

COMMUNIQUÉ

Meeting of Workplace Relations and Work Health and Safety Ministers

13 December 2023

1. Commonwealth, State and Territory Workplace Relations and Work Health and Safety (WHS) Ministers met today to settle a national response to Safe Work Australia's recommendation to prohibit the use of engineered stone and to agree on a plan to implement a harmonised national labour hire system.
2. The meeting was chaired by the Hon Tony Burke MP, Commonwealth Minister for Employment and Workplace Relations.

Engineered Stone

3. Ministers accepted the findings and recommendation of Safe Work Australia's Decision Regulation Impact Statement: [Prohibition on the use of engineered stone](#) and agreed to prohibit the use of engineered stone under the model WHS laws.
4. Ministers unanimously agreed to prohibit the use, supply and manufacture of all engineered stone with the majority of jurisdictions to commence the prohibition from 1 July 2024.
5. In making their decision on engineered stone, Ministers noted the key findings in the Decision Regulation Impact Statement that:
 - Rates of silicosis and silica-related diseases in Australian workers have risen substantially in recent years, with a disproportionate number of diagnoses in engineered stone workers.
 - When engineered stone is processed, the dust generated has different physical and chemical properties that likely contribute to more rapid and severe disease.
 - There is no scientific evidence for a safe threshold of crystalline silica content in engineered stone, or that lower silica content engineered stone is safer to work with.
 - Silicosis is preventable, but WHS laws are not protecting workers due to a persistent lack of compliance with obligations and responsibilities under these laws across industry at all levels.
6. Ministers noted the Commonwealth's intention to put in place a complementary customs prohibition on engineered stone to provide an additional layer of enforcement and deterrence at the border.
7. Ministers agreed to appropriate exceptions for activities such as removal, repair, minor modification, and disposal of engineered stone products installed prior to the prohibition (legacy products), as well as appropriate exceptions for engineered stone products with trace levels of crystalline silica (under 1%).
8. Ministers also agreed there is a need for a transition period for contracts entered into on or before today's date. Ministers will settle arrangements for this at the next meeting in March 2024, or out of session earlier if possible.

9. Ministers agreed to base the definition of engineered stone for the purpose of the prohibition on the definition in the model WHS Regulations, but with an exemption process as set out at paragraph 10 below and with exclusions for: concrete and cement products; bricks, pavers and other similar blocks; porcelain products; ceramic wall and floor tiles; roof tiles; grout, mortar and render; and plasterboard.
10. Ministers agreed that additional products would be exempt from the prohibition, identified through a process to be determined by Safe Work Australia in consultation with WHS regulators. This process will ensure national consistency in how products are assessed for exemption from the prohibition and may allow future engineered stone products to be exempted from the ban, based on the provision of compelling evidence demonstrating these products can be used safely.
11. Businesses and consumers are encouraged to be mindful of the upcoming prohibition on the use of engineered stone products and from 1 January 2024, to avoid entering into contracts for these products that may not be able to be fulfilled. Ministers agreed they would explore levers to discourage the use of such contracts.
12. To give timely effect to the prohibition, Ministers agreed to request Safe Work Australia prioritise amendments to the model WHS laws and provide these amendments to Ministers no later than the end of February 2024.
13. Ministers agreed that arrangements for working with legacy products, such as removal, modification, repair work, and disposal, be managed by jurisdictions on the basis of a national framework developed by Safe Work Australia, to be provided to Ministers by the end of February 2024.
14. To ensure strengthened protections for those exposed to crystalline silica in all industries, Ministers requested Safe Work Australia outline agreed policy parameters for amendments to the model WHS Regulations on crystalline silica processes by the end of February 2024. These regulations include:
 - additional training requirements
 - a requirement to conduct air monitoring, and
 - reporting workplace exposure standard exceedances to the relevant regulator.
15. Ministers discussed the need for nationally consistent and coordinated messaging for workers, businesses and consumers and noted the Commonwealth, in consultation with state and territories, Safe Work Australia, unions and industry, will lead national communication activities to provide information to consumers, businesses and workers about the prohibition on engineered stone.
16. Ministers agreed to meet again in March 2024 to settle arrangements for a transition period for contracts entered into on or before today's date; endorse amendments to the model WHS laws to give effect to the prohibition; settle a national framework for working with previously installed engineered stone products; endorse policy parameters on stronger regulations for crystalline silica

processes; and endorse a process for assessing products to be considered as exempt from the prohibition.

17. Ministers noted Safe Work Australia's role in monitoring emerging evidence and conducting research on health risks from substitute products for engineered stone, and advancements in product design that may allow engineered stone to be used safely in the future.

Labour hire

18. At the last meeting on 8 June 2023, Workplace Relations Ministers tasked a working group of senior officials (the Labour Hire Harmonisation Working Group), led by Queensland and Victoria, to develop and provide a model for a harmonised approach to national labour hire regulation to Ministers. This report was provided on 31 October 2023.
19. Ministers endorsed the model presented by the Labour Hire Harmonisation Working Group and agreed on the next steps to achieve harmonisation. Tasmania noted it would provide its position out of session. The Northern Territory indicated its in-principle support, and that it will provide its position out of session.
20. The agreed approach to harmonisation will ensure consistency across state and territory laws and recognition of licences across all jurisdictions (with existing licences recognised without the need for further application). This will meet Ministers' core objectives of ensuring protection of all workers and a level-playing field for business across the country.
21. Ministers agreed in-principle for Victoria to be the host jurisdiction. Victoria's hosting is subject to agreement, including with the Commonwealth, on appropriate funding arrangements for the costs of establishing a national harmonised labour hire project and scheme.
22. As host jurisdiction, Victoria would be responsible for passage of the model law (to be legislatively applied or mirrored in all other states and territories) and for establishing an independent statutory body, the National Labour Hire Regulator, building on its existing regulatory architecture.
23. Ministers agreed to task a senior officials' working group, led by Victoria and the Commonwealth, to develop an Intergovernmental Agreement to govern the harmonised system, and to establish a project office, to manage the establishment of the National Labour Hire Regulator and support development and adoption of the model law. The working group will consult closely with business, industry, unions and other stakeholders. The project office will develop estimated funding requirements for a harmonised system. The operation of the project office is subject to agreement, including with the Commonwealth, on appropriate establishment funding arrangements.
24. Ministers directed that the draft Intergovernmental Agreement, and funding requirements, be provided to them by 1 June 2024 for consideration and endorsement by Ministers by 1 July 2024.