



bpni

putting child nutrition
at the forefront
of social change

The Law to Protect, Promote and Support Breastfeeding



The Infant milk substitutes, Feeding bottles and Infant foods
(Regulation of Production, Supply and Distribution)
Act, 1992 , as Amended in 2003 (IMS Act)

The Law to Protect, Promote and Support Breastfeeding

Editors:

Dr. Arun Gupta
Dr. Jagdish C. Sobti
Ms. Vandana Sabharwal
Dr. Tarsem Jindal
Dr. J. P. Dadhich

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Breastfeeding Promotion Network of India

BP- 33, Pitampura, New Delhi - 110034

Tel: +91-11-27312705, 42683059

Email: bpni@bpni.org, bpni.india@gmail.com

Website: www.bpni.org

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The Breastfeeding Promotion Network of India (BPNI) is a 29 years old registered, independent, non profit, national organisation that works towards protecting, promoting and supporting breastfeeding and appropriate complementary feeding of infants and young children. BPNI works through policy analysis, advocacy, social mobilization, information sharing, education, research, training and monitoring the company compliance with the IMS Act. BPNI is the Regional Coordinating Office for International Baby Food Action Network (IBFAN), South Asia. BPNI also serves as the global secretariat for World Breastfeeding Trends Initiative (WBTi) programme, that analyses policy & programmes and galvanises action at country level indifferent regions of the world.

Our Ethical Policy: As ethical policy, BPNI does not accept funds or any support from the companies manufacturing baby foods, feeding bottles or infant feeding related equipment. BPNI does not associate with organizations having conflicts of Interest.

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Acknowledgement

We are thankful to Shri Arun Singh, Hon'ble Minister for Human Resource Development for his message to our publication. We greatly value his guidance and support. It is his sincere effort, which led to the enactment of the national legislation the *Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992* and its amendments in 2003. We feel more and more strengthened and motivated to continue the battle against commercial pressures. Thank you Sir!

We thank the Hon'ble Minister of State for Human Resource Development, Department of Women & Child Development, Smt. Kanti Singh for her message, which is a source of great inspiration for us.

We acknowledge with thanks the 'Foreword' provided by Smt. Reva Nayyar, Secretary, Ministry of Human Resource Development, Department of Women & Child Development. Her zeal to effectively implement this legislation would go a long way for ensuring the survival, growth and development of children in India.

We are indebted to Mr. Prasanna Hota, Secretary, Department of Family Welfare, Ministry of Health & Family Welfare, who agreed to write the 'Preface' to this book. His positive words provide encouragement to pursue our work with more energy.

We graciously acknowledge the efforts made by the Department of Women & Child Development, Government of India, for providing us with all the support in the project.

We profusely thank UNICEF, India, who provided financial support for publishing this book under the BPNI-UNICEF Project Cooperation Agreement 2003-2007, "Strengthening Infant and Young Child Feeding in India".

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We acknowledge the contribution of Ms. Radha Holla, Ms. Sijo Merry George, Dr. Rita Gupta and Dr. Kuldeep Khanna for their valuable inputs, comments as well as editorial assistance.

We are very proud of the help that entire staff of BPNI provided, to put the book in its present shape.

Editors

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अर्जुन सिंह
ARJUN SINGH



मानव संसाधन विकास मंत्री
भारत
नई दिल्ली-११० ००१
MINISTER OF
HUMAN RESOURCE DEVELOPMENT
INDIA
NEW DELHI-110 001

MESSAGE

Optimal feeding practices are crucial for ensuring nutrition, health, survival and development of infants and young children and thus provide a sound foundation for a healthy life.

Promotion of infant milk substitutes and related products like feeding bottles and teats constitute a health hazard and has been more extensive and pervasive than the dissemination of information concerning the advantages of mother's milk and breastfeeding. Such a promotion contributes to decline in breastfeeding.

Recognising the declining trend in breastfeeding practices due to commercial influence, the World Health Assembly, in 1981, adopted "The international Code of Marketing of Breastmilk Substitutes." As a follow-up of this, in India, Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, was enacted in 1992 to protect, promote and support breastfeeding. This Act has been further strengthened through "IMS Amendment Act 2003" enhancing the protection level.

It is high time that we all, including policy makers, health professionals, grassroot level workers, teachers and students know about provisions of this Act.

The Breastfeeding Promotion Network of India (BPNI), gazetted under Section 21(c) of the Act to initiate legal action against the violators of this law, has brought out the second edition of the publication "The Law to Protect, Promote and Support Breastfeeding" as a step forward in effective implementation of this law.

It is hoped that this book will command the interest and attention of a variety of agencies working for the development and health of Children of India.

A handwritten signature in blue ink, appearing to read 'Arjun Singh', is positioned above the name in the signature block.

(ARJUN SINGH)

कांति सिंह
KANTI SINGH



राज्य मंत्री
मानव संसाधन विकास मंत्रालय
(महिला एवं बाल विकास विभाग)
भारत सरकार
नई दिल्ली-110001
MINISTER OF STATE FOR
HUMAN RESOURCE DEVELOPMENT
(DEPT. OF WOMEN & CHILD DEVELOPMENT)
GOVERNMENT OF INDIA
NEW DELHI-110001

23rd July, 2004.

Message

Breastfeeding is an unequalled way of providing ideal nutrition for the healthy growth and development of infants. The sound practice of breastfeeding suffered a set back because of aggressive media campaign of the multinational companies producing baby milk powder and infant foods.

The Department of Women and Child Development has played an active role in protecting, promoting and supporting breastfeeding at national and international forums. The World Health Assembly (2001) gave a landmark decision in favour of exclusive breastfeeding for the first six months, complementary feeding with home based nutritious foods thereafter and continuing breastfeeding upto the age of two years or beyond, as a global public health recommendation. This was followed by the adoption of a Global Strategy on Infant and Young Child Feeding by the 55th World Health Assembly (2002) which gave due recognition to the nutrition of women throughout their life cycle. The Government of India enacted the Infant Milk Substitute Feeding Bottles and Infant Foods Amendment Act, 2003 which came into operation from 1st January, 2004.

The Breastfeeding Promotion Network of India (BPNI), dedicated to the cause of promoting breastfeeding is bringing out the second edition of their book titled, "The Law to Protect, Promote and Support Breastfeeding" with a view to make the provisions of the act available in a simplified form.

I am happy to note that this publication has come at an appropriate time and hope that it will create desired awareness among the policy makers, programme managers and field personnel engaged in implementation of nutrition and health programmes for children in the country.

Kanti Singh
(Kanti Singh)



REVA NAYYAR

SECRETARY

Tel. : 23383586, Telefax : 23381495

E-mail : secy.wcd@sb.nic.in

भारत सरकार
मानव संसाधन विकास मंत्रालय
(महिला एवं बाल विकास विभाग)
शास्त्री भवन, नई दिल्ली-110 001
GOVERNMENT OF INDIA
MINISTRY OF HUMAN RESOURCE DEVELOPMENT
(DEPARTMENT OF WOMEN & CHILD DEVELOPMENT)
SHASTRI BHAWAN, NEW DELHI-110 001
Website : <http://www.wcd.nic.in>

FOREWORD

Infant feeding practices comprising of both the breastfeeding and complementary feeding have a major role in determining the nutritional status of the child. The link between malnutrition and infant feeding has been well established.

The Department has been pursuing the issues concerned with infant and young child nutrition at national and international fora. The 55th World Health Assembly (2002) recognized that inappropriate feeding practices and their consequences are major obstacles to sustainable economic development and poverty reduction. It also states that Government will be unsuccessful in their efforts to accelerate economic development in any significant long term sense until optimal child growth and development, specially through appropriate feeding practices, are ensured.

