

House of Representatives

Supplementary Order Paper

Wednesday, 11 February 2015

Animal Welfare Amendment Bill

Proposed amendments

Mojo Mathers, in Committee, to move the following amendments:

Clause 4

After *clause 4(5)* (page 6, after line 34), insert:

- (6) In section 2(1), insert in their appropriate alphabetical order:
- “**cosmetic**—
 - “(a) means any substance or mixture of substances intended for application to any external part of the human body (including skin, hair, or nails), or to the teeth or the mucous membranes of the oral cavity, for the sole or primary purpose of beautifying, promoting attractiveness, improving, protecting, altering, cleansing, perfuming, or deodorising; and
 - “(b) includes—
 - “(i) any substance or mixture of substances intended for use as an ingredient in any substance or mixture of substances that falls within **paragraph (a)**; and
 - “(ii) any substance or mixture of substances that is, or that is of a kind that is, or belongs to a class that is, declared by regulations made under section 183 to be a cosmetic for the purposes of this Act; but
 - “(c) does not include—
 - “(i) a medicine as defined in section 3 of the Medicines Act 1981; or
 - “(ii) a medical device as defined in section 3A of the Medicines Act 1981; or

“(iii) any substance or mixture of substances that is, or that is of a kind that is, or belongs to a class that is, declared by regulations made under section 183 not to be a cosmetic for the purposes of this Act

“**substance** has the same meaning as in section 2(1) of the Medicines Act 1981”.

New clause 31B

After *clause 31A* (page 18, after line 32), insert:

31B New section 82A inserted (Prohibition on use of animals in research and testing for cosmetic)

After section 82, insert:

“82A Prohibition on use of animals in research and testing for cosmetic

“(1) No person may use any animal in any research or testing for the purpose of developing or evaluating the safety or efficacy of any cosmetic.

“(2) A person commits an offence who contravenes **subsection (1)**.”

New clause 35A

After *clause 35* (page 20, after line 15), insert:

35A Section 119 amended (Penalties)

In section 119, after “section 82(2) or” insert “**section 82A(2) or**”.

Clause 55

After *clause 55(1)* (page 36, after line 9), insert:

(1A) After section 183(1)(d), insert:

“(da) declaring, by name or description, a substance, or any kinds or classes of substances, or mixture of substances, to be, or not to be, a cosmetic for the purposes of this Act.”.

Explanatory note

This Supplementary Order Paper supersedes Supplementary Order Paper No 473. It amends the Animal Welfare Amendment Bill (the **Bill**) to include a prohibition on the use of animals in research or testing relating to cosmetics. The Animal Welfare Act 1999 (the **principal Act**) imposes certain restrictions and controls on all research and testing involving animals, but there is no prohibition relating to cosmetics. In some jurisdictions, including the 28 member states of the European Union, Norway, Israel, India, and recently the Brazilian state of Sao Paulo, legislative bans have been introduced on animal testing of cosmetic

products and ingredients. In the European Union, Israel, and India, the ban has now been extended further, to the sale or importation of cosmetics that have been tested on animals after a cut-off date defined in law. Legislative measures are under discussion in Australia, the US, Brazil, South Korea, Canada, Taiwan, and beyond. In New Zealand it is claimed that no cosmetic testing on animals is currently taking place. However, there is nothing to prevent this from happening in the future. It is time that New Zealand also prohibited this practice.

This Supplementary Order Paper does 3 things. First, it amends *clause 4* of the Bill to insert a *new definition of cosmetic* in section 2(1). There is a definition of cosmetic in the Medicines Act 1981 but it is not wide enough, and does not, for example, cover ingredients. Paragraph (b)(i) of the proposed new definition of cosmetic includes ingredients. The definition expressly exempts medicines and medical devices as defined in the Medicines Act 1981. The wording of paragraphs (a) (with the requirement of purpose), and (b)(i) (with the requirement of intention) will mean that other substances are not inadvertently caught. In addition, the definition also allows for substances to be declared to be or not to be cosmetics for the purposes of the principal Act. This means that if there were a need to exclude any specific substance covered by, for example, the Food Act 2014, the Hazardous Substances Act and New Organisms Act 1996, or the Agricultural Compounds and Veterinary Medicines Act 1997, that could be done by regulation. A related amendment is therefore also made to the regulation making power section 183 to empower such regulations. Secondly, this Supplementary Order Paper adds a *new clause 31B*, which inserts a *new section 82A* prohibiting the use of animals in any research or testing relating to cosmetics, and makes non-compliance an offence. Thirdly this Supplementary Order Paper adds a *new clause 35A* amending section 119, which imposes penalties for offences under Part 6 of the Animal Welfare Act 1999, to include reference to the *new section 82A*.
