

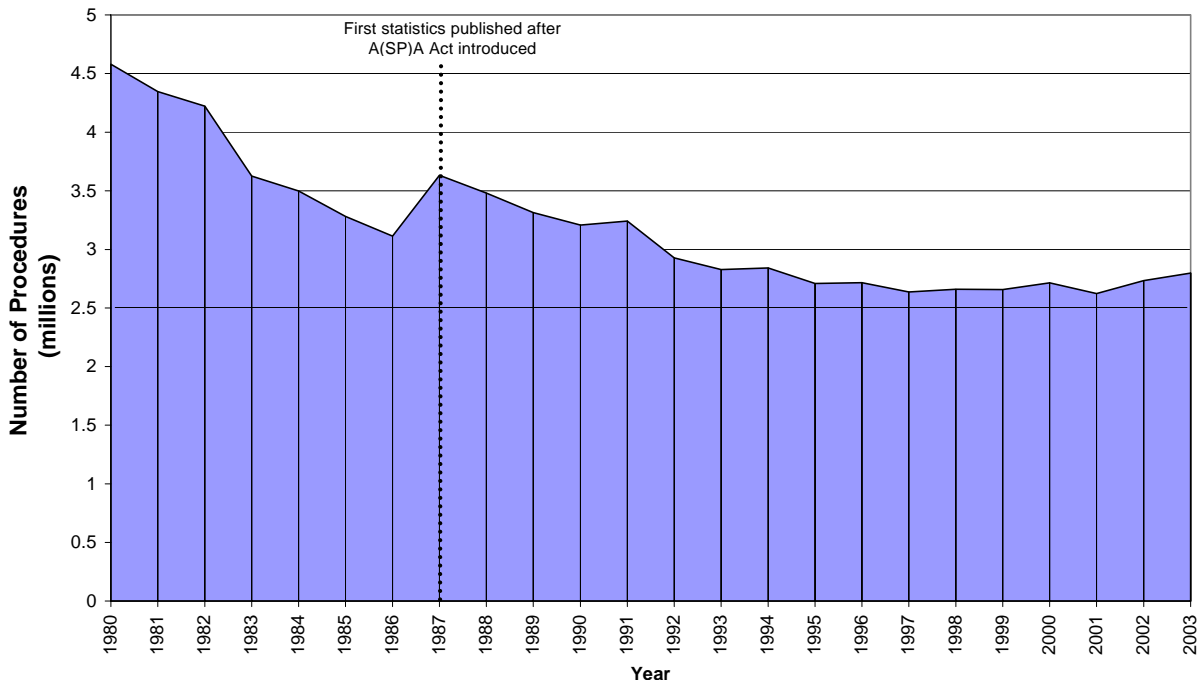
THE UK LEGISLATION: A CRITICISM

In 1986 the new Animals (Scientific Procedures) Act was heralded as providing standards for the use of laboratory animals that were, "...higher than anything that prevails anywhere else in the world."¹ It replaced the outdated and ineffective Cruelty to Animals Act 1876 and it was claimed that it would give a new impetus to moves away from animal testing.

During its passage through parliament, the responsible Minister David Mellor stated that, "The reduction in the number of animals used and the reduction of suffering is at the heart of the Bill..."² Over fifteen years after its passing, it is clear that the Act has failed in both of these respects.

Criticism of aspects of the Act has come not just from the BUAV, but also from groups such as the RSPCA,³ Advocates for Animals⁴ and the Fund for the Replacement of Animals in Medical Experiments (FRAME),³ among others. The extent of disappointment in the Act can be seen from the fact that it is difficult to find a single animal protection group which isn't critical of important aspects of the Act and its implementation

The trend away from animal use has gradually slowed to a halt since the A(SP)A Act 1986 was passed and is now even beginning to rise again.



SOURCE: UK GOVERNMENT STATISTICS

Background to the Act

The *Animals (Scientific Procedures) Act 1986* regulates all animal experiments taking place in the United Kingdom. No experiment may be carried out

unless covered by a licence issued under this Act. Experiments are referred to as "regulated procedures", and by definition may cause an animal 'pain, suffering, distress or lasting harm'⁵.