The persistent efforts of the Department of Women and Child Development helped in enacting the Infant Milk Substitutes Amendment Act, 2003 which came into action from 1st January, 2004. India now has one of the strongest legislation to protect breastfeeding from commercial influences.

I would like to compliment the Breastfeeding Promotion Network of India for bringing out the second edition of the book "The Law to Protect, Promote and Support Breastfeeding" at this opportune time as it would help in better understanding of the Act for its effective implementation. It is hoped that the health personnel, professional organizations, producers and distributors of baby food would find this book useful.

The Department of Women and Child Development solicits the cooperation of Health and Family Welfare Departments, BPNI Members, NGOs, Consumer Organizations, Women Organizations and concerned national and international organizations to enable effective enforcement of the regulations of the IMS Amendment Act, 2003 in the best interests of child survival.


(Reva Nayyar)



Prasanna Hota

Secretary

Tel. : 23018432

Fax : 23018887

e-mail : secyfw@nb.nic.in
puruhota@hotmail.com

भारत सरकार
परिवार कल्याण विभाग
स्वास्थ्य एवं परिवार कल्याण मंत्रालय
निर्माण भवन, नई दिल्ली - 110011

GOVERNMENT OF INDIA
DEPARTMENT OF FAMILY WELFARE
MINISTRY OF HEALTH & FAMILY WELFARE
NIRMAN BHAVAN, NEW DELHI - 110011

Dated the 16th June, 2004

PREFACE

Breastfeeding Promotion Network of India, New Delhi has published this book "The Law to Protect, Promote and Support Breastfeeding" with an objective to explain in simple words the basic provisions of the Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Amendment Act, 2003. This is a revised edition of BPNI earlier publication "The Law to Protect and Promote Breastfeeding" which was published in the year 1997. That was the time when a need was felt (after the passage of the IMS Act, 1992), that a simple version interpreting the various provisions is needed for NGO's, implementing agencies, health workers to understand it more clearly.

The Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992 was enacted with a view to protect and promote breastfeeding and ensure proper use of infant foods. The Act was based on the WHO Code for Marketing of Breast Milk Substitutes (1981) and the Indian National Code for Marketing of Breast Milk Substitutes (1983).

Recent research and development in the field of infant feeding issues as well as marketing malpractices resorted by manufacturers and distributors of infant milk substitutes and infants foods in particular led to difficulties in effective implementation of the Act. In view of the recent WHO/UNICEF resolutions, it was imperative to extend the advertising and marketing regulations, which were applicable to infant milk substitutes, so as to cover foods also.

Similarly, recent developments after the Act of 1992 came into force have shown that Health Workers and their associations are one of the main routes by which the manufacturers and distributors of baby foods continue to aggressively promote their products, to be detriment of breastfeeding. The IMS Amendment Act, 2003 closes all these loopholes and supports exclusive breastfeeding for first six months of life, as well as continued breastfeeding together with homemade complementary foods for the first two years of life. This second edition of the book is the updated version and incorporates the recently amended provisions of the IMS Act of 1992 and is presented in an easily understandable version.

This amendment is of special importance in countries like ours, which suffer from widespread infant malnutrition, inappropriate feeding practices, diarrhoea, and a high infant mortality. India has the highest number of under-five child deaths in the world. According to the new estimates and modeling exercises, interventions that is exclusive breastfeeding during first six months and complementary feeding during 6-11 months, contribute to highest percentage reduction of deaths than any other intervention can offer.

We hope this book will be useful for creating awareness about the IMS Amendment Act and will be useful for all concerned with health of infants. I congratulate the BPNI for this superb piece of creative and programme relevant work.



(PRASANNA HOTA)

Introduction

This book is especially prepared for healthcare professionals, non government organisations (NGOs), community workers and all others concerned with infant feeding issues. It aims to explain in simple words:

- ✱ the main objectives, basic provisions and the products under the scope of the *Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992, as amended in 2003 (IMS Act)*. It gives a section-wise analysis of the *IMS Act* and explains how the baby food manufacturers should regulate their marketing practices so that there is no unnecessary promotion of baby foods and breastfeeding is protected from commercial influences. By helping to understand *the IMS Act* better, the book will assist in effective and practical implementation of the Act.

- ✱ the relevant provisions of *The Cable Television Networks (Regulation) Amendment Act, 2000*, which prohibits advertisements of infant milk substitutes, feeding bottles or infant foods through cable television services.

- ✱ the need of monitoring the activities of baby food manufactures and how to systematically monitor and report the activities of manufacturers of infant milk substitutes, feeding bottles or infant foods which undermine breastfeeding.

- ✱ a section-wise analysis of the *IMS Act of 1992*, what has been amended in 2003 and the effect of these amendments.

- ✱ the action you can take as an informed individual consumer or as a group for effective implementation of the *IMS Act*.



The cooperation of health and family welfare departments; health officers; food inspectors; NGOs and BPNI members; professional groups; consumer organisations; women's organisations; concerned international, national and local authorities; educational and social services systems and others is sought to enable the effective enforcement of these regulations in the best interest of child survival and development.

Background

Every child has the right to be adequately nourished. Breastfeeding is an unequalled way of providing ideal food for the healthy growth and development of infants. It provides biological and emotional basis for the good health of both mother and the child. It protects infants from infectious diseases.

The promotion of infant milk substitutes and related products by manufacturers and distributors has been more extensive and pervasive than the dissemination of information concerning the advantages of mother's milk and breastfeeding. This has contributed to the decline in breastfeeding.

In the absence of strong interventions to protect, promote and support breastfeeding, this decline can assume dangerous proportions. The international community, recognizing this negative influence of baby food manufacturers on breastfeeding and started a movement in the 1960's to ensure that they stop promoting such foods. This led to adoption of the International Code for Marketing of Breastmilk Substitutes (The Code) by the World Health Assembly (WHA) in 1981. The then Prime Minister of India, Mrs. Indira Gandhi made a strong supporting statement for adoption of this Code at the WHA.

The Code aimed at curbing the marketing practices of baby food manufacturers that interfere with breastfeeding. The Governments of all countries were suggested to adopt the Code in their countries.

India became the 10th country to enact the Code into a Law in 1992 when it passed the '*Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992*'.

The Act sought to regulate production, supply and distribution of infant milk substitutes, feeding bottles or infant foods, and set out requirements for labelling of containers of these products and providing information on infant feeding.

“Research has shown that the companies will flout the Code where they can, but will curb their excesses when Governments act”

Gabrielle Palmer and Anthony Costello

In Political Will and Promotion of Breastfeeding. Indian Pediatrics 2003, Volume-40

In 1992, while introducing the *IMS Act* in the Parliament, the then Minister of Human Resource Development, Shri Arjun Singh, made a statement of objectives and reasons of the Bill, which effectively identifies with our concerns.

After the *IMS Act* came into force, the baby food manufacturers modified their marketing strategies, and found loopholes to get around the Law. They also ignored many provisions. Some examples for inducing people to use their products were as follows:

- ✳ Baby food manufacturers encouraged starting infant foods (complementary foods) at 3- 4 months of age.
- ✳ They made false health and nutritional claims indicating many nutritional and other benefits of commercial infant foods .
- ✳ They distributed or sponsored educational material to health professionals which were often misleading and undermined the importance of breastfeeding.
- ✳ Schemes and free gifts to tempt mothers and other members of the family into early introduction of commercial infant foods were provided. Example: free soap with *Cerelac*.
- ✳ Baby food manufacturers indulged in public relation exercises such as sponsoring sports functions, distribution of chocolates in schools etc. Thereby, they projected an image of “good guys” whom people could trust. This led to brand promotion.

