B (a)**

*omit*

cutting

*substitute*

processing

**22 Section 418BAA heading**

*substitute*

**418BAA Uncontrolled processing of other crystalline silica material—prohibition**

**23 Section 418BAA**

*omit*

direct or allow a worker to cut crystalline silica material other than engineered stone with a power tool or use another mechanical process to cut

*substitute*

process, or direct or allow a worker to process, crystalline silica material other than stone-substitute material with a power tool or by using another mechanical method to process

**24 Section 418C heading**

*substitute*

**418C Control measures for processing stone-substitute material**

**25 Section 418C**

*omit*

cutting engineered stone with a power tool or using another mechanical process to cut

*substitute*

processing stone-substitute material with a power tool or by using another mechanical method to process



**26 Section 418C (b) (i)**

*omit*

cutting

*substitute*

processing

**27 Section 418C (b) (iii)**

*substitute*

(iii) ensuring each worker at the workplace who may be exposed to airborne crystalline silica produced by the processing—

(A) is provided with respiratory protective equipment; and

(B) wears the respiratory protective equipment while the processing is carried out.

**28 Section 418CAA heading**

*substitute*

**418CAA Control measures for processing other crystalline silica material**

**29 Section 418CAA (1)**

*omit*

cutting crystalline silica material other than engineered stone with a power tool or using another mechanical process to cut

*substitute*

processing crystalline silica material other than stone-substitute material with a power tool or by using another mechanical method to process

**30 Section 418CAA (1) (b)**

*omit*

cutting

*substitute*

processing

**31 New part 7A.3**

*insert*

**Part 7A.3 Engineered stone**

**Division 7A.3.1 Preliminary**

**418E Meaning of *processing*—pt 7A.3**

In this part:

***processing***, in relation to engineered stone, means using a power tool or other mechanical method to process the stone, and includes crushing, cutting, drilling, grinding, polishing, sanding or trimming the stone.

## **Division 7A.3.2 Work involving engineered stone benchtops, panels or slabs**

### **418F 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:

- (a) in the case of an individual—\$8 400; or
- (b) in the case of a body corporate—\$42 000.

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

### **418G Work involving engineered stone benchtops, panels or slabs—exception for particular supply and installation**

Section 418F does not apply to work that involves supplying or installing engineered stone benchtops, panels or slabs if the work is carried out—

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

### **418H Work involving engineered stone benchtops, panels or slabs—exception for particular processing**

- (1) Section 418F 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 engineered stone installed—
    - (A) before 1 July 2024; or
    - (B) in circumstances mentioned in section 418G; or
  - (iv) to dispose of engineered stone, whether it is installed or not; and
- (b) is controlled.
- (2) In this section:
- controlled**—work involving processing engineered stone benchtops, panels or slabs is **controlled** if any risk associated with the work 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 processing area to suppress airborne crystalline silica produced by the processing; and
      - (ii) using at least 1 other crystalline silica control measure; and
      - (iii) ensuring each worker at the workplace who may be exposed to airborne crystalline silica produced by the processing—
        - (A) is provided with respiratory protective equipment; and
        - (B) wears the respiratory protective equipment while the work is carried out.

**32 New division 7A.3.3**

*insert*

**Division 7A.3.3 Regulator to be notified of particular processing of engineered stone**

**418I 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 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 mentioned in subsection (1) must give the regulator written notice—
  - (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 any other information in relation to the work required by the regulator.

Maximum penalty:

- (a) in the case of an individual—\$5 000; or
- (b) in the case of a body corporate—\$25 000.

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

- (3) Subsection (2) does not apply 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 written notice under subsection (2) in relation to the work.
- (4) If the regulator receives written notice under subsections (2) or (3), the regulator must give the person conducting the business or undertaking acknowledgment of receipt of the notice.

*Note 1* If a form is approved under the Act, s 277 for this provision, the form must be used.

*Note 2* A fee may be determined under the Act, s 278 for this provision.

*Note 3* It is an offence to make a false or misleading statement, give false or misleading information or produce a false or misleading document (see [Criminal Code](#), pt 3.4).

#### **418J Duty to keep notice given under div 7A.3.3**

A person conducting a business or undertaking who gives the regulator written notice under this division 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 a copy of the notice is readily accessible; and
- (c) allow a person to access a copy of the notice upon request.

Maximum penalty:

- (a) in the case of an individual—\$5 000; or
- (b) in the case of a body corporate—\$25 000.

**33 New division 11.2.5**

*insert*

**Division 11.2.5 Crystalline silica material**

**698AA Definitions—div 11.2.5**

In this division:

*crystalline silica material*—see section 418A (1).

*engineered stone*—see section 418A (1).

**698AB Exemptions under corresponding WHS laws—work involving engineered stone**

A person conducting a business or undertaking is exempt from compliance with section 418F if the work involves a type of engineered stone that is the subject of an exemption—

- (a) granted in relation to the type of engineered stone under a corresponding WHS law; and
- (b) notified to the regulator by a corresponding regulator.

**34 Dictionary, new definition of *crystalline silica***

*insert*

*crystalline silica*, for chapter 7A (Crystalline silica)—see section 418A (1).

**35 Dictionary, definition of *cut***

*omit*

**36 Dictionary, new definition of *mechanical method***

*insert*

*mechanical method*, for chapter 7A (Crystalline silica)—see section 418A (1).

**37 Dictionary, definition of *mechanical process***

*omit*

**38 Dictionary, new definitions**

*insert*

*porcelain product*, for chapter 7A (Crystalline silica)—see section 418A (1).

*process*, for chapter 7A (Crystalline silica)—see section 418A (1).

*processing*, in relation to engineered stone, for part 7A.3 (Engineered stone)—see section 418E.

*sintered stone*, for chapter 7A (Crystalline silica)—see section 418A (1).

*stone-substitute material*, for chapter 7A (Crystalline silica)—see section 418A (1).



**39 Further amendments, dictionary, definitions**

*omit*

section 418A

*substitute*

section 418A (1)

*in*

- dictionary, definitions of
  - airborne crystalline silica*
  - engineered stone*
  - high risk crystalline silica work*
  - respiratory protective equipment*
  - wet dust suppression method*

## Schedule 1 Other amendments

(see s 3)

### [1.1] Section 418F, penalty

*substitute*

Maximum penalty: tier E monetary penalty.

### [1.2] Section 418I (2), penalty

*substitute*

Maximum penalty: tier G monetary penalty.

### [1.3] Section 418J, penalty

*substitute*

Maximum penalty: tier G monetary penalty.

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## Endnotes

### 1 Notification

Notified under the [Legislation Act](#) on 28 June 2024.

### 2 Republications of amended laws

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).