Over two and a half million experiments are still carried out in Great Britain each year. In two thirds of these experiments no anaesthetic is used. Cruel and unscientific tests such as the Draize eye test and LD50-type experiments continue despite scientific and ethical criticism. Since the passing of the Act humane alternatives continue to be little used and, most crucially of all, the rate at which the use of animals was falling has slowed down dramatically. Indeed in 2003 there was an alarming 2.1% rise in the number of procedures (to 2.79 million experiments- an increase of 59,069 procedures) and a 2.4% rise in the number of animals used, an extra 65,723 animals. This was the highest number of experiments recorded since 1994.

In addition the 2003 statistics showed a large increase in experiments on non-human primates by 21%. There was also another increase in the number of toxicology experiments carried out for food additives (53%). This followed a 51% increase from the following year to reach over eight thousand experiments.

Also very disturbing was another yearly increase in tests on genetically modified animals (8%) to make an overall increase of 1583% from 1990 until the end of 2003. The trend away from animal use has gradually been slowed to a halt since the Act was passed and is now even beginning to rise again.

Failures of the Animals (Scientific Procedures) Act 1986

The BUAV has consistently highlighted the key problems with the 1986 Act. These include: -

The continuation of cruel, trivial and discredited experiments:

Only one major controversial area of testing, cosmetics testing on animals, has been eliminated since the Act was passed in 1986. The continuation of cruel and discredited experiments is graphically illustrated by the continued use of thousands of animals for the testing of trivial things such as household cleaning products.

Section 5(4) of the Act states that licences should only be awarded after the suffering caused to animals has been weighed against the 'likely benefit' of carrying out the experiment. If even tests for toilet cleaner and carpet shampoo pass this

assessment it is hard to see exactly what tests, if any, were meant to be prevented under this clause. Even the total ban on animal tests for cosmetics products and ingredients, was only introduced a staggering twelve years after the 1986 Act was introduced and after intensive campaigning by the BUAV.

This is far from the only example however. More than a decade ago the then government asserted that, "The Draize test will not be necessary for very much longer...the same is true of the LD50".⁶

The reality has been very different. Animals (mainly rabbits) continue to suffer in Draize tests. And, in 1999, it took the threat of a legal challenge by the BUAV for the UK government to finally admit that it was continuing to illegally grant licences for the LD50 oral toxicity test despite the existence of alternative refinements. Therefore, even where alternatives and refinements to animal tests do exist, there is extreme reluctance both by industry and government to implement them.

Failure of the project licensing system:

The government claimed that the new legislation would mean, rigorous assessment of "each and every"⁷ research project through the project licensing system. Again, reality tells a different story. Although a project licence must be issued before an experiment can be carried out on an animal, these licences do not usually cover individual procedures but just seem designed to give researchers blanket permission to carry out any number of experiments of a given type, without each procedure necessarily being individually assessed. For example in 2003 an average of 993 procedures was carried out under each project licence. It is clearly impossible then for each of these separate procedures to be assessed individually on one licence, making effective scrutiny impossible.

Alternatives to animal experiments: underfunded and underused:

Section 5(5) provides that the Secretary of State shall not grant a project licence unless the applicant has given adequate consideration to the feasibility of using a non-animal alternative research method. This section was expected to lead to decreases in the numbers of animals used for experiments. Again, it

appears to have had little or no impact. The main reason appears to be that it is often simply ignored.

A BUAV investigation into Wickham Laboratories⁸ in 1993 revealed that rabbits were being used in pyrogenicity tests for which a recognised alternative was not only available but recommended by UK regulators. This raises the key question of how section 5(5) is being interpreted. If the Home Office allows animal tests in situations such as these, in what cases is this clause meant to apply? The BUAV is unaware of any licence application ever having been refused under this section.

In 2001 the BUAV launched Judicial Review proceedings against the government for failing to apply the law properly with regards to using the 3Rs (explanation below). UK and EU legislation states that where there is a non-animal alternative in the 3Rs context it is against the law to licence an animal test instead. Monoclonal Antibodies (Mabs) are important proteins used in diagnosis and research. The UK government was continuing to licence the 'ascitic' method of producing Mabs, whereby mice are forced to develop extremely painful tumours for up to 6 weeks. There was a completely non-animal alternative available thus the UK government was breaching its own and EU legislation. With the threat of legal action the government backed down and agreed that the BUAV's interpretation of the law was correct.

Another serious problem is funding for research into alternatives. For example a budget of just £280,000 was allocated to the Government Advisory Body the Animal Procedures Committee (APC) for 2003/2004⁹. Even this very small amount was not used in its entirety to directly replace animal experiments as the sum is divided up between different areas of work: including the application of the 3R's: Replacement, Reduction and Refinement, to reduce the number of animals used, improve husbandry methods and reduce the severity of experimental methods used for example¹⁰.