To protect breastfeeding further at the international front, the Code was being strengthened, by the World Health Assembly¹, which adopted several subsequent resolutions relating to infant and young child health in subsequent years.

WHA Resolution No. 47.5 dated 9th May 1994 called upon all Member Nations to foster appropriate

.....“*Inappropriate feeding practices lead to infant malnutrition, morbidity and mortality in our children. Promotion of infant milk substitutes and related products like feeding bottles and teats do constitute a health hazard. Promotion of infant milk substitutes and related products has been more pervasive and extensive than the dissemination of information concerning the advantages of mother's milk and breastfeeding and contributes to decline in breastfeeding. In the absence of strong interventions designed to protect, promote and support breastfeeding, this decline can assume dangerous proportions subjecting millions of infants to greater risks of infections, malnutrition and death.....*”

**Sh. Arjun Singh,
Minister of Human
Resource Development**

¹ WHA 35.26(1982), WHA 37.30(1984), WHA 39.28(1986), WHA 41.11 (1988), WHA 43.3 (1990), WHA 45.34 (1992), WHA 47.5 (1994), WHA 49.15 (1996), WHA 54.2 (2001), WHA 55.25 (2002)

complementary feeding practices for the infants from the age of about six months and encourage continued breastfeeding as well as proper feeding with safe and adequate amounts of local foods until the infant attains the age of two years.



WHA Resolution No. 49.15 of 1996 spelt out clearly that infant milk substitute manufacturers must ensure quality control of their products and fully implement the Code. It emphasized that the interests of manufacturers conflict with those of breastfeeding mothers and their babies. It also stated that sponsorship or other financial assistance from manufacturers to healthcare workers will interfere with their support for breastfeeding.

In 2001, WHA Resolution No. 54.2 recommended exclusive breastfeeding for the first six months and thereafter, to provide safe and appropriate complementary foods with continued breastfeeding up to two years of age or beyond. This recommendation followed a report by the WHO, Expert Consultation on “Optimal Duration of Exclusive Breastfeeding” (WHO, 2001), which considered the result of a systematic review of the evidence (Kramer and Kukuma, 2002)² and concluded that exclusive breastfeeding for the first six months confers several benefits on the infant and the mother. The chief among these is the protective effect against infant gastrointestinal infections (Kramer et al., 2001)³. There is some evidence that motor development is enhanced by exclusive breastfeeding for the first six months (Dewey et al., 2001)⁴. For the mother, exclusive breastfeeding for the first six months prolongs the duration of lactational amenorrhoea and accelerates weight loss (Dewey et al., 2001).

WHA in May 2002, adopted the Global Strategy for Infant and Young Child Feeding, which clearly stated that the baby food companies have no role in implementation of infant and young child feeding

² Kramer MS, Kakuma R. “Optimal duration of exclusive breastfeeding” (Cochrane Review). *Cochrane database Syst Rev* 2002; 1:CD0033517.

³ Kramer MS, Chalmers B, Hodnett ED et. al. “Promotion of breastfeeding interventions trials (PROBIT): a randomized trial in the Republic of Belarus”. *JAMA* 2001; 285: 413-20.

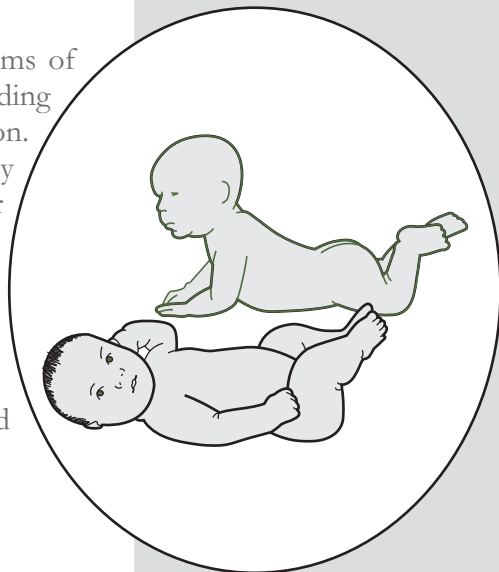
⁴ Dewey KG, Cohen RJ, Brown KH, Landa Rivera L. “Effects of exclusive breastfeeding for 4 versus 6 months on maternal nutrition status and infant motor development: results of two randomized trials in Honduras”. *J Nutr* 2001; 131:262-7

programmes, as this gives rise to “conflict of interests”.

Therefore, in order to plug the loopholes in the earlier *IMS Act of 1992* and also to harmonize with the recent WHA resolutions, Department of Women and Child Development, Government of India constituted a multisectoral National Task Force comprising of representatives from various Ministries and Departments of Central Government and Voluntary Agencies authorized under section 21 of the Act to deliberate and suggest amendments to the existing *IMS Act*.

The task force met several times and suggested amendments, which led to development of an Amendment Bill, which was placed in the Parliament in 2002. While moving the motion for consideration in the Parliament Shri Murli Manohar Joshi, Minister of Human Resource Development, said that he was presenting a Bill to provide exclusive breastfeeding for the first six months and extended breastfeeding for two years. The Bill was passed in June 2003 by the Parliament and came in force from 1st January 2004.

The IMS Act, comprehensively bans all forms of promotion of infant feeding products, including offering any kind of benefits to any person. Funding of seminars, meetings, research or any other sponsorship to healthcare professionals or their organisations is also prohibited. It has included chemist shops under the definition of healthcare systems and therefore promotions of products under the scope of the Act are also banned through these shops. It also bans incorrect information reaching pregnant and lactating women.



Benefits of Breastfeeding



Breastfeeding is advantageous for all, the mother, the baby and the society. Before the baby is born it is protected within the womb ; after birth breastfeeding takes over the process. The milk secreted for the first few days, known as colostrum provide antibodies to the baby for protection against various infections. It also contains proteins and high concentration of vitamin A, which is essential for proper functioning of the infant's eye, skin, mucous membrane and immune system.

Human breastmilk is made especially for the human baby. It is the right nutrition for the growth of the baby. It is easy to digest and contains protective substances, which helps to prevent infections especially diarrhoea.

Benefits the baby enjoys:

- * Breastfeeding provides a baby's complete nutritional needs usually up to the age of six months, up to half of nutritional requirements between 6-12 months, and up to one third between 12 and 24 months.
- * Breastmilk contains adequate calories and provides the right kind of proteins, fats, lactose, vitamins, iron, minerals, enzymes and water in the amounts necessary for the baby.
- * Breastmilk contains iron, vitamins A, C, D and E more than cow's milk.
- * Breastmilk contains sufficient water for very dry and hot climates.
- * Breastmilk is easily digested as it contains enzymes necessary for complete digestion of fats.
- * It is free from contamination.
- * Breastfeeding enhances the emotional bond between the child and the mother and provides warmth, love and affection. It is more than a food.
- * Breastfeeding enhances brain development, visual development and visual acuity leading to better learning abilities.

* Breastfed babies have been shown to have a higher IQ (intelligence quotient) and develop better mathematical abilities than infants who are not breastfed.

* Breastmilk is clean and free from bacteria and has anti-infective properties. It protects the child against several infections including gastrointestinal and respiratory tract infection.

* Breastfed babies are less prone to have diabetes, hypertension, heart disease, eczema and asthma.

