EXPLANATORY MEMORANDUM TO

THE COSMETIC PRODUCTS (RESTRICTION OF CHEMICAL SUBSTANCES) (NO. 2) REGULATIONS 2025

2025 No. 901

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Business and Trade and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Justin Madders MP, Parliamentary Under-Secretary of State (Minister for Employment Rights, Competition and Markets) at the Department for Business and Trade confirms that this Explanatory Memorandum meets the required standard.

2.2 Sophie George, Deputy Director for Product Sectors and Metrology Policy, Office for Product Safety and Standards at the Department for Business and Trade confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Will Burrows at the Department for Business and Trade, Telephone: 07442 998687 or email: will.burrows@businessandtrade.gov.uk, can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument amends Regulation (EC) 1223/2009 on cosmetic products ("the Cosmetic Regulation") to amend the current restrictions on the use of 2-Hydroxy-4-methoxybenzophenone/Oxybenzone (commonly known as benzophenone-3), in cosmetic products in line with the uses found to be safe for human health following scientific assessment.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales and Scotland.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales and Scotland.

5. Policy Context

What is being done and why?

5.1 The Scientific Advisory Group on Chemical Safety (SAG-CS) provides the Secretary of State with scientific advice regarding the use of chemicals in consumer products and assesses their safety to human health.

5.2 Benzophenone-3 is currently allowed as a UV filter in cosmetic products up to a concentration of 6% and is listed in Annex 6 of the Cosmetic Regulation.

5.3 Following the publication of a SAG-CS opinion on benzophenone-3[1], to ensure consumer safety, this instrument amends the restrictions on its use in cosmetic products as follows:

- The current 6% maximum concentration will only apply to certain product types, namely face cream, hand cream and lip products (excluding propellant and pump spray products).
- Introduction of a lower maximum concentration of 2.2% when used in skin products, excluding those specifically for the face, hands and lips, including propellant and pump spray products. (The products subject to this concentration are commonly known as "body products".)
- Introduction of a new lower maximum concentration of 0.5% when used in other cosmetic products.
- When benzophenone-3 is present as a UV-stabiliser (0.5%), the concentration added for UV filtration purposes must not exceed 1.7% in skin products (excluding those specifically for the face, hand and lips) or 5.5% in face cream, hand cream and lip products (i.e. a total of 2.2% and 6% respectively as outlined).

5.4 This instrument includes transitional arrangements. Cosmetic products containing benzophenone-3 that are placed on the market prior to 21 January 2026 and comply with the requirements of the Cosmetic Regulation as it has effect before 21 January 2026, may continue to be made available on the market until the end of 21 July 2026. This staggered timeline gives industry time to adapt to comply with the updated legislative requirements.

5.5 The same restrictions on the use of benzophenone-3 in cosmetic products are in place in the EU and apply to Northern Ireland under the Windsor Framework. This instrument will bring Great Britain policy in line with that of Northern Ireland.

What was the previous policy, how is this different?

5.6 There is no change of policy. The Government is responsible for ensuring only safe cosmetic products are placed on the market in GB. This instrument makes technical amendments to the Cosmetic Regulation to reflect the most up-to-date scientific evidence on the safe use of benzophenone-3 in cosmetic products.

6. Legislative and Legal Context

How has the law changed?

6.1 The instrument amends the Cosmetic Regulation to amend the conditions on the use of benzophenone-3 in cosmetic products.

6.2 Prior to the United Kingdom's (UK's) exit from the EU, the Cosmetic Regulation was directly applicable EU Law. Under the European Union (Withdrawal) Act 2018, this became retained EU law, with deficiencies corrected by the Product Safety and Metrology etc. (Amendment etc.) (EU Exit) Regulations 2019 (S.I. No. 2019/696), and other related instruments, to provide powers for the Secretary of State to update the Cosmetic Regulation, in the same way that the European Commission can with

[1] sag-cs-opinion-14-bensophenone-3-in-cosmetic-products.pdf

respect to the relevant EU legislation, where there are technical or scientific developments or evidence affecting the assessment of safety of substances in cosmetic products.

6.3 Benzophenone-3 is currently listed in Annex 6 of the Cosmetic Regulation (list of UV filters allowed in cosmetic products). Article 31(1)(b) of the Cosmetic Regulation provides the Secretary of State with power to amend Annexes 2 to 6 where the Secretary of State considers there is sufficient scientific evidence that there is a potential risk to human health arising from the use of a substance in a cosmetic product.

6.4 Following scientific assessment by SAG-CS, the Secretary of State considers there is sufficient scientific evidence that there is a potential risk to human health arising from the use of benzophenone-3 as a UV filter in cosmetic products in the concentrations currently allowed. This instrument amends Annex 6 to the Cosmetic Regulation to amend the current restrictions on the use of benzophenone-3 in cosmetic products to ensure different types of cosmetic products contain safe levels of benzophenone-3 in accordance with advice from SAG-CS.

Why was this approach taken to change the law?

6.5 This is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

7.1 A formal consultation was not undertaken given the instrument is limited to making technical amendments to the Cosmetic Regulation in order to reflect scientific assessment of the potential risks to human health of a substance in cosmetic products.

7.2 The Department for Business and Trade has, however, undertaken engagement with stakeholders, including trade associations and key members of the cosmetic industry. Additionally, before benzophenone-3 was assessed by SAG-CS, the Department published a call for data allowing any interested parties to submit any scientific information relevant to the safety assessment.

8. Applicable Guidance

8.1 The Office for Product Safety and Standards has published, and regularly updates, a guide on the Cosmetic Regulation on gov.uk to support businesses, enforcement agencies and consumers[2].

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because the impacts are expected to be de minimis with minor administrative costs for business anticipated.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies because the impact of this instrument is limited to reformulation, labelling and

[2] https://www.gov.uk/government/publications/cosmetic-products-enforcement-regulations-2013

familiarisation costs for businesses associated with adapting to the updated legislation. To ensure that businesses have sufficient time to adapt to any reformulation and labelling costs, the instrument contains transitional provisions that will allow products that have been placed on the market before 21 January 2026 to be sold until 21 July 2026.

9.3 The legislation does not disproportionally impact small or micro businesses.

9.4 No specific action is proposed to minimise the regulatory burdens on small businesses. The legal requirements on the cosmetics industry do not differentiate between businesses in terms of their size and are dependent on the type and nature of products being manufactured and placed on the market. Therefore, we are unable to take any mitigating actions to reduce burdens on small businesses.

9.5 There is no, or no significant, impact on the public sector because the impact of this instrument is limited to businesses in the cosmetic industry.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015, Justin Madders MP has made the following statement:

"A review would not be appropriate, given the technical nature of the amendments. However, to ensure that cosmetic products placed on the market in Great Britain are safe, the government keeps the regulatory framework under constant review, including the use of specific chemicals in particular products."

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").