

Work Health and Safety Amendment (Penalties and Engineered Stone and Crystalline Silica Substances) Regulations 2024

I, General the Honourable David Hurley AC DSC (Retd), Governor‑General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 20 June 2024

David Hurley

Governor‑General

By His Excellency’s Command

Tony Burke

Minister for Employment and Workplace Relations

Contents

1 Name 1

2 Commencement 1

3 Authority 1

4 Schedules 1

Schedule 1—Penalties 2

Part 1—Tier G monetary penalty offences 2

Division 1—Amendments of listed provisions 2

Work Health and Safety Regulations 2011 2

Division 2—Other amendments 4

Work Health and Safety Regulations 2011 4

Part 2—Tier E monetary penalty offences 7

Division 1—Amendments of listed provisions 7

Work Health and Safety Regulations 2011 7

Division 2—Other amendments 12

Work Health and Safety Regulations 2011 12

Part 3—Tier I monetary penalty offences 18

Division 1—Amendments of listed provisions 18

Work Health and Safety Regulations 2011 18

Division 2—Other amendments 19

Work Health and Safety Regulations 2011 19

Part 4—Miscellaneous amendments 22

Work Health and Safety Regulations 2011 22

Schedule 2—Engineered stone 23

Work Health and Safety Regulations 2011 23

Schedule 3—Crystalline silica substances 33

Work Health and Safety Regulations 2011 33

1 Name

 This instrument is the *Work Health and Safety Amendment (Penalties and Engineered Stone and Crystalline Silica Substances) Regulations 2024*.

2 Commencement

 (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

| Commencement information |
| --- |
| Column 1 | Column 2 | Column 3 |
| Provisions | Commencement | Date/Details |
| 1. Sections 1 to 4 and anything in this instrument not elsewhere covered by this table | The day after this instrument is registered. |  |
| 2. Schedule 1 | The day after this instrument is registered. |  |
| 3. Schedule 2 | 1 July 2024. | 1 July 2024 |
| 4. Schedule 3 | 1 September 2024. | 1 September 2024 |

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

 (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

 This instrument is made under the *Work Health and Safety Act 2011*.

4 Schedules

 Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Penalties

Part 1—Tier G monetary penalty offences

Division 1—Amendments of listed provisions

Work Health and Safety Regulations 2011

1 Amendments of listed provisions—tier G penalties

In the provisions listed in the following table, repeal the penalty and note and substitute:

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier G monetary penalty.

| Item | Provision |
| --- | --- |
| 1 | Regulation 19 |
| 2 | Subregulation 22(3) |
| 3 | Subregulations 46(2) to (4) |
| 4 | Regulation 47 |
| 5 | Subregulation 50(3) |
| 6 | Subregulations 66(2) and (5) |
| 7 | Subregulation 68(1) |
| 8 | Subregulations 70(1) and (2) |
| 9 | Subregulation 77(5) |
| 10 | Subregulations 85(1) to (3) |
| 11 | Subregulation 149(1) |
| 12 | Subregulation 150(1) |
| 13 | Regulation 151 |
| 14 | Subregulation 162(4) |
| 15 | Subregulation 165(1) |
| 16 | Subregulation 176(2) |
| 17 | Subregulation 182(4) |
| 18 | Regulation 195 |
| 19 | Regulation 196 |
| 20 | Regulation 198 |
| 21 | Regulation 200 |
| 22 | Subregulation 213(1) |
| 23 | Subregulations 224(1) and (2) |
| 24 | Subregulation 235(2) |
| 25 | Subregulations 236(1) to (3) |
| 26 | Subregulations 239(1) and (2) |
| 27 | Regulation 253 |
| 28 | Regulation 254 |
| 29 | Subregulation 294(1) |
| 30 | Subregulations 295(1) and (2) |
| 31 | Regulation 296 |
| 32 | Subregulation 298(1) |
| 33 | Regulation 301 |
| 34 | Regulation 302 |
| 35 | Subregulation 303(3) |
| 36 | Subregulations 304(2) and (3) |
| 37 | Regulation 308 |
| 38 | Regulation 310 |
| 39 | Subregulations 311(1) and (2) |
| 40 | Subregulation 313(3) |
| 41 | Regulation 316 |
| 42 | Subregulation 317(1) |
| 43 | Regulation 327 |
| 44 | Subregulations 337(1) and (2) |
| 45 | Subregulation 338(1) |
| 46 | Subregulations 344(3), (5) and (6) |
| 47 | Subregulation 346(3) |
| 48 | Subregulation 347(3) |
| 49 | Regulation 369 |
| 50 | Subregulation 371(2) |
| 51 | Subregulation 372(1) |
| 52 | Regulation 373 |
| 53 | Regulation 385 |
| 54 | Subregulation 387(3) |
| 55 | Subregulations 388(2) and (3) |
| 56 | Subregulation 398(2) |
| 57 | Subregulation 401(1) |
| 58 | Subregulations 403(1) and (3) |
| 59 | Subregulation 409(1) |
| 60 | Regulation 410 |
| 61 | Subregulation 415(2) |
| 62 | Subregulations 425(1) and (2) |
| 63 | Regulation 426 |
| 64 | Subregulations 427(1) and (2) |
| 65 | Regulation 428 |
| 66 | Subregulation 429(5) |
| 67 | Subregulation 430(1) |
| 68 | Subregulation 432(5) |
| 69 | Subregulations 438(1) and (2) |
| 70 | Regulation 439 |
| 71 | Subregulations 446(1) and (3) |
| 72 | Subregulation 451(5) |
| 73 | Subregulations 454(2) and (3) |
| 74 | Subregulations 455(2) and (3) |
| 75 | Subregulation 464(3) |
| 76 | Subregulations 465(1) to (3) |
| 77 | Subregulations 466(1) and (3) |
| 78 | Subregulation 482(3) |
| 79 | Regulation 529 |
| 80 | Subregulation 547(2) |
| 81 | Subregulation 548(2) |
| 82 | Regulation 551 |
| 83 | Subregulations 553(4) and (5) |
| 84 | Subregulation 555(5) |
| 85 | Regulation 560 |
| 86 | Subregulation 562(2) |
| 87 | Subregulation 567(4) |
| 88 | Subregulation 576(1) |