* Breastfed babies have lesser chances of blood cancer.

* Breastfeeding prevents obesity.

Benefits the mother enjoys:

* It reduces post-delivery bleeding thereby reducing anaemia in mothers.

* Obesity is less common among breastfeeding mothers. It helps the mother regain her normal figure.

* Breastfeeding has a protective effect against breast and ovarian cancer.

* Breastfeeding has a contraceptive effect.

* Breastfeeding does not require any preparation and can be given anywhere. This helps to reduce mother's workload.

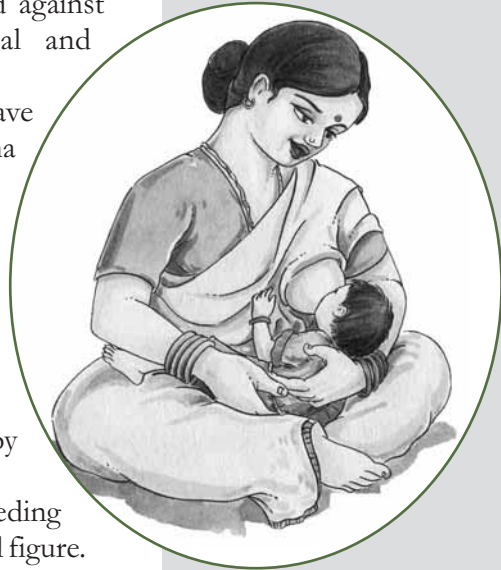
* Breastfeeding prevents osteoporosis.

Benefits for the society:

* Breastfeeding lowers healthcare costs by reducing illness of children under 5 years of age and thus reduces the strain on the family budget.

* It helps to reduce absenteeism of mother's from work, as breastfed children are less prone to diseases, thereby benefitting the employers also.

* Breastfeeding is economical. It provides food security and helps in reducing poverty.



The Main Objectives of the Act

The IMS Act, seeks to protect, promote and support breastfeeding, ensures the proper use of infant milk substitutes, feeding bottles or infant foods by regulating their production, supply and distribution.

The main objectives of the Act are to:

- ✱ Prohibit any kind of promotion of infant milk substitutes, feeding bottles and infant foods to protect breastfeeding from commercial influences. The aim of *the IMS Act* is to prohibit promotion of infant milk substitutes such as *Lactogen 1 & 2, Nestogen 1 & 2, Nan 1 & 2, Lactodex 1 & 2* etc.; infant foods like *Cerelac, Farex, Nestum* etc. and feeding bottles like *Bonny Baby, Hello Baby* etc. by any means.
- ✱ Educate pregnant women and lactating mothers about breastfeeding to create awareness about the benefits of breastfeeding. The aim of *the IMS Act* here is to provide accurate and factual information about breastfeeding to reverse its decline and prevent incorrect information reaching mothers.
- ✱ Ensure the proper use of infant milk substitutes and infant foods, otherwise it can be harmful. The aim of *the IMS Act* is to restrict and control the use of these products by advocating their use only on the advice of the health worker.
- ✱ Define the roles and responsibilities of healthcare institutions and health workers to ensure the proper use of infant milk substitutes, feeding bottles and infant foods.



Scope of the Act

The *IMS Act* controls marketing and promotion of following products :

✳ Infant Milk Substitutes means any food for consumption of children up to the age of two years which totally or partially replaces mother's milk. These include *Lactogen- 1 & 2, Nestogen 1 & 2, Lactodex 1 & 2, Nan 1 & 2, Amul Spray, Zerolac, Dexolac, ProSoyal, Simyl-MCT, Similac Neosure* or any such infant formula.

✳ Feeding Bottles of any brand like *Bonny Baby, Hello Baby, Wipro*.

✳ Infant Foods means any food for consumption of children after the age of six months and up to the age of two years which is used to complement mother's milk. These include *Nestum, Cerelac, Farex, Weano, Veelac, Infacare, First Food, Dexrice, Easum*, and any other commercial health drinks and food products promoted for consumption of babies under the age of two years.



Important Definitions Under the Act

The IMS Act explains all the definitions of terms used:

★ *“advertisement” includes any notice, circular, label, wrapper or any other document or visible representation or announcement made by means of any light, sound, smoke or gas or by means of electronic transmission or by audio or visual transmission.*

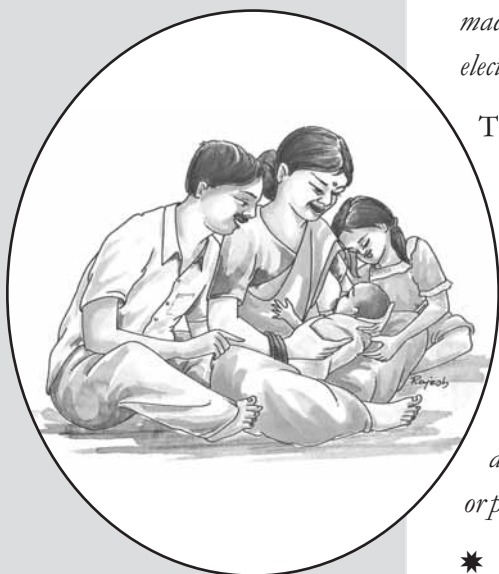
Thus, the ambit of advertisements becomes wide enough so that the infant milk substitutes, feeding bottles or infant foods cannot be advertised in any way, not even through the electronic, audio or visual transmission.

★ *“container” means a box, bottle, casket, tin, can, barrel, case, tube, receptacle, sack, wrapper or other thing in which any infant milk substitute, feeding bottle or infant food is placed or packed for sale or distribution;*

★ *“feeding bottle” means any bottle or receptacle used for the purpose of feeding infant milk substitutes, and includes a teat and a valve attached or capable of being attached to such bottle or receptacle;*

★ *“healthcare system” means any institution or organisation engaged, either directly or indirectly, in healthcare for mothers, infants or pregnant women, and includes a health worker in private practice, a pharmacy, drug store and any association of health workers.*

Pharmacy, drug store and association of health workers are included in the clause of healthcare system. This will stop commercial exploitation of these places for



promotional activities of infant milk substitutes, feeding bottles or infant foods.

★ *“health worker” means a person engaged in healthcare for mothers, infants or pregnant women;*

★ *“infant food” means any food (by whatever name called) being marketed or otherwise represented as a complement to mother's milk to meet the growing nutritional needs of the infant after the age of six months and up to the age of two years.*

In other words, it means any food that is meant to be given to an infant in addition to breastmilk, after the age of six months and up to the age of two years. Such foods are commonly called cereal foods. For example: Nestum, Cerelac, Farex, Weano etc.

★ *“infant milk substitute” means any food being marketed or otherwise represented as a partial or total replacement for mother's milk, for infants up to the age of two years.*

In other words, any food given to the infants instead of breastmilk up to two years . For example: Lactogen 1 & 2, Nestogen 1 & 2, Amul Spray, Lactodex 1 & 2. etc.