This problem of underfunding is exacerbated by the lack of effort that is made to encourage or co-ordinate work to develop non-animal research methods. So far, no priorities have been set and no

priority problem areas have been identified. This makes it impossible to focus alternative research and maximise the effectiveness of what funding there is. Lack of co-ordination means insufficient research in key areas and duplication of effort in others. For example with respect to animals used in toxicology, a recent House of Lords Select Committee Report published in 2002 observed that they "consider that there is very little political will to reduce the need for animals in toxicology..."¹¹.

Most recently the Government set up a National Centre for the Three Rs (NC3Rs). The Centre will take over the role of the APC in funding research into the 3Rs. Sadly there is little hope that the Centre will lead to any real and significant move towards replacing all animal experiments with non-animal research methods instead because the application of the Centre in its current form is flawed for several reasons. Firstly, it is run by the strongly pro-animal research focused Medical Research Council and its board is primarily made up of individuals who are either researchers themselves or work for bodies which carry out or fund animal research. Funding of the Centre is also scarce with the Government promising only £500,000 a year in funding compared to government statements that between 1997 and 2007, the overall budget for spending on science will have more than doubled, rising to £3.3 billion by the end of the period¹². The centre will promote research into so-called refinement and reduction methods – both of which involve more animal experimentation – as well as replacement. The first two research projects announced by the Centre's board are methods of refinement, not replacement, one of which will use genetically modified animals, the other will use animals purposefully made to suffer from cancer.

Poor housing and care:

A Code of Practice issued under the Act¹³ sets out minimum standards for the care and housing of laboratory animals. These standards are far from adequate moreover even they are not being enforced. Examples of this were revealed during BUAV investigations into HRC¹⁴, Hazleton UK¹⁵ Wickham Laboratories¹⁶ Harlan UK¹⁷ and more recently at Cambridge University¹⁸ (see fact sheet: BUAV Investigations). Thus, years after the Act was passed, the Home Office continues to permit the

keeping of animals in conditions which even it regards as inconsistent with their well-being.

Ineffective implementation:

Two key bodies are responsible for monitoring and implementing the Act. These are the Animal Procedures Committee (APC), which was set up to advise the Home Secretary on the Act, and the Home Office Inspectorate.

The APC is heavily dominated by individuals who are either researchers themselves or work for bodies which carry out or fund animal research. The Home Office Inspectorate is also overwhelmingly dominated by former animal researchers and it is also under strength for the job expected of it. For example, there are currently only 27 inspectors to monitor over two and a half million experiments.

Investigations by the BUAV and others have revealed the repeated failure of the Inspectorate to take effective care to protect animals.

The BUAV has been calling for an independent Home Office Inspectorate system and the urgent need for reform for many years. The House of Lords Select Committee Report echoed this call for more independence when it recommended that¹⁹ “The Home Office Inspectorate should be subject to periodic review, by a body other than the inspectorate themselves” and further that “the current attitude of the Inspectorate and the Home Office is insufficiently self-critical..” and that “the Home Office would rather distance itself from problems rather than be proactive in finding and providing solutions”.

Gathering the evidence

A series of investigations by the BUAV and others have produced extensive and detailed evidence of the failure of the 1986 Act. For example:

- A BUAV investigation into Huntingdon Research Centre revealed rough handling and lack of regard for the welfare of animals, as well as breaches of the Code of Practice concerning housing and exercise requirements;
- In 1990, an investigation by Advocates for Animals revealed experiments in which rabbits were regularly burned and operated on without adequate anaesthesia and sometimes even without being covered by a licence, by 89 year old Professor Feldberg;
- Serious breaches of licence conditions at London Hospital Medical College (LHMC)²⁰ were revealed by a BUAV investigation. Also on two occasions staff were unable to obtain veterinary help, with the result that one dog was found dead the next morning and another had to be killed;
- In 1993, a BUAV investigation into Wickham Laboratories Ltd revealed rabbits being used in pyrogenicity tests for which non-animal alternatives were not only available but actually recommended by UK regulators.
- BUAV investigations into Shamrock (GB) Ltd and Hazleton UK Laboratories revealed that staff were incompetent in care and procedures and handled animals insensitively, including taunting, laughing at and hitting them. Again, housing conditions were inadequate. The Home Office was forced to take action against Shamrock including replacing the named day-to-day care person.
- A BUAV investigation into the trade in primates for research²¹ revealed misery, suffering and death on a massive scale, with 8 out of 10 wild-caught primates dying before reaching the laboratory. Prior to 1991, the vast majority of primates imported to the UK were wild-caught, despite a requirement of EU law that wild-caught monkeys can only be used in experiments if a captive-bred animal would not be suitable. For years the Act had done nothing to end the use of wild-caught primates until in 1995, in response to the BUAV campaign, the Home Office announced a ban on their use unless there was "exceptional and specific justification."²²
- The BUAV's investigation at animal breeders Harlan UK revealed evidence that Harlan had