Division 2—Other amendments

Work Health and Safety Regulations 2011

2 Subregulation 150(2) (penalty and notes)

Repeal the penalty and notes, substitute:

Note 1: However, electrical equipment that is unsafe must not be used (see regulation 149).

Note 2: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier G monetary penalty.

3 Regulations 187 and 188 (penalty and notes)

Repeal the penalty and notes, substitute:

Note 1: A designer also has duties under section 22 of the Act.

Note 2: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier G monetary penalty.

4 Subregulation 304(4) (penalty and notes)

Repeal the penalty and notes, substitute:

Note 1: Legislation relating to the essential services may also impose duties on the person conducting the business or undertaking and the persons carrying out the work.

Note 2: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier G monetary penalty.

5 Regulation 312 (penalty and notes)

Repeal the penalty and notes, substitute:

Note 1: The WHS management plan contains arrangements for co‑operation between persons conducting a business or undertaking at the construction project workplace, including in relation to the preparation of safe work method statements (see paragraphs 309(2)(b) and (e)).

Note 2: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations

Penalty: The tier G monetary penalty.

6 Regulation 336 (penalty, examples and note)

Repeal the penalty, examples and note, substitute:

Example 1: Decanting fuel into a fuel container.

Example 2: Refuelling a car.

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier G monetary penalty.

7 Regulation 433 (penalty, example and note)

Repeal the penalty, example and note, substitute:

Example: A control measure is revised under regulation 38.

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier G monetary penalty.

8 Regulation 448 (penalty, example and note)

Repeal the penalty, example and note, substitute:

Example: The register identifies an inaccessible area that is likely to contain asbestos and the area is likely to be accessible because of demolition.

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier G monetary penalty.

9 Subregulation 557(8) (penalty and notes)

Repeal the penalty and notes, substitute:

Note 1: This regulation applies in addition to regulation 43.

Note 2: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier G monetary penalty.

10 Regulation 563 (penalty and notes)

Repeal the penalty and notes, substitute:

Note 1: The operator of a licensed major hazard facility is required to tell the regulator about any change in relation to certain information about the licence (see regulation 588).

Note 2: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier G monetary penalty.

11 Regulation 570 (penalty and notes)

Repeal the penalty and notes, substitute:

Note 1: The operator of a licensed major hazard facility is required to tell the regulator about any change in relation to certain information about the licence (see regulation 588).

Note 2: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier G monetary penalty.

Part 2—Tier E monetary penalty offences

Division 1—Amendments of listed provisions

Work Health and Safety Regulations 2011

12 Amendments of listed provisions—tier E penalties

In the provisions listed in the following table, repeal the penalty and note and substitute:

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

| Item | Provision |
| --- | --- |
| 1 | Subregulations 39(2) and (3) |
| 2 | Regulation 40 |
| 3 | Subregulations 41(1) and (2) |
| 4 | Subregulations 42(1) and (2) |
| 5 | Subregulations 43(1), (2) and (4) |
| 6 | Regulation 45 |
| 7 | Subregulation 48(2) |
| 8 | Regulation 49 |
| 9 | Subregulation 50(1) |
| 10 | Subregulation 53(1) |
| 11 | Subregulation 55(2) |
| 12 | Subregulation 57(2) |
| 13 | Subregulation 58(2) |
| 14 | Subregulations 59(1) to (6) |
| 15 | Subregulations 61(1) to (8) |
| 16 | Subregulation 64(2) |
| 17 | Regulation 65 |
| 18 | Subregulations 67(1) and (4) |
| 19 | Regulation 69 |
| 20 | Subregulations 71(1) and (2) |
| 21 | Subregulations 72(1) and (2) |
| 22 | Regulation 73 |
| 23 | Subregulation 74(1) |
| 24 | Subregulation 75(2) |
| 25 | Subregulation 76(1) |
| 26 | Subregulations 78(3) and (4) |
| 27 | Subregulation 79(2) |
| 28 | Subregulations 80(2) to (4) |
| 29 | Subregulation 84(1) |
| 30 | Regulation 154 |
| 31 | Subregulation 155(2) |
| 32 | Regulation 156 |
| 33 | Subregulation 157(1) |
| 34 | Subregulation 158(1) |
| 35 | Regulation 159 |
| 36 | Regulation 160 |
| 37 | Subregulations 161(1) and (2) |
| 38 | Subregulation 163(1) |
| 39 | Subregulation 164(2) |
| 40 | Subregulation 166(1) |
| 41 | Subregulations 168(1) and (2) |
| 42 | Subregulation 178(1) |
| 43 | Subregulations 179(1) and (2) |
| 44 | Subregulations 183(1) and (3) |
| 45 | Subregulation 184A(1) |
| 46 | Subregulations 189(2) to (6) |
| 47 | Subregulations 190(1) and (2) |
| 48 | Subregulations 191(1) and (2) |
| 49 | Subregulation 192(2) |
| 50 | Subregulation 193(1) |
| 51 | Subregulations 194(1) and (2) |
| 52 | Regulation 197 |
| 53 | Subregulations 199(1) and (2) |
| 54 | Subregulation 201(2) |
| 55 | Subregulation 202(2) |
| 56 | Subregulations 204(1) to (5) |
| 57 | Regulation 205 |
| 58 | Subregulations 206(1) to (3) |
| 59 | Regulation 207 |
| 60 | Subregulations 208(2) to (5) |
| 61 | Regulation 209 |
| 62 | Subregulations 210(1) and (2) |
| 63 | Subregulations 211(1) and (2) |
| 64 | Subregulation 212(2) |
| 65 | Subregulations 215(2) to (5) |
| 66 | Subregulation 216(1) |
| 67 | Subregulations 218(1) and (2) |
| 68 | Subregulations 219(2) to (7) |
| 69 | Subregulations 222(2) and (3) |
| 70 | Subregulations 223(2) to (6) |
| 71 | Subregulations 225(2) to (4) |
| 72 | Regulation 231 |
| 73 | Regulation 232 |
| 74 | Regulation 233 |
| 75 | Subregulation 234(2) |
| 76 | Subregulations 238(1) and (2) |
| 77 | Subregulation 240(1) |
| 78 | Subregulation 241(1) |
| 79 | Subregulation 299(1) |
| 80 | Subregulations 300(1) and (2) |
| 81 | Subregulations 306(1) and (3) |
| 82 | Subregulation 309(1) |
| 83 | Regulation 329 |
| 84 | Subregulations 330(1), (3) and (4) |
| 85 | Subregulation 331(2) |
| 86 | Subregulation 332(2) |
| 87 | Regulation 333 |
| 88 | Regulation 334 |
| 89 | Subregulation 335(1) |
| 90 | Subregulations 339(1) and (3) |
| 91 | Subregulations 340(1) and (2) |
| 92 | Subregulation 341(1) |
| 93 | Subregulations 342(1), (2) and (3) |
| 94 | Regulation 343 |
| 95 | Subregulation 344(1) |
| 96 | Subregulation 347(1) |
| 97 | Subregulations 348(1), (4) and (6) |
| 98 | Subregulation 349(1) |
| 99 | Subregulation 350(1) |
| 100 | Regulation 352 |
| 101 | Subregulation 353(2) |
| 102 | Subregulation 354(1) |
| 103 | Regulation 355 |
| 104 | Subregulations 356(1) and (2) |
| 105 | Subregulations 357(1) to (3) |
| 106 | Regulation 358 |
| 107 | Subregulations 359(1) to (3) |
| 108 | Subregulations 361(2) and (3) |
| 109 | Subregulation 362(2) |
| 110 | Subregulation 363(1) |
| 111 | Subregulation 365(2) |
| 112 | Subregulations 366(2) and (3) |
| 113 | Subregulation 367(3) |
| 114 | Regulation 370 |
| 115 | Subregulation 371(1) |
| 116 | Subregulation 374(1) |
| 117 | Regulation 375 |
| 118 | Regulation 376 |
| 119 | Regulation 377 |
| 120 | Subregulation 379(1) |
| 121 | Subregulation 389(2) |
| 122 | Subregulation 391(2) |
| 123 | Subregulations 395(1) and (2) |
| 124 | Regulation 396 |
| 125 | Subregulations 397(1) and (2) |
| 126 | Subregulation 398(1) |
| 127 | Subregulations 399(1) and (2) |
| 128 | Subregulation 400(3) |
| 129 | Subregulation 402(1) |
| 130 | Subregulations 405(1) and (2) |
| 131 | Regulation 406 |
| 132 | Subregulations 407(1) and (2) |
| 133 | Subregulations 408(1) and (2) |
| 134 | Subregulation 411(1) |
| 135 | Regulation 412 |
| 136 | Regulation 413 |
| 137 | Regulation 414 |
| 138 | Subregulation 415(1) |
| 139 | Subregulations 416(2) and (3) |
| 140 | Subregulations 417(2) and (3) |
| 141 | Subregulation 419(1) |
| 142 | Subregulation 420(2) |
| 143 | Subregulation 422(1) |
| 144 | Regulation 424 |
| 145 | Subregulations 429(2) and (3) |
| 146 | Subregulations 432(2) and (3) |
| 147 | Regulation 434 |
| 148 | Subregulations 435(1) and (3) |
| 149 | Regulation 436 |
| 150 | Subregulations 437(1) and (2) |
| 151 | Subregulation 440(1) |
| 152 | Regulation 441 |
| 153 | Regulation 442 |
| 154 | Regulation 443 |
| 155 | Subregulation 445(1) |
| 156 | Regulation 449 |
| 157 | Regulation 450 |
| 158 | Subregulations 451(2) and (3) |
| 159 | Subregulation 452(3) |
| 160 | Subregulation 453(1) |
| 161 | Subregulation 456(3) |
| 162 | Regulation 457 |
| 163 | Subregulations 458(1) and (3) |
| 164 | Regulation 459 |
| 165 | Subregulations 460(1) and (2) |
| 166 | Regulation 462 |
| 167 | Subregulation 463(1) |
| 168 | Subregulation 464(1) |
| 169 | Subregulations 467(2) and (3) |
| 170 | Subregulations 468(2) and (3) |
| 171 | Regulation 469 |
| 172 | Subregulations 470(2) and (5) |
| 173 | Subregulations 471(1) and (2) |
| 174 | Subregulation 472(1) |
| 175 | Subregulation 473(2) |
| 176 | Subregulations 474(2) to (4) |
| 177 | Subregulations 475(1) and (2) and (4) to (6) |
| 178 | Subregulations 476(1) and (2) |
| 179 | Subregulations 477(1) and (2) and (4) to (6) |
| 180 | Subregulation 479(1) |
| 181 | Regulation 480 |
| 182 | Regulation 481 |
| 183 | Subregulations 482(1) and (2) |
| 184 | Subregulations 483(1) and (2) |
| 185 | Subregulation 484(1) |
| 186 | Subregulation 536(1) |
| 187 | Subregulations 554(1) and (3) |
| 188 | Subregulations 555(1) and (4) |
| 189 | Subregulation 556(2) |
| 190 | Subregulations 557(1) and (5) to (7) |
| 191 | Subregulations 558(1) and (2) |
| 192 | Subregulations 564(1) and (3) |
| 193 | Regulation 565 |
| 194 | Subregulation 566(2) |
| 195 | Subregulations 567(1) to (3) |
| 196 | Subregulation 568(1) |
| 197 | Subregulation 569(1) |
| 198 | Regulation 571 |
| 199 | Subregulation 572(1) |
| 200 | Subregulation 573(1) |
| 201 | Subregulations 574(1) and (2) |
| 202 | Subregulation 575(1) |