★ *“label” means a display of written, marked, stamped, printed or graphed matter affixed to, or appearing upon, any container;*

★ *“prescribed” means prescribed by rules made under this Act.*

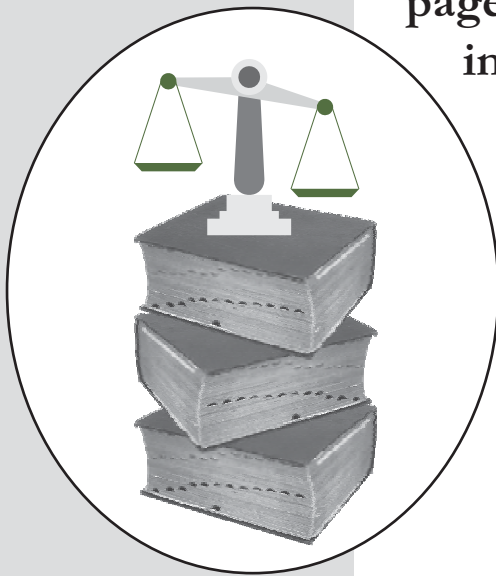
★ *“promotion” means to employ directly or indirectly any method of encouraging any person to purchase or use infant milk substitute, feeding bottle or infant food.*

Thus, this Act prohibits any kind of activity to promote the products under its scope. Inclusion of this definition helps in better interpretation of the legal clauses.



Section Wise Provisions of the Act

The *IMS Act* enumerates various provisions to regulate the production, supply and distribution of infant milk substitutes, feeding bottles and infant foods. The following pages deal with certain important provisions governing the Act.



Bans Promotion or Advertisements to the Public

Advertising is the most common way in which products are brought to the notice of the consumers. Advertisement includes any notice, circular, label, wrapper or any other document. It also includes any visual representation or announcement like that in the newspapers and magazines, or by means of electronic or audio transmission such as those on television and radio.

Under the Act, manufacturers of infant milk substitutes, feeding bottles or infant foods; or anybody else, cannot advertise or promote these products like promotion by using health and nutritional claims, tied sales or mailing brochures etc.. Therefore, the *IMS Act* prohibits all persons from:



- * Advertising infant milk substitutes, feeding bottles or infant foods.
- * Taking part in the publication of any advertisement for sale of infant milk substitutes, feeding bottles or infant foods.
- * Giving the impression or creating in any manner a belief that infant milk substitutes or infant foods are equivalent to, or better than mother's milk.
- * Taking part in promotion or sales of infant milk substitutes, feeding bottles or infant foods.



ACTION ALERT :

If you come across any company or any person advertising or promoting these products in any manner, **REPORT** to notified agencies.

Section 4

Prohibits Giving Incentives

A common way to promote sales of products is to offer incentives such as free samples, gifts, discounts etc. Sales persons often offer incentives to popularize infant milk substitutes, feeding bottles or infant foods at healthcare points or shops where purchases are made. Companies are also known to contact pregnant women and mothers of infants and give them samples, posters, gifts etc.



The Act prohibits all persons from giving incentives of any kind whatsoever to promote the use or sale of infant milk substitutes, feeding bottles or infant foods. As a consequence of this section, no one can contact any pregnant woman or mother of an infant for the purpose of promoting the use or sale of these products.

No person is allowed to:

ACTION ALERT :

If you come across any company offering incentives such as free samples, gifts, tied up sales, discounts etc. in any way with these products; and contacting any pregnant or lactating women, REPORT to notified agencies.

- ✳ Supply or distribute samples of infant milk substitutes, feeding bottles or infant foods; or gifts, utensils or other articles or
- ✳ Contact any pregnant woman or mother of an infant or
- ✳ Offer inducement of any kind for the purpose of promoting the use of infant milk substitutes, feeding bottles or infant foods.

Restricts Donation of Products, Educational Materials or Equipments

Section 5

Manufacturers and distributors often donate large quantities of infant milk substitutes and infant foods to hospitals and nursing homes or equipments for use in pediatrics and neonatal wards. Their intention is to influence and persuade doctors to provide pregnant women and mothers of infants with free samples to promote their products. Once mothers start using these products, it affects breastfeeding, often hindering the natural process. The mothers who introduce artificial feeding may find it difficult to breastfeed later. The manufacturers hope that once the mothers use these donated products during their stay in the hospital, they will continue to use them when they go back home. Later on the mothers might purchase these products even when they may not be able to afford them.

As donation of infant milk substitute, infant foods or feeding bottles undermine breastfeeding, the Act restricts such donations to nursing homes and hospitals. However, it allows donations to orphanages.

In addition, the Act also restricts donation of informational or educational materials such as immunisation cards, pamphlets, journals, or equipment related to infant milk substitutes, feeding bottles or infant foods to any person which may be used for promotion of their products.



The grains containing these alcohol-soluble fraction belong to the family of triticaceae and include wheat (gluten), barley (hordeins), and rye (secalins). Recently, the toxicity of oat (avenins) has been questioned. Moderate amounts of oats can be included in a gluten-free diet for most adult patients with celiac response to pretinning results in intestinal atrophy with the disappearance of villi and the microvilli and a structural damage of the intestinal epithelium. As a consequence of the inflammatory process, the life-cycle of the epithelial cells is shortened and the number of mitotic cells in the Lieberkühn

Veelac Healthy babies grow on it.



ACTION ALERT :
If you come across any company distributing baby foods, educational materials or equipments, **REPORT** to notified agencies.

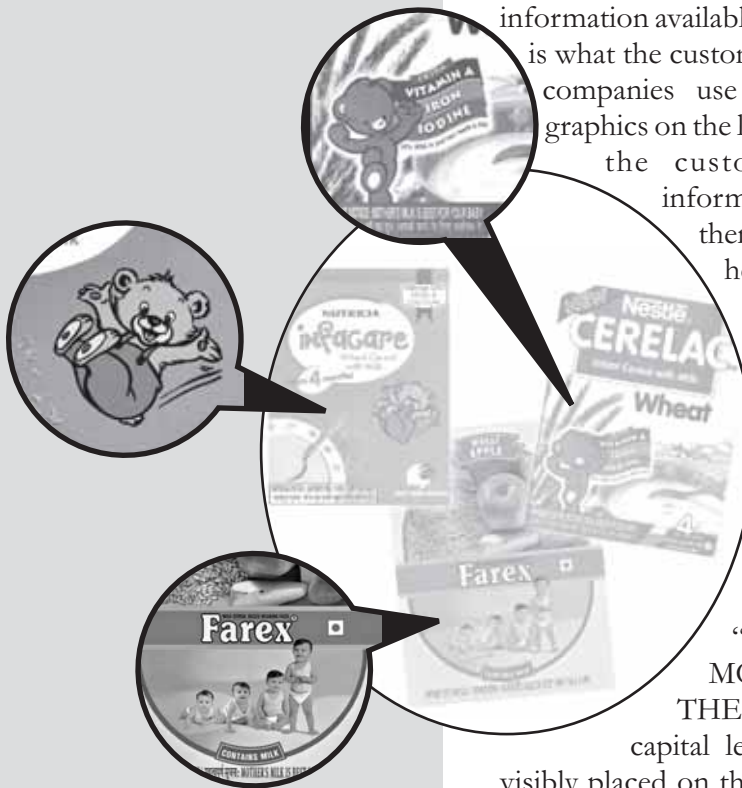
Section 6

Prescribes Guidelines for Labeling

The information printed on a label is the only information available of the product to the customer. It is what the customers read and usually follow. Often companies use multicolor fonts and attractive graphics on the labels, which grasps the attention of the customers and overshadows the information which should be read by them. Misleading information like false health and nutritional claims are also printed in an attention-grabbing manner.

The *IMS Act* prescribes following requirements on the label:

1. The label should bear “IMPORTANT NOTICE MOTHER’S MILK IS BEST FOR THE BABY”. This notice has to be in capital letters of 5mm size and must be visibly placed on the centre panel of the container or label. It must be printed in a different color from the background color of the container and must be in English and the equivalent of this notice must also be given in Hindi (Devnagri script) or any local language .
2. The label should also contain a statement that infant milk substitutes or infant foods should be used only on the advice of a health worker . He should also explain the need and method of its preparation.
3. It should also clearly state that infant milk substitutes or infant foods is not the sole source of nourishment of the infant.
4. The label should also give instructions for proper preparation of the product and a warning against the possible health hazards of inappropriate preparation.