breached at least two of the conditions attached to its licence to breed animals for vivisection. There were also serious breaches in the Home Office Code of Practice for the Housing and Care of Animals in Designated Breeding and Supplying Establishments. For example we discovered little recognition of the special needs of breeding animals. Despite the emphasis placed on those needs by the Code and a requirement to provide bedding and nesting material; all dogs, including females giving birth, were kept in bare pens, with no bedding other than a handful of sawdust as substrate. There were also failures to adhere to minimum space requirements, to provide adequate staff training and to check the well being of the animals at least once daily.

- A BUAV undercover investigation into marmoset brain research at the University of Cambridge revealed the sickening plight of hundreds of monkeys who were bred to be brain-damaged and kept in small, barren metal cages. The Home Office conceded in its subsequent report²³ that four instances of non-compliance had been identified. In one of these instances, where monkeys were brain damaged to induce strokes, they also had additional mini-pumps implanted and stitched under the skin at the back of their necks. The project licence only allowed for a single mini-pump to be used however the researchers actually used and inserted multiple minipumps under the marmoset's skin. This also involved additional surgery for the marmosets to endure.

Another instance involved an actual breach of the severity limit of the licence. Two marmosets were so badly damaged during the insertion of a telemetry probe into their abdomens that they were partially paralysed and had to be killed. In this case the Home Office stated that, 'Unexpected animal welfare problems were encountered' and that 'the early loss of two animals was not promptly notified to the Home Office'. After the BUAV also raised concerns regarding anaesthesia during surgery the Home Office recommended that 'the relevant licence authorities and anaesthetic practices should be revised'.

- Again at the University of Cambridge, the BUAV exposed researchers who experimented on nearly 300 mice without a licence. The experiments (first exposed by the BUAV in 2001) involved injecting mice with amphetamine (also known as the drug 'speed') and subjecting them to excessively loud music. Some of the mice suffered brain damage and died. After nine months the Home Office finally admitted to the BUAV that the researchers breached the law but were simply "admonished".

Unbelievably each of these breaches of the Act and 'non-compliances' have been treated as isolated incidents, or worse still defended or dismissed. Yet taken together they show a serious malaise that is crippling the potential of the Act.

The way forward

Despite its shortcomings, certain key provisions of the Act could actually, if rigorously and effectively enforced, significantly reduce suffering and numbers of animals used. The BUAV believes that a fully comprehensive review of the Act is essential.

The BUAV would recommend the following measures as the first step towards effectively tackling the most urgent and controversial problems. Each of these measures could be implemented quickly and simply, without the need for new legislation, and together would help to encourage moves away from animal experimentation towards more modern, humane methods of testing.

- ***Ending the most cruel, trivial and discredited experiments***

Animals continue to die in trivial tests such as those for household products, or discredited tests such as the Draize eye test and LD50 type tests. There has been disturbingly little progress towards ending them. By taking section 5(4) of the Act more seriously (the 'Pain V Benefit' clause), these tests could be ended by the Home Secretary.

- ***A strategy for meeting targets to reduce animal use.***

The European Union set a target of halving the number of animals used in experiments by the year 2000.²⁴ The UK failed to develop any plans designed to achieve this 50% target whatsoever. Targets play an important role in most areas of government policy and are essential if real progress is to be achieved. A strategy to meet this aim would focus efforts to end the most controversial tests, end duplication of effort and give new impetus to the development and use of alternatives.

- ***Development, use and validation of non-animal research methods must be encouraged***

Alternative non-animal research methods are under funded and underused. Increased funding is vital if significant progress is to be made. In fact the government's appalling track record on non-animal alternatives also came in for criticism by the House of Lords Select Committee on Animal Experiments which concluded that 'we are notpersuaded that enough effort is always made to avoid the use of animals'²⁵. Not only does the Home Office need to take the lead in co-ordinating and prioritising research into methods of replacing animals to ensure the most effective use of resources but similar efforts to improve, clarify and speed up the process of the validation of non-animal methods are also needed.