Division 2—Other amendments

Work Health and Safety Regulations 2011

13 Subregulation 44(2) (penalty, example and note)

Repeal the penalty, example and note, substitute:

Example: Equipment that has been provided by a labour hire company.

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

14 Subregulation 44(4) (penalty and notes)

Repeal the penalty and notes, substitute:

Note 1: A person conducting a business or undertaking must not charge or impose a levy on a worker for the provision of personal protective equipment (see section 273 of the Act).

Note 2: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

15 Subregulation 74(2) (penalty)

Repeal the penalty, substitute:

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

16 Subregulation 74(3) (penalty and notes)

Repeal the penalty and notes, substitute:

Note 1: See Part 3.2 for general provisions relating to first aid, personal protective equipment and emergency plans.

Note 2: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

17 Subregulation 75(3) (penalty and notes)

Repeal the penalty and notes, substitute:

Note 1: Regulation 44 applies to the use of personal protective equipment, including the equipment provided under this regulation.

Note 2: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

18 Subregulation 155(1) (penalty and notes)

Repeal the penalty and notes, substitute:

Note 1: Regulation 157 allows electrical testing to be carried out on electrical equipment for the purposes of this regulation. Regulation 161 sets out how the testing is to be carried out.

Note 2: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

19 Subregulation 166(2) (penalty and notes)

Repeal the penalty and notes, substitute:

Note 1: Relevant electricity safety legislation will also apply to the person conducting the business or undertaking.

Note 2: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

20 Regulation 177 (penalty and notes)

Repeal the penalty and notes, substitute:

Note 1: See regulation 174 for the qualifications of the competent person.

Note 2: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

21 Subregulation 218(3) (penalty and notes)

Repeal the penalty and notes, substitute:

Note 1: Regulations 214 and 215 also apply to an industrial lift truck.

Note 2: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

22 Subregulation 225(5) (penalty, example and note)

Repeal the penalty, example and note, substitute:

Example: Danger tags and other warning signs.

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

23 Regulation 314 (penalty and notes)

Repeal the penalty and notes, substitute:

Note 1: All persons conducting a business or undertaking at the construction project workplace have these same duties (see Part 3.2 of these Regulations and section 19 of the Act). Section 16 of the Act provides for situations in which more than one person has the same duty.

Note 2: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

24 Regulation 345 (penalty and notes)

Repeal the penalty and notes, substitute:

Note 1: The manufacturer or importer of a hazardous chemical must amend a safety data sheet as necessary to ensure the information is correct and current (see paragraph 330(3)(b)).

Note 2: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

25 At the end of subregulation 346(1)

Add:

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

26 Subregulation 354(3) (penalty, examples and note)

Repeal the penalty, examples and note, substitute:

Example: Personal use products, including the following:

(a) cosmetics;

(b) face washer.

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

27 Regulation 360 (penalty and notes)

Repeal the penalty and notes, substitute:

Note 1: A person conducting a business or undertaking must comply with Division 4 of Part 3.2.

Note 2: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

28 Subregulation 363(2) (penalty, example and note)

Repeal the penalty, example and note, substitute:

Example: Information provided at a training course.

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

29 Subregulation 365(3) (penalty and notes)

Repeal the penalty and notes, substitute:

Note 1: For correctly labelling hazardous chemicals, see Subdivision 3 of Division 2.