Other than these, the label must contain information on:

- The ingredients used.
- Date of manufacturing, feeding chart, direction for use, expiry date etc.
- The composition of the product.
- Storage instructions to be followed.

The following are the guidelines, of what the label should not contain:

1. The label should not contain any phrases like “recommended by the medical profession” or words which imply or suggest that the food is recommended, prescribed or approved by medical practitioners.
2. It should not have pictures of an infant or a woman or both; or have pictures or other graphic material.
3. It should not bear the terms ‘Humanised’ or ‘Maternalised’ or any other similar term.
4. No label should have words like “Full Protein Food”, “Energy Food”, “Complete Food”, “Health Food” or any other similar expressions.



ACTION ALERT :

If you come across any label not in accordance with the IMS Act or it has pictures of a mother or baby or any graphic material like a bird, teddy bear, cartoons etc. or bear a health claim, **REPORT** to notified agencies.

Section 7

Ensures Accurate Information Through Educational Materials

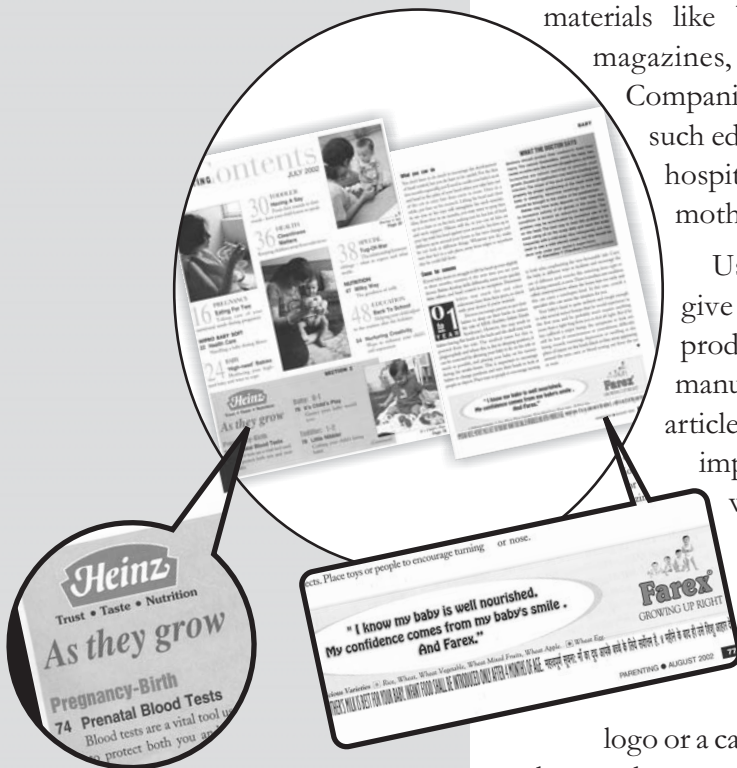
This Act prohibits incomplete and incorrect information reaching mothers through educational materials like booklets, flash cards, films, slides, magazines, newspapers or other materials. Companies are known to make extensive use of such educational materials especially through hospitals and nursing homes to influence mothers to purchase their products.

Usually the companies use fine print to give important information on the products. In one such incidence, Hienz, manufacturers of Farex, sponsored an article in the magazine Parenting. The important information on breastfeeding was written in fonts that were difficult to read, whereas the message on infant food and the logo was prominent and readable. The information is dominated by a picture of a healthy baby, company

logo or a catchy phrase focusing either on the fact that mothers want the best for their baby, or that they can trust the brand as the best for their baby. The critical information is either missing or in very fine print.

Baby food companies also exploit articles on infant and childcare in magazines, either by sponsoring the article or by placing their advertisements in a prominent place within the article to influence parents to purchase their products. As these articles are usually by doctors, nutritionists and other experts in child health, such sponsorship creates the impression that the companies are thinking of the best for the mothers and the babies.

Therefore, the Act contains certain guidelines for producing educational material including advertisements. According to the IMS Act any



informational or educational material intended to reach pregnant or lactating women must include information on date of printing of the publication and the name of the printer and the publisher, irrespective of who prepares the material. The Act also stipulates that the informational and educational materials should contain the following information:

a) The benefits and superiority of breastmilk and the harmful effects of bottle-feeding, especially the difficulty of restarting breastfeeding if infant milk substitutes are given. It should also give the benefits of feeding the baby with “Colostrum”, the first milk secreted by the mother.

b) The educational material must include that breastmilk:

- Is a complete and balanced food and provides all the nutrients needed by an infant in the first six months of life.
- Has anti-infective properties that protect the infants from infection in the early months.
- Is always available.
- Needs no utensils or water (which might carry germs) or fuel for its preparation.
- It is much cheaper than feeding infants with infant milk substitutes. The cost of the extra food needed by the mother is negligible as compared to the cost of infant milk substitutes.
- Mothers who breastfeed have longer period of infertility than ones who do not breastfeed.

c) Regarding breastfeeding, the educational material must include:

- Immediately after delivery breastfeeding enables the contraction of the womb. This prevents

excessive bleeding after delivery. Breastfeeding helps the mother to regain her figure quickly.

- It is successful when the infant suckles frequently and the mother wanting to breastfeed is confident in her ability to do so.
- In order to promote and support breastfeeding the mother's natural desire to breastfeed should always be encouraged by giving, wherever needed, practical advice and making sure that she has the support of her relatives.
- Adequate care of the breast and nipples should be taken during pregnancy.
- It is also necessary to put the infant to breast as soon as possible after birth.
- Let the mother and the infant stay together after the delivery (in hospital, this is called rooming-in).
- Give the infant colostrum, as it is rich in many nutrients and anti-infective factors protecting the infants from infections during the first few days of his life.
- The practice of discarding colostrum and giving sugar water, honey water, butter or other concoctions instead of colostrum should be very strongly discouraged.
- Let the infant suckle on demand.
- Every effort should be made to breastfeed the infants whenever they cry.
- Mothers should keep their body and the clothes of the infants always neat and clean.



ACTION ALERT :

If you come across any educational material including advertisements, which promotes baby foods or carries company logo or does not carry date of printing etc. or carrying wrong or incomplete information, **REPORT** to notified agencies.

Section 8

Bans Promotions and Displays in Hospitals, Clinics, Chemist Shops etc.

The role of healthcare institutions, organisations and health workers in imparting information on infant feeding issues is of special significance. Healthcare organisations (like hospitals, clinics, health facilities offered by the voluntary and private sector, chemist, drug or a pharmacy shop) and health workers (like doctors, nurses, LHVs, ANMs, anganwadi workers, community workers and dais) interact with a large number of pregnant women and lactating mothers. These women are often vulnerable and in need of guidance. Any information given to the mothers by the health workers, either directly or indirectly, have influence on the practice they follow, as the health workers are expected to be knowledgeable about health matters.

Companies often use the healthcare system to display their posters or hoardings etc. or distribute material with an intention that doctors will further give it to the pregnant or the lactating women.

The Act bans all persons from promoting the use or sale of infant milk substitutes, feeding bottles or infant foods by:

- * display of placards or posters in the healthcare system.
- * distributing any material related to these products in the healthcare system.

