Exemption from the engineered stone ban

Engineered stone ban
Protecting workers' health and safety

STEP 1

A person (prospective applicant) identifies a type of engineered stone it wishes to be exempt from the engineered stone ban and develops an application.

Prospective applicant must provide a copy of the draft application and invite SWA social partners (i.e. Safe Work Australia Members that represent the interests of employers and workers) to make a submission.

SWA social partners may provide submissions to prospective applicant.

Submissions provided by SWA social partners (if any) must accompany the application to the WHS regulator.

Application provided to relevant WHS regulator (including any submissions from SWA social partners).

STEP 2

WHS regulator (deciding regulator) receives the application and must invite submissions from all other WHS regulators. The deciding regulator may also invite submissions from other relevant parties, specifically:

- employer organisations
- unions representing employees, and
- technical experts.

Other WHS regulators and other parties consulted (if any) may provide submissions.

STEP 3

WHS REGULATOR DECISION MAKING STEP

The WHS regulator must not grant an exemption unless it is satisfied that granting the exemption would result in a standard of health and safety that is at least equivalent to the standard that would have been achieved without that exemption.

When deciding this matter, the WHS regulator must have regard to:

- any submissions received by the WHS regulator from the corresponding WHS regulators, employee groups, employer groups and technical experts
- any submission made by SWA social partners and provided by the applicant with the application, and
- the Engineered Stone Prohibition common decision-making criteria published on the Safe Work Australia website under the National Exemption Framework.

Changes made to the Engineered Stone Prohibition common decision-making criteria (if any) resulting from review by Safe Work Australia of the reasons for exemption decisions.

STEP 4

EXEMPTION GRANTED

If the exemption is granted, the deciding regulator notifies the applicant and must additionally:

- publish a copy of the exemption on the relevant government website and in the [Government Gazette]
- publish its reasons for granting the exemption within 14 days
- notify the corresponding regulators that the exemption is granted.

EXEMPTION NOT GRANTED

Regulator notifies applicant of decision to not grant an exemption (reviewable decision - external review available).

STEP 5

Safe Work Australia Oversight

Once granted, exemptions will be automatically recognised in all jurisdictions except Victoria; PCBUs should not apply for the same exemption in multiple jurisdictions.

Safe Work Australia reviews the reasons for exemption decisions against the agreed Engineered Stone Prohibition common decision-making criteria.