Note 2: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

30 Regulation 368 (penalty and notes)

Repeal the penalty and notes, substitute:

Note 1: The biological exposure standard is published by Safe Work Australia.

Note 2: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

31 Subregulation 389(1) (penalty, example and note)

Repeal the penalty, example and note, substitute:

Example: Risks associated with the testing, installation, commissioning, operation, maintenance and decommissioning of the pipeline.

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

32 Subregulation 400(1) (penalty, example and note)

Repeal the penalty, example and note, substitute:

Example: Work boots.

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

33 Subregulation 400(2) (penalty and notes)

Repeal the penalty and notes, substitute:

Note 1: Regulation 335 also requires the container to be labelled to indicate the presence of lead.

Note 2: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

34 Subregulation 407(5) (penalty and notes)

Repeal the penalty and notes, substitute:

Note 1: A determination of a different frequency for biological monitoring is a reviewable decision (see regulation 676).

Note 2: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

35 Subregulation 472(2) (penalty, example and note)

Repeal the penalty, example and note, substitute:

Example: Work boots.

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

36 Subregulation 472(3) (penalty and notes)

Repeal the penalty and notes, substitute:

Note 1: Relevant electricity safety legislation will also apply to the person conducting the business or undertaking.

Note 2: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

37 Subregulation 484(2) (penalty, example and note)

Repeal the penalty, example and note, substitute:

Example: Work boots.

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

38 Subregulation 484(3) (penalty and notes)

Repeal the penalty and notes, substitute:

Note 1: State legislation relating to laundries handling asbestos‑contaminated clothing will also apply to the person conducting the business or undertaking.

Note 2: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

39 Subregulation 559(1) (penalty)

Repeal the penalty, substitute:

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

40 Subregulation 575(2) (penalty and notes)

Repeal the penalty and notes, substitute:

Note 1: See section 49 of the Act for other consultation duties of a person conducting a business or undertaking.

Note 2: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

Part 3—Tier I monetary penalty offences

Division 1—Amendments of listed provisions

Work Health and Safety Regulations 2011

41 Amendments of listed provisions—tier I penalties

In the provisions listed in the following table, repeal the penalty and note and substitute:

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier I monetary penalty.

| Item | Provision |
| --- | --- |
| 1 | Subregulation 50(2) |
| 2 | Subregulation 66(3) |
| 3 | Subregulation 76(2) |
| 4 | Subregulations 77(2) to (4) |
| 5 | Subregulation 85(4) |
| 6 | Subregulation 94(1) |
| 7 | Regulation 96 |
| 8 | Regulation 97 |
| 9 | Subregulation 98(1) |
| 10 | Regulation 111 |
| 11 | Subregulation 150(3) |
| 12 | Subregulations 162(2), (3) and (5) |
| 13 | Subregulation 165(2) |
| 14 | Regulation 170 |
| 15 | Subregulations 175(1) to (3) |
| 16 | Subregulation 176(3) |
| 17 | Regulation 180 |
| 18 | Subregulations 181(2) to (4) |
| 19 | Subregulations 182(2), (3) and (5) |
| 20 | Subregulations 226(1), (3) and (4) |
| 21 | Regulation 228 |
| 22 | Subregulations 229(1) and (2) |
| 23 | Subregulations 230(1) to (3) |
| 24 | Subregulations 237(2), (4) and (5) |
| 25 | Subregulations 242(1) and (3) |
| 26 | Subregulations 260(3) to (5) |
| 27 | Subregulation 262(1) |
| 28 | Subregulations 273(3) and (4) |
| 29 | Subregulation 275(1) |
| 30 | Subregulation 282(1) |
| 31 | Regulation 287 |
| 32 | Subregulation 288(1) |
| 33 | Regulation 288D |
| 34 | Subregulations 303(1), (2) and (4) |
| 35 | Subregulation 304(5) |
| 36 | Subregulations 313(1), (2) and (4) |
| 37 | Subregulations 326(1) and (2) |
| 38 | Subregulations 340(3) and (4) |
| 39 | Regulation 364 |
| 40 | Subregulations 378(1) and (2) |
| 41 | Subregulations 390(2) and (3) |
| 42 | Subregulation 391(3) |
| 43 | Subregulations 404(1) and (2) |
| 44 | Subregulations 418(1) and (2) |
| 45 | Subregulation 423(2) |
| 46 | Subregulation 444(2) |
| 47 | Subregulations 445(3) and (4) |
| 48 | Subregulations 461(1) and (2) |
| 49 | Subregulation 572(4) |
| 50 | Subregulation 587(1) |
| 51 | Regulation 593 |
| 52 | Subregulation 594(1) |
| 53 | Regulation 607 |

Division 2—Other amendments

Work Health and Safety Regulations 2011

42 Subregulation 142(1) (penalty and notes)

Repeal the penalty and notes, substitute:

Note 1: See section 268 of the Act for offences relating to the giving of false or misleading information under the Act or these Regulations.

Note 2: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier I monetary penalty.

43 Subregulation 242(2) (penalty and notes)

Repeal the penalty and notes, substitute:

Note 1: Subregulation 237(5) requires the person with management or control of the amusement device to give the log book and maintenance records to the person being supplied with the plant.

Note 2: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier I monetary penalty.

44 Subregulation 444(1) (penalty)

Repeal the penalty, substitute:

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier I monetary penalty.