Also the manufacturers, distributors and suppliers of infant milk substitutes, feeding bottles or infant foods cannot make any kind of payment to any person who works in the healthcare system.

The Act also prohibits any person from distributing infant milk substitutes even to a mother who cannot resort to breastfeeding, except by a health worker. Only he can demonstrate to a mother or a member of her family how to feed the infant with infant milk substitutes or infant foods. The Act demands that the health worker must also clearly explain the hazards of not using these foods properly.



ACTION ALERT :

If you come across any promotional activity of baby food manufactures in a hospital or a chemist shop etc., **REPORT** to notified agencies.

Section 9

Bans Direct or Indirect Benefits to Health Workers or their Associations

Health workers can become a vital link between manufacturers of infant milk substitutes, feeding bottles or infant foods and mothers by promoting or distributing these products to pregnant women or mothers of babies.

Therefore, the IMS Act prohibits manufacturers, distributors and suppliers of infant milk substitutes, feeding bottles or infant foods from promoting the use of these products by offering any benefits like giving financial inducement or gifts, directly or indirectly, to a health worker or a member of his family. The Act also bans giving benefits like funding of seminars, meetings, conferences, educational courses, contests, fellowships, research work or sponsorship to any health worker or their associations. These restrictions apply to the chemist also.



ACTION ALERT :

If you come across any baby food manufacturer giving benefits to health workers or their associations, **REPORT** to notified agencies.



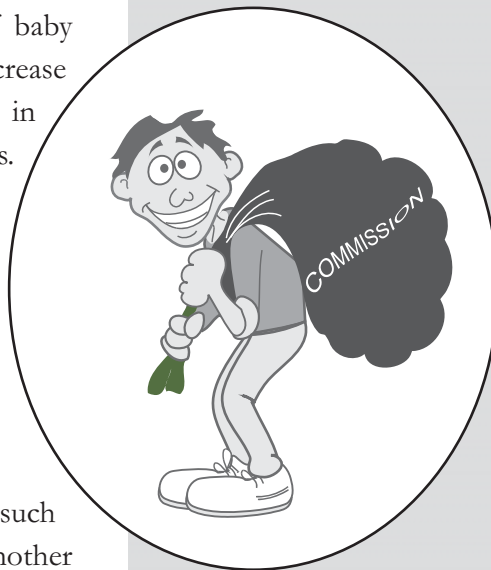
Bans Commission on Sales

Companies often give sales targets, commissions etc. to their employees on the basis of sales of baby food products. This encourages employees to increase sales of these products. This indirectly results in inducing use of these products by the customers. Therefore, the Act restricts offering commissions or inducements by any person who produces, supplies, distributes or sells infant milk substitutes, feeding bottles or infant foods to their employees for promoting sales of these products.

The Act also prohibits the employees of such persons from educating a pregnant woman or a mother of an infant about pre-natal or post-natal care of the infant. This ensures that sales persons of the infant milk substitute, feeding bottles or infant foods companies have no contact with pregnant women or mothers of infants.



Section 10



ACTION ALERT :
If you find any baby food company providing commission to its staff or indulge in educating mothers or pregnant women, **REPORT** to notified agencies.

Section 11

Lays Down Standards and Quality Control Requirements



As one of the aims of the *IMS Act* is to ensure quality control of infant milk substitutes, feeding bottles or infant foods, therefore the Act prohibits all persons from producing, selling or distributing any infant milk substitutes, feeding bottles or infant foods unless it conforms to the standards specified by the *Prevention of Food Adulteration Act, 1954*. Their containers should bear the standard mark specified by the *Bureau of Indian Standards Act 1986*.



ACTION ALERT :

If you find any baby food company producing or marketing its products without the ISI mark or not as per the standards specified by *PFA Act, 1954*, **REPORT** to notified agencies.

Specify Powers and Rules for Enforcement of the Act

Section 12-19

The Act here defines the powers of the “Food Inspector” or the “Authorized Officer” duly authorized by the state government to enter and search any factory, building, business premises where infant milk substitutes, feeding bottles or infant foods are produced, supplied or its trade is carried out in violation of section 6 or 11 of the Act.

The Act also gives the “Food Inspector” and the “Authorized Officer” the power to take possession of infant milk substitutes, feeding bottles or infant foods or their containers if any provision of the Act is being contravened. Whenever any possession is made under the Act, the owner may be given an option by the court to pay the costs, not exceeding the value of the possessed infant milk substitutes, feeding bottles or infant foods. But the payment of costs does not exonerate the guilty person from punishment for violations of the Act.

Under the Act, the owner of the infant milk substitutes, feeding bottles or infant foods is served with a notice in writing, informing him of the grounds on which it is proposed to be confiscated. The Act also gives an opportunity of appeal to the affected person from the decision of the court.



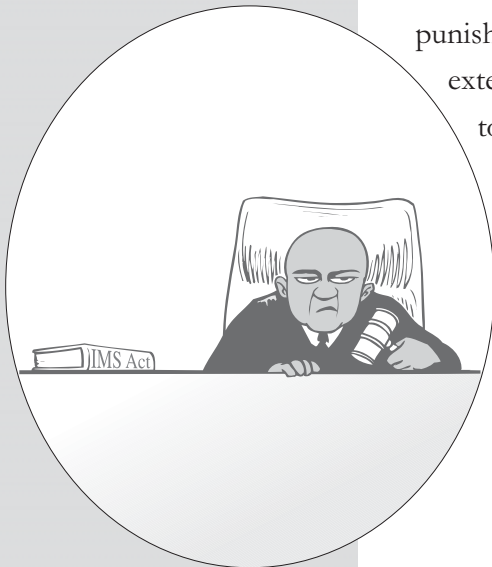
Section 20

Prescribes Penalties

According to the Act, any person who contravenes Section 6 of this Act with regard to the label on the containers of the infant milk substitutes or infant foods or Section 11(1) and rules made under the Act, on the quality of infant milk substitutes, feeding bottles or infant foods, shall be punishable with imprisonment and fine. The imprisonment shall not be less than six months which may extend up to three years and fine shall not be less than two thousand rupees.

Any person who violates the provisions of the sections 3,4,5,7,8,9,10 and subsection (2) of section 11 and the rules made under section 26 of the Act, shall be punishable with imprisonment for a term which may extend to three years or with a fine which may extend to five thousand rupees or both.

The court may for any adequate and special reason reduce the fine and punishment to a minimum of 3 months of imprisonment, which may be extended up to two years. The minimum fine shall be one thousand rupees.



Refers to Power of the Court and Procedure of Prosecution

Under this section the court shall take “cognizance” of offence on a written complaint made by:

- * A Food Inspector (authorized under the *Prevention of Food Adulteration Act, 1954*), or
- * An officer, not below the rank of a Class I officer, appointed by the respective state government, or
- * A representative of a voluntary organisation working in the field of child welfare and development or child nutrition, which is notified by the Central Government in the Official Gazette.

The Assistant Public Prosecutor of the court concerned has been given specific duty to conduct the prosecution.

A list of voluntary organisations, notified by the government in the Official Gazette are given below:

- * Breastfeeding Promotion Network of India (BPNI), BP-33, Pitampura, New Delhi-110034.
- * Association for Consumers Action on Safety and Health (ACASH), Servants of India Society Building, 2nd floor, SVP Road, Girgaum, Mumbai - 400002
- * Indian Council for Child Welfare (ICCW), 4 Deen Dayal Upadhyay Marg, New Delhi-110002.
- * Central Social Welfare Board (CSWB), B-12, Qutab Institutional Area, New Delhi -110016.



