

House of Representatives

Supplementary Order Paper

Tuesday, 31 March 2015

Animal Welfare Amendment Bill

Proposed amendments

Hon Nathan Guy, in Committee, to move the following amendments:

Clause 4

After *clause 4(1)* (page 6, after line 11), insert:

(1A) In section 2(1), insert in its appropriate alphabetical order:

“**cosmetic**—

- “(a) means any finished product that is used or represented for use for the primary purpose of cleansing, improving the attractiveness of, changing the appearance of, perfuming, moisturising, or deodorising the skin, hair, nails, or other external parts of the human body, human teeth, or the mucous membranes of the human mouth, whether or not the product is or contains any substance, mixture of substances, or thing; and
- “(b) includes any substance, mixture of substances, or thing declared to be a cosmetic by regulations made for that purpose under section 183; 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 that Act; or
 - “(iii) a related product, as defined in section 94 of that Act; or
 - “(iv) an agricultural compound or a veterinary medicine, as those terms are defined in section 2(1) of the Agricultural Compounds and Veterinary Medicines Act 1997; or

- “(v) a food, as defined in section 9 of the Food Act 2014 or a drink within the meaning of that section; or
- “(vi) toothpaste; or
- “(vii) any substance, mixture of substances, or thing declared not to be a cosmetic by regulations made for that purpose under section 183”.

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

- (6) In section 2(1), insert in its appropriate alphabetical order:
“**substance**, in relation to any cosmetic, has the same meaning as in section 2(1) of the Medicines Act 1981”.

Clause 31

In *clause 31*, insert as subclause (2) (page 18, after line 27):

- (2) The Animal Welfare (Codes of Welfare—Review Date Extension) Order 2014 (LI 2014/260) is revoked.

New clause 31B

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

31B New section 84A inserted (Prohibition on use of animals in research, testing, and teaching for making cosmetic)

After section 84, insert:

“**84A Prohibition on use of animals in research, testing, and teaching for making cosmetic**

- “(1) A person must not use an animal in any research, testing, or teaching that is for the purpose of—
 - “(a) developing, making, or testing a cosmetic; or
 - “(b) developing, making, or testing an ingredient that is intended exclusively for use in a cosmetic.
- “(2) **Subsection (1)(b)** does not apply to research, testing, or teaching in relation to an ingredient that is carried out for a purpose unrelated to the intended use of the ingredient in a cosmetic.
- “(3) A person commits an offence who contravenes **subsection (1)**.
- “(4) In a prosecution for an offence against this section, it is not necessary for the prosecution to prove that the defendant intended to commit the offence.”

New clause 35A

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

35A Section 119 amended (Penalties)

In section 119, after “section 83(2) or”, insert “**section 84A(3)** or”.

Clause 43A: new section 141(2)(aa)

In *clause 43A(2)*, *new section 141(2)(aa)*, after “dispose of” (page 27, line 7), insert “(including destroy)”.

Clause 55

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

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

“(da) declaring any substance, mixture of substances, or thing to be, or not to be, a cosmetic for the purpose of the definition of cosmetic in section 2(1):”.

Explanatory note

This Supplementary Order Paper amends the Animal Welfare Amendment Bill (the **Bill**) to include a prohibition on the use of animals for the purpose of developing, making, or testing a finished product that is a cosmetic or any ingredient intended exclusively for use in a cosmetic. The Animal Welfare Act 1999 (the **principal Act**) imposes certain restrictions and controls on all research, testing, and teaching involving animals, but there is no prohibition relating to cosmetics.

Clause 4 of the Bill is amended to insert in section 2(1) of the principal Act a definition of cosmetic. This definition covers finished cosmetic products only. A related amendment to *clause 55* amends section 183 of the principal Act to enable regulations to be made to declare any substance, mixture of substances, or thing to be, or not to be, a cosmetic.

Clause 31 is amended to revoke the Animal Welfare (Codes of Welfare—Review Date Extension) Order 2014, which is no longer necessary in light of *new section 78(1)* of the principal Act in *clause 30* and the repeal of section 78A of the principal Act by *clause 31*.

New clause 31B inserts *new section 84A* into the principal Act to prohibit the use of an animal in—

- any research, testing, or teaching for the purpose of developing, making, or testing a cosmetic; or
- any research, testing, or teaching for the purpose of developing, making, or testing an ingredient that is intended exclusively for use in a cosmetic.

This clause makes non-compliance a strict liability offence.

New clause 35A inserts a reference to *new section 84A* into section 119 of the principal Act. The effect of the amendment to section 119 is to apply the penalties under that section to an offence against *new section 84A*. An individual is liable to imprisonment for up to 6 months or a fine not exceeding \$25,000, and a body corporate is liable to a fine not exceeding \$125,000.

Clause 43A is amended to ensure that the phrase “dispose of” is used consistently throughout the provisions in this clause to include destruction. In certain circumstances, it may be necessary for an inspector or auxiliary officer of an ap-

proved organisation to destroy an animal that the organisation is caring for and cannot re-home.

Departmental disclosure statement

The Ministry for Primary Industries is required to prepare a disclosure statement to assist with the scrutiny of this Supplementary Order Paper. The disclosure statement provides access to information about any material policy changes to the Bill and identifies any new significant or unusual legislative features of the Bill as amended.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=sop&subtype=government&year=2015&no=69&>.

Regulatory impact statement

The Ministry for Primary Industries produced a regulatory impact statement to help inform the new policy decisions taken by the Government relating to the contents of this SOP.

A copy of this regulatory impact statement can be found at—

- <http://www.mpi.govt.nz/law-and-policy/legal-overviews/regulatory-impact-statements/>
 - <http://www.treasury.govt.nz/publications/informationreleases/ris>
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