- ***Strengthening the institutions and guidelines set up under the Act***

The APC must be reconstituted to include a fairer balance towards animal protection interests. It should then play an important role in improving the effectiveness of the 1986 Act at promoting moves away from animal use. The Inspectorate is also in need of reform if it is to be effective. The BUAV continues to call for an independent Home Office Inspectorate system.

Current standards of care and conditions are completely inadequate. While animal use continues, care and conditions under the Act must be improved and fully enforced. At present, these standards are

often insufficient to meet the very minimum needs of animals.

Summary

It is clear that the *Animals (Scientific Procedures) Act 1986* is not working effectively at all to protect animals. Since its enactment, the decline in the number of animals used in experiments has been slowed down. This is despite the assurance in 1986 that: "The reduction in the numbers of animals used and the reduction of suffering is at the heart of the Bill..."²⁶ The BUAV believes that the workings of the Act must be reviewed as a priority, and these serious issues addressed. At the start of a new century we can no longer tolerate a situation whereby the numbers and suffering of laboratory animals remains undiminished.

¹Hansard, House of Commons Reports, London - Vol. 96 No. 97 Col. 118 - 21 April 1986.

²Hansard, House of Commons Reports, London - Vol. 96 No. 97 Col. 98 - 21 April 1986.

³RSPCA/FRAME (1993). An RSPCA/FRAME Survey of the Use of Non-Human Primates as Laboratory Animals in Great Britain, 1984-1988. ATLA 17, 335-400.

⁴Advocates for Animals (1991). Non-Human Primate Use in the United Kingdom: A Review of selected published research papers 1987-1991.

⁵ Home Office, Statistics of Scientific Procedures on Living Animals Great Britain, 2001. The Stationery Office.

⁶Hansard, House of Commons Reports, London - Vol. 92 No. 59 Col. 159 - 17 February 1986.

⁷ Hansard, House of Commons Reports, London - Vol. 96 No. 97 Col. 118 - 21 April 1986.

⁸BUAV (1993). Report of an investigation by the British Union for the Abolition of Vivisection into Wickham Laboratories Ltd.

⁹Animal Procedures Committee's website: www.apc.gov.uk.

¹⁰ Dr Hadwen Trust 'Alternative News 77', p6, Summer 2002

¹¹ House of Lords Select Committee on Animals in Scientific Procedures Volume 1-Report (2002) The House of Lords, The Stationary Office, London

¹² Department of Trade and Industry Five Year Programme 'Creating Wealth from Knowledge' November 2004 Crown Copyright HM Government

¹³. Code of Practice for the Housing and Care of Animals used in Scientific Procedures. (1989). London: HMSO.

¹⁴BUAV (1990). Report of an investigation by the British Union for the Abolition of Vivisection into Huntingdon Research Centre.

¹⁵BUAV (1990). Report by the British Union for the Abolition of Vivisection into the use of primates for research in the United Kingdom.

¹⁶ BUAV (1993). Report of an investigation by the British Union for the Abolition of Vivisection into Wickham Laboratories Ltd

¹⁷ BUAV (1999) Report of an undercover investigation by the British Union for the Abolition of Vivisection into Harlan UK.

¹⁸ BUAV (2002) Report of 'An Investigation by the BUAV into Primate Research at Cambridge University'

¹⁹ House of Lords Select Committee on Animals in Scientific Procedures Volume 1-Report (2002) The House of Lords, The Stationary Office, London

²⁰BUAV (1991). Report of an investigation by the British Union for the Abolition of Vivisection into the London Hospital Medical College.

²¹BUAV (1993). The trade in and use of primates for research in the EC.London. BUAV.

²²Response of the Home Office to a written question by Dr Robert Spink MP. Hansard, House of Commons Reports, 1 March 1995.

²³ 'Aspects of Non-human Primate Research at Cambridge University: A review by the Chief Inspector' October 2002 <http://www.homeoffice.gov.uk/comrace/animals/index.html>

²⁴. European Union's Fifth Environmental Action Programme. (1993). Official Journal of the European Communities C138, 1-98.

²⁵ House of Lords Select Committee on Animals in Scientific Procedures Volume 1-Report (2002) The House of Lords, The Stationary Office, London

²⁵ Hansard, House of Commons Reports, London - Vol. 96 No. 97 Col. 98 - 21 April 1986.

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