45 Subregulation 505(1) (penalty)

Repeal the penalty, substitute:

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier I monetary penalty.

46 Subregulation 506(1) (penalty)

Repeal the penalty, substitute:

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier I monetary penalty.

47 Subregulation 507(1) (penalty)

Repeal the penalty, substitute:

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier I monetary penalty.

48 Regulation 512 (penalty)

Repeal the penalty, substitute:

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier I monetary penalty.

49 Subregulation 513(1) (penalty)

Repeal the penalty, substitute:

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier I monetary penalty.

50 Regulation 525 (penalty)

Repeal the penalty, substitute:

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier I monetary penalty.

51 Subregulation 588(1) (penalty, example and note)

Repeal the penalty, example and note, substitute:

Example: A change to the quantity of the hazardous chemicals present or likely to be present at the facility.

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier I monetary penalty.

Part 4—Miscellaneous amendments

Work Health and Safety Regulations 2011

52 Regulation 55C

Repeal the regulation, substitute:

55C Managing psychosocial risks

 A person conducting a business or undertaking must:

 (a) manage psychosocial risks in accordance with Part 3.1; and

 (b) implement the control measures required by regulation 55D.

Note: WHS Act—section 19 (see regulation 9).

Schedule 2—Engineered stone

Work Health and Safety Regulations 2011

1 Subregulation 5(1)

Insert:

***controlled***, in relation to work involving processing engineered stone, porcelain products or sintered stone—see subregulation 529B(1).

***engineered stone***—see subregulation 529A(1).

***porcelain product*** does not include a product that contains resin.

***processing***, in relation to work involving processing engineered stone, porcelain products or sintered stone—see regulation 529C.

***sintered stone*** does not include a product that contains resin.

2 Part 4.9

Repeal the Part.

3 After Chapter 8

Insert:

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:

 (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, ***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 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 regulation 351.

 (2) In this regulation, ***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: Regulations 44 to 46 apply to the provision and use of personal protective equipment, including the respiratory protective equipment provided under paragraph (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.

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.

Note 1: Under Division 3A of Part 11.2, work involving a type of engineered stone may be the subject of an exemption from this regulation.

Note 2: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

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:

 (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.

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 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.

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier G monetary penalty.

 (3) Subregulation (2) does not apply to a person conducting a business or undertaking if:

 (a) the person conducting a 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.

 (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 the change occurs, give the regulator a written notice:

 (a) stating the information has changed; and

 (b) describing the change to the information.

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier G monetary penalty.

 (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 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) the work is still being carried out; and

 (b) any information given to the regulator that has changed.

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier G monetary penalty.

 (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 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.

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier G monetary penalty.

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.

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

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.

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

4 Subregulation 676(1) (after table item 65)

Insert:

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

5 Paragraph 684(4)(b)

Omit “facility.”, substitute “facility; or”.

6 After paragraph 684(4)(b)

Insert:

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

7 After Division 3 of Part 11.2

Insert:

Division 3A—Engineered stone

689A Engineered stone—exemption

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

 (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).

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

689B Engineered stone—application for exemption

 (1) A person with an interest in having an exemption granted under subregulation 689A(1) may apply to the regulator for an exemption.

 (2) However, before the person can apply under subregulation (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 the written notice the person gives each social partner SWA member under subregulation (2); and

 (c) accompanied by any submissions received by the person from social partner SWA members under subregulation (2).

 (4) 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.

689C Engineered stone—notifying persons of application for exemption

 (1) The regulator must give the application documents in relation to an application for an exemption under subregulation 689A(1) to each corresponding regulator.

 (2) The regulator may also give the application documents for an application for an exemption under subregulation 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.

 (3) In this regulation, ***application documents***, in relation to an application for an exemption under subregulation 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 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 under paragraph 689B(4)(c).

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

 (1) The regulator must not grant an exemption under subregulation 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 subregulation (1), the regulator must have regard to all relevant matters, including:

 (a) any submissions received under paragraph 689B(4)(c) or regulation 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 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 the Safe Work Australia website.

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

8 Paragraph 692(1)(b)

Omit “apply”, substitute “apply, if applicable”.

9 Regulation 694

Repeal the regulation, substitute:

694 Notice of decision in relation to exemption

 (1) The regulator must give a copy of the exemption document referred to in regulation 692 within 14 days after making the decision to grant the exemption to:

 (a) if a person applied for the exemption—the applicant; or

 (b) if the regulator granted the exemption on the regulator’s own initiative and the exemption document is not a legislative instrument—each person to whom the exemption will apply.

 (2) If the regulator grants an exemption under subregulation 689A(1), the regulator must:

 (a) notify each corresponding regulator that the exemption is granted; and

 (b) publish on the regulator’s website the reasons for the decision within 14 days after the day the exemption is granted.

Note: Exemption documents under subregulation 689A(1) are legislative instruments, see the Register of Legislation website (https://www.legislation.gov.au). All exemptions could in 2024 also be viewed on the Safe Work Australia website (https://www.safeworkaustralia.gov.au).

10 Paragraph 698(1)(b)

Omit “to subregulation (2)”, substitute “to whom subregulation (2)”.

11 Subregulation 698(2)

After “persons”, insert “, or is granted under subregulation 689A(1),”.

