



New South Wales

Work Health and Safety Amendment (Silica) Regulation 2020

under the

Work Health and Safety Act 2011

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Work Health and Safety Act 2011*.

KEVIN ANDERSON, MP
Minister for Better Regulation and Innovation

Explanatory note

The object of this Regulation is to create an offence if a person conducting a business or undertaking at a workplace directs or allows a worker to cut manufactured stone containing crystalline silica with a power tool unless certain controls are in place to protect workers from inhaling the dust from the cutting.

The new offence has a maximum penalty of \$6,000 for an individual and \$30,000 for a corporation and may also be dealt with by way of a penalty notice.

This Regulation also provides for an existing offence to be dealt with by way of a penalty notice. That offence relates to a failure by a person who conducts a business or undertaking to give a health monitoring report of a worker to the regulator under the *Work Health and Safety Act 2011*.

This Regulation is made under the *Work Health and Safety Act 2011*, including sections 243 and 276 (the general regulation-making power) and clause 4 of Schedule 3.

Work Health and Safety Amendment (Silica) Regulation 2020

under the

Work Health and Safety Act 2011

1 Name of Regulation

This Regulation is the *Work Health and Safety Amendment (Silica) Regulation 2020*.

2 Commencement

This Regulation commences on 1 July 2020 and is required to be published on the NSW legislation website.

Schedule 1 Amendment of Work Health and Safety Regulation 2017

[1] Part 4.10

Insert after Part 4.9 (as inserted by the *Work Health and Safety Amendment (Traffic Control Work Training) Regulation 2019*)—

Part 4.10 Manufactured stone—cutting

1840 Duty to ensure workers cutting manufactured stone are protected

- (1) A person conducting a business or undertaking at a workplace must not direct or allow a worker to cut manufactured stone containing crystalline silica with a power tool unless—
- (a) each worker who may inhale dust from the cutting is wearing respiratory protective equipment that—
 - (i) protects the worker from the inhalation of the dust, and
 - (ii) complies with AS/NZS 1716–2012, *Respiratory protective devices*, and
 - (b) at least 1 of the following controls to effectively reduce exposure to the dust is in place and is properly designed, installed, used and maintained—
 - (i) a water delivery system that supplies a continuous feed of water over the area being cut to suppress the generation of dust,
 - (ii) a prescribed extraction system that is attached to the tool used for the cutting to capture the dust produced by the cutting,
 - (iii) a local exhaust ventilation system that captures the dust produced by the cutting and transports the dust to a safe emission point or to a filter or scrubber.

Maximum penalty—

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

- (2) In this clause—

cut includes grind, drill or polish.

manufactured stone means stone that is artificially produced even if it contains some natural stone and includes engineered stone and artificial composite stone.

prescribed extraction system means—

- (a) a vacuum that complies with the Class H or Class M requirements in 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
- (b) a vacuum that is equivalent to a vacuum referred to in paragraph (a), or
- (c) any other extractive system that effectively captures dust from cutting stone.

[2] Schedule 18A Penalty notice offences

Omit “238(2)” from the matter relating to offences under this regulation.

Insert instead “1840(1), 238(2), 376”.