



UK has followed the EU in allowing animal tests on ingredients used in cosmetics

The Home Office has admitted in a letter to Cruelty Free International that it now allows most if not all animal testing for cosmetic ingredients – including those used solely in cosmetics. This represents a volte-face on the Government’s position for over two decades.

The information below sets out the background information on how the EU, and subsequent UK, decision has come about.

Animal testing cosmetics ban

In 1998, the UK was the first country to establish a ban on animal testing for cosmetics and their ingredients. It did so by way of a policy ban, implemented in practice by not issuing Home Office project licences for such work under the Animals (Scientific Procedures) Act 1986.

The EU followed the UK, bringing into force the EU then Cosmetics Directive (7th amendment) in 2004. It established an EU-wide animal testing and marketing ban on finished cosmetic products and a marketing ban on cosmetics products tested on animals. This was followed by a ban on testing cosmetic ingredients on animals in 2009 and a full marketing ban in 2013. The marketing bans prohibit the sale or import into the EU of cosmetics tested on animals anywhere in the world.

On leaving the EU, the UK has retained the now Cosmetics Regulation.

REACH Regulation

Despite the prohibitions in the Cosmetics Regulation, EU producers of substances used in cosmetics have been required by the European Chemicals Agency (ECHA) to carry out tests on vertebrate animals to comply with the requirements of Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) regulation, the main EU chemicals safety legislation.

The ECHA is now routinely requiring some widely used cosmetics ingredients to be tested on hundreds of thousands of animals to comply with REACH in the EU.¹

¹ <https://www.crueltyfreeinternational.org/what-we-do/breaking-news/over-2-million-animals-used-experiments-reach>

Since leaving the EU, the UK has introduced UK REACH, effectively carrying over and transposing the EU chemicals regulation into UK law.

You will be aware of Cruelty Free International's work on the risk of duplicate and repeat animal testing for UK REACH and of our work with MPs to seek amendments to the UK Environment Bill which includes a REACH schedule.

Recent EU regulatory changes

A decision was made last year by the appeals board of ECHA, which said that, in most cases, even ingredients used only in cosmetics must be tested on animals to ensure they were safe for handling in the manufacturing process.²

Symrise AG, a major producer of flavours and fragrances based in Germany, was instructed by ECHA to carry out animal tests on two substances used solely in cosmetics products.

Symrise brought appeals to the ECHA Board of Appeal to contest the need to carry out these animal tests on cosmetics substances. They argued that under the EU Cosmetics Regulation, their products should not be tested on animals because, if they were, the products would no longer be able to be sold and marketed in Europe. This followed a ruling by the European Court of Justice in 2016 that companies selling cosmetics in the EU could not rely on animal test data to demonstrate safety. The Symrise substances had been safely handled for years prior to the ruling.

The Board of Appeal decided, in two rulings in August 2020, that the animal testing must be carried out to satisfy chemicals regulations, ruling that the restrictions on animal testing in Europe's cosmetics laws do not prevent the need for REACH compliance. Symrise is challenging the rulings before the EU General Court. Cruelty Free Europe – our sister organisation in the EU - is hopeful of being allowed to intervene in the case.

UK position

Following EU withdrawal, the UK now runs its own REACH system. The Home Office and DEFRA are under no obligation to follow the ruling in the Symrise appeal.

Cruelty Free International wrote to the Home Office Animals in Science Regulation Unit (ASRU) to clarify current regulatory guidance on animal cosmetics testing in the UK and to ask what position the Government intends to take on the Symrise ruling. In particular, wanting to know if the department was maintaining the 1998 policy ban, as it had confirmed as recently as a 2015 judicial review brought by Cruelty Free International.

² <https://echa.europa.eu/documents/10162/237e31c9-2801-c160-7e5b-7ce81a3b7f17>

We were disappointed and concerned to have a response from the Home Office indicating that the UK has decided to adopt the approach of the Symrise decisions in 2020 by the ECHA Board of Appeal on cosmetics testing.³ It has abandoned its 1998 policy ban.

The ASRU set out its decision in its letter of response to Cruelty Free International: "The Home Office can confirm it has reconsidered its policy, from the approach that was stated in the 2015 Summary Grounds [in the judicial review] and has subsequently aligned its approach to the Board of Appeal of the European Chemicals Agency in the Symrise case.

The Home Office aims to publicly clarify its position now with the formal publication of an updated policy and regulatory guidance on the regulation of animal testing for regulatory purposes.

The publication of policy and guidance is our demonstrable commitment to openness and transparency and is in support of leading regulatory practice.

This policy is in the process of being finalised and will be published on the ASRU website as soon as possible."

This policy departure destroys the gold standard UK animal testing ban for cosmetics and their ingredients. Worryingly, this will not even be a scrutinised legislative change but a change to regulatory guidance taken place behind closed doors, without opposition or challenge. The Home Office does not indicate if any wider consultation is planned, including with industry.

This decision disregards the fact that many ingredients used solely or mainly in cosmetics have a history of safe use and manufacture in the UK.

It also fails to acknowledge the significant advances in science and technology since 1998 and the fact that industry has access to many reliable non-animal methodologies with which to assess product safety and to fully comply with the UK and EU bans on animal testing.

Finally, it fails to acknowledge the overwhelming support of the British public for cruelty free cosmetics which has been demonstrated time and again.⁴

Ministers have repeatedly set out ambitions to uphold the highest levels of animal protection on leaving the EU. If the Government truly intends to set global standards, we believe that the UK must use its new REACH system to develop a progressive animal-free approach to further protect human health and our environment. In any event, the Government must seize this opportunity to uphold our pioneering reputation and save cruelty free cosmetics.

³ <https://www.theguardian.com/science/2021/aug/11/uk-could-allow-animal-tests-for-cosmetic-ingredients-for-first-time-since-1998>

⁴ <https://www.ipsos.com/ipsos-mori/en-uk/public-attitudes-animal-research-2018>