Section 22

Fixes Liability on Key Officials for Offences by the Companies and Firms

Under the Act, any person who is in charge of the company and is responsible for its business and the company itself shall be guilty for the offence and shall be punished accordingly. Director, manager, secretary or other officers of the company are also held liable if there is any negligence or consent on his/her part.

Section 23

Violations are Cognizable

Violations of provisions of the Act are very serious in nature. Under this provision of the Act the offences punishable under the Act have been made cognizable but they are bailable as per Code of Criminal Procedures, 1973.

Section 24

Provides Protection to Government and Notified Voluntary Agencies

In this Section, it is clearly specified that no suit, prosecution or any other legal proceeding shall be maintainable against Central Government or State Government or any officer of the Central Government or representative of a voluntary organisation which is notified under the Act, for filing complaint in writing to the court or for anything which is done in the good faith under this Act.

Section 25

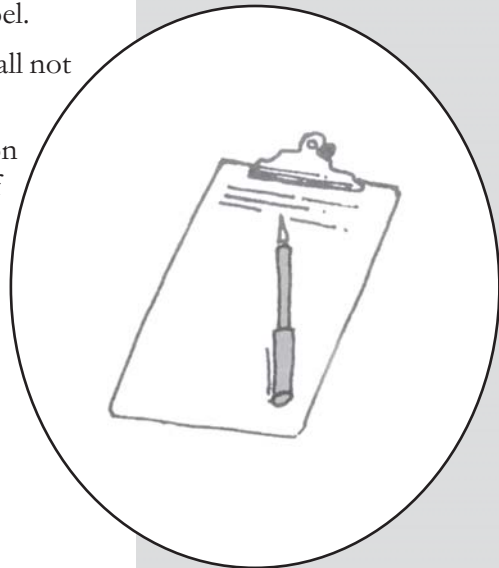
Refers to Prevention of Food Adulteration Act (PFA Act)

This section states that the provisions of the IMS Act or the rules made under the Act, are in addition to and not in derogation of the *Prevention of Food Adulteration Act, 1954*, or the rules made under it. The provisions of *IMS Act* fill the gap not covered by the *PFA Act*.

Provides Power to Central Government to Make Rules

The Central Government may make rules to carry out the provisions of the *IMS Act* after due notification in the Official Gazette. Such rules may provide for the following matters:

1. Conditions and restrictions for the distribution and donation of educational materials and other equipments.
2. The language in which the notice and other particulars are to be indicated on a container/ label.
3. The particulars which a container or label shall not bear.
4. The matter to be included in the information which reaches pregnant women or mothers of infants.
5. Any other necessary matter may also be prescribed.



Section 26

The Cable Television Networks (Regulation) Amendment Act, 2000

Bans Advertisements of Infant Milk Substitutes, Feeding Bottles and Infant Foods



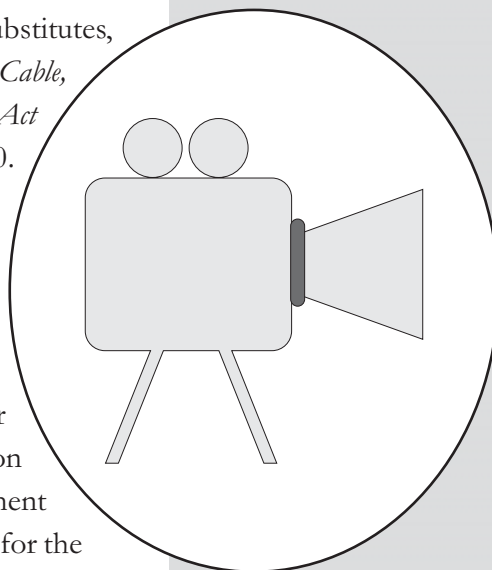
Almost everybody in the country is familiar with the cable television. It has been spreading its wings from the initial urban cities right to the remote villages. To check the screening of undesirable programmes and advertisements which are screened on these channels and to regulate the operation of the cable television networks in the country, so as to bring uniformity in their functioning, on 29th September, 1994, an Ordinance titled the *Cable Television Networks (Regulation) Ordinance, 1994*, was promulgated by the President to provide for the regulation of operation of cable television networks in the country. This Act consists of the rules and regulations regarding the cable television networks in the country. It also mentions the procedural laws and punishments of the offences related to the cable television networks in the country.

The Government had been monitoring the implementation of the Act and it was observed that baby food manufacturers often used electronic media as one of the most common and effective method to advertise their products. This was greatly damaging to the breastfeeding practices and also to the use of indigenous homemade foods. Back in 1998, BPNI also

started sensitizing media and the government officials on the issue of surrogate advertising by baby food manufacturers on the television. Representatives from BPNI met the then Hon'ble Minister of Information & Broadcasting, Mrs. Sushma Swaraj and informed her about how television channels are misusing the media to advertise infant foods. Thus it was realised that there is a need to amend the existing Act.

The Government of India took steps to ban all advertising and promotion of infant milk substitutes, feeding bottles or infant foods vide *The Cable, Television Networks (Regulation) Amendment Act* which was passed in September 2000. According to Section 6 & 7 of this Act "no advertisement shall be permitted which is not in conformity with prescribed advertising code and which promotes directly or indirectly production, sale or consumption of infant milk substitutes, feeding bottles or infant foods", through a cable network. Section 16 of the Act provides the following punishment for contravening the provisions of this act (a) for the first offence, imprisonment up to 2 years or a fine of one thousand rupees or both, and (b) for every subsequent offence, imprisonment up to five years or a fine of five thousand rupees.

After this amendment we do not see advertisement of baby foods on the cable television channels. Therefore, this amendment resulted in being the best and the most important tool to protect breastfeeding in the country. This is the best gift by the Ministry of Information and Broadcasting to the children and women of India. This has protected more than 50 million homes.



Relevant Provisions of the Cable Television Networks Act :

Section 1(2)

It extends to the whole of India.

Section 6

“No person shall have a right to transmit or re-transmit through a cable service, any advertisement which is not in conformity with the Advertising Code prescribed under rule 7 of the *Cable Television Networks Rules, 1994*”.

Rule 7(2) (viii) (b)

Advertising Code “No advertisement shall be permitted which promotes directly or indirectly production, sale or consumption of infant milk substitutes, feeding bottles or infant foods.”



ACTION ALERT :

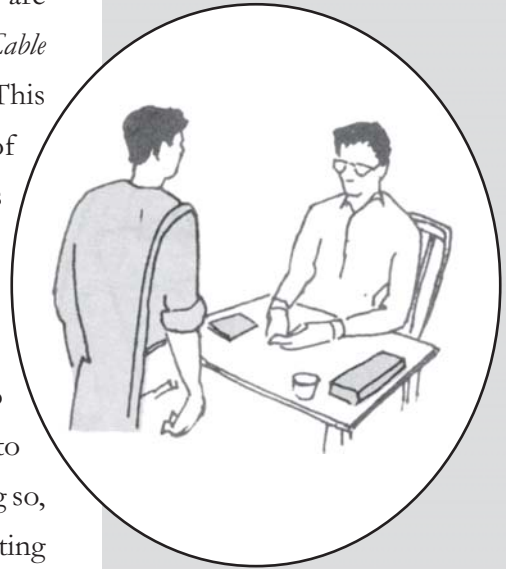
If you find your cable service or TV network airing advertisements of infant milk substitutes, feeding bottles or infant foods, ask your cable operator to stop these advertisements and **REPORT** to:

★ The District Magistrate, the Sub Divisional Magistrate or the Commissioner of Police .