12 After Part 5 of Chapter 12

Insert:

Part 8A—Engineered stone, porcelain products and sintered stone

Note: Part 8A makes transitional arrangements relating to Chapter 8A of these Regulations. The numbering of these Divisions and Subdivisions matches the Parts and Divisions of Chapter 8A.

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

698A Particular work involving engineered stone—exception if carried out under pre‑2024 contract

 (1) Regulation 529D, as inserted by the *Work Health and Safety Amendment (Penalties and Engineered Stone and Crystalline Silica Substances) Regulations 2024*, does not apply to work that involves installing engineered stone benchtops, panels or slabs if:

 (a) the work is carried out:

 (i) under a contract originally entered into on or before 31 December 2023; and

 (ii) on or before 31 December 2024 in a place to which a corresponding WHS law applies; and

 (b) if the corresponding WHS law applied to the work, regulation 529D of the corresponding WHS law would not apply to the work under that law because the work was carried out on or before 31 December 2024.

 (2) Regulation 529D, as inserted by the *Work Health and Safety Amendment (Penalties and Engineered Stone and Crystalline Silica Substances) Regulations 2024*, 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 subparagraph (1)(a)(i); and

 (b) the work occurs on or before 31 December 2024 in a place to which a corresponding WHS law applies; and

 (c) if the corresponding WHS law applied to the work, regulation 529D of the corresponding WHS law would not apply to the work under that law because the work occurred on or before 31 December 2024; and

 (d) for work that involves processing the engineered stone—the processing is controlled.

698B Application—acquisition of property

 Regulation 529D, as inserted by the *Work Health and Safety Amendment (Penalties and Engineered Stone and Crystalline Silica Substances) Regulations 2024*, has no effect to the extent (if any) that its operation would result in an acquisition of property (within the meaning of paragraph 51(xxxi) of the Constitution) from a person otherwise than on just terms (within the meaning of that paragraph).

Schedule 3—Crystalline silica substances

Work Health and Safety Regulations 2011

1 Subregulation 5(1) (definition of *controlled*)

Repeal the definition, substitute:

***controlled***, in relation to the processing of a CSS—see regulation 529B.

2 Subregulation 5(1)

Insert:

***crystalline silica***—see regulation 529A.

***crystalline silica substance (CSS)***—see regulation 529A.

***high risk***, in relation to the processing of a CSS, means the processing of a CSS that is reasonably likely to result in a risk to the health of a person at the workplace.

3 Subregulation 5(1) (definition of *processing*)

Repeal the definition, substitute:

***processing***, in relation to a CSS—see regulation 529A.

4 Subregulation 5(1)

Insert:

***silica risk control plan*** means, in relation to the processing of a CSS that is high risk, a silica risk control plan prepared under regulation 529CB.

5 Chapter 8A (heading)

Omit “**Engineered stone, porcelain products and sintered stone**”, substitute “**Crystalline silica**”.

6 Regulations 529A to 592C

Repeal the regulations, substitute:

529A Meaning of *processing* in relation to crystalline silica substances and related terms

 (1) In these Regulations, ***processing*** in relation to a CSS means:

 (a) the use of power tools or mechanical plant to carry out an activity involving the crushing, cutting, grinding, trimming, sanding, abrasive polishing or drilling of a CSS; or

 (b) the use of roadheaders to excavate material that is a CSS; or

 (c) the quarrying of a material that is a CSS; or

 (d) mechanical screening involving a material that is a CSS; or

 (e) tunnelling through a material that is a CSS; or

 (f) a process that exposes, or is reasonably likely to expose, a person to respirable crystalline silica during the manufacture or handling of a CSS.

 (2) In these Regulations, ***crystalline silica substance (CSS)*** means material that contains at least 1% crystalline silica, determined as a weight/weight (w/w) concentration.

Note: Engineered stone is a type of CCS.

 (3) In these Regulations, ***crystalline silica***:

 (a) means crystalline polymorphs of silica; and

 (b) includes the following substances:

 (i) cristobalite;

 (ii) quartz;

 (iii) tridymite;

 (iv) tripoli.

 (4) In these Regulations, ***engineered stone***:

 (a) means a CSS that:

 (i) is an artificial product; 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.

529B When processing of CSS is *controlled*

 (1) In these Regulations, the processing of a CSS is ***controlled*** if:

 (a) control measures to eliminate or minimise risks arising from the processing are implemented so far as is reasonably practicable; and

 (b) at least 1 of the following measures are used during the processing:

 (i) the isolation of a person from dust exposure;

 (ii) a fully enclosed operator cabin fitted with a high efficiency air filtration system;

 (iii) an effective wet dust suppression method;

 (iv) an effective on‑tool extraction system;

 (v) an effective local exhaust ventilation system; and

 (c) a person still at risk of being exposed to respirable crystalline silica after 1 or more of the measures in paragraph (b) are used:

 (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) Despite subregulation (1), if the measures in paragraph (1)(b) are not reasonably practicable, the processing of a CSS is controlled if a person who is at risk of being exposed to respirable crystalline silica during the processing:

 (a) is provided with respiratory protective equipment; and

 (b) wears the respiratory protective equipment while the work is carried out.

 (3) In this regulation, ***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: Regulations 44, 45 and 46 apply to the provision and use of personal protective equipment, including the respiratory protective equipment provided under paragraph (1)(c) and subregulation (2).

529C Duty for processing of CSS to be controlled

 A person conducting a business or undertaking must not carry out, or direct or allow a worker to carry out, processing of a CSS unless the processing is controlled.

Note 1: Regulations 529D and 529F apply to the processing of engineered stone.

Note 2: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

529CA Identifying processing of CSS that is high risk

 (1) A person conducting a business or undertaking at a workplace must assess the processing of a CSS carried out by the business or undertaking at the workplace to determine if the processing is high risk.

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

 (2) In assessing whether the processing of a CSS is high risk, the person must have regard to the following:

 (a) the specific processing that will be undertaken;

 (b) the form or forms of crystalline silica present in the CSS;

 (c) the proportion of crystalline silica contained in the CSS, determined as a weight/weight (w/w) concentration;

 (d) the hazards associated with the work, including the likely frequency and duration that a person will be exposed to respirable crystalline silica;

 (e) whether the airborne concentration of respirable crystalline silica that is present at the workplace is reasonably likely to exceed half the workplace exposure standard;

 (f) any relevant air and health monitoring results previously undertaken at the workplace;

 (g) any previous incidents, illnesses or diseases associated with exposure to respirable crystalline silica at the workplace.

 (3) In assessing whether the processing of a CSS is high risk, the person must not:

 (a) rely on the control measures implemented under paragraph 529B(1)(b); and

 (b) have regard to the use of personal protective equipment and administrative controls used to control the risks associated with respirable crystalline silica.

 (4) The person must ensure that a risk assessment conducted under subregulation (1) is recorded in writing.

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier I monetary penalty.

 (5) If a person conducting a business or undertaking is unable to determine whether the processing of a CSS carried out at the workplace is high risk, the processing is taken to be high risk until the person determines that the processing is not high risk.

529CB Silica risk control plan required for processing of CSS that is high risk

 (1) A person conducting a business or undertaking carrying out the processing of a CSS that is high risk must, before the processing commences, ensure that a silica risk control plan for the processing:

 (a) is prepared; or

 (b) has already been prepared by another person.

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

 (2) A silica risk control plan must:

 (a) identify all the processing of a CSS carried out at the workplace that is high risk; and

 (b) include the risk assessment undertaken under regulation 529CA for all processing of a CSS that is high risk; and

 (c) document what control measures will be used to control the risks associated with the processing that is high risk and how those measures will be implemented, monitored and reviewed; and

 (d) be set out and expressed in a way that is readily accessible and understandable to persons who use it.

 (3) A silica risk control plan is not required to be prepared before the processing of a CSS that is high risk if:

 (a) the processing that is high risk is also high risk construction work; and

 (b) a safe work method statement is prepared, or has already been prepared by another person, before the processing commences; and

 (c) the safe work method statement satisfies the requirements in subregulation (2).

529CC Compliance with silica risk control plan

 (1) A person conducting a business or undertaking carrying out the processing of a CSS that is high risk must put in place arrangements for ensuring that the processing is carried out in accordance with the silica risk control plan, including by ensuring that the silica risk control plan is:

 (a) available to all workers; and

 (b) provided to all workers before they commence the processing.

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

 (2) If the processing of a CSS that is high risk is not carried out in accordance with the silica risk control plan that applies to the processing, the person must ensure that the processing:

 (a) is stopped immediately or as soon as it is safe to do so; and

 (b) resumed only in accordance with the silica risk control plan.

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

 (3) A person conducting a business or undertaking must ensure that a silica risk control plan is reviewed and as necessary revised if relevant control measures are revised under regulation 38.

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier G monetary penalty.

529CD Duty to train workers about risks of crystalline silica

 (1) A person conducting a business or undertaking must ensure that a worker receives crystalline silica training if the person reasonably believes that the worker may be:

 (a) involved in the processing of a CSS that is high risk; or

 (b) at risk of exposure to respirable crystalline silica because of the processing of a CSS that is high risk.

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

 (2) The person must ensure that a record is kept of the training undertaken by the worker:

 (a) while the worker is carrying out the processing of a CSS that is high risk; and

 (b) for 5 years after the day the worker ceases working for the person.

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier I monetary penalty.

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

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier I monetary penalty.

 (4) In this regulation, ***crystalline silica training*** means training that is accredited, or training approved by the regulator, in relation to the following:

 (a) the health risks associated with exposure to respirable crystalline silica;

 (b) the need for, and proper use of, any risk control measures required by the Regulations.

Note: Division 1 of Part 3.2 also applies to a person conducting a business or undertaking involving the process of a CSS.

529CE Monitoring in relation to processing of CSS that is high risk

 A person conducting a business or undertaking that is carrying out, or directing or allowing a worker to carry out, the processing of a CSS that is high risk, must:

 (a) undertake air monitoring for respirable crystalline silica in accordance with regulation 50; and

 (b) provide air monitoring results to the regulator, in a form approved by the regulator, if the airborne concentration of respirable crystalline silica has exceeded the workplace exposure standard as soon as reasonably practicable and no more than 14 days from the date that the air monitoring result was reported to the person conducting a business or undertaking; and

 (c) provide health monitoring for all workers carrying out the processing of a CSS that is high risk in accordance with Division 6 of Part 7.1 of the Regulations.

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Penalty: The tier E monetary penalty.

7 Parts 8A.4 and 8A.5

Repeal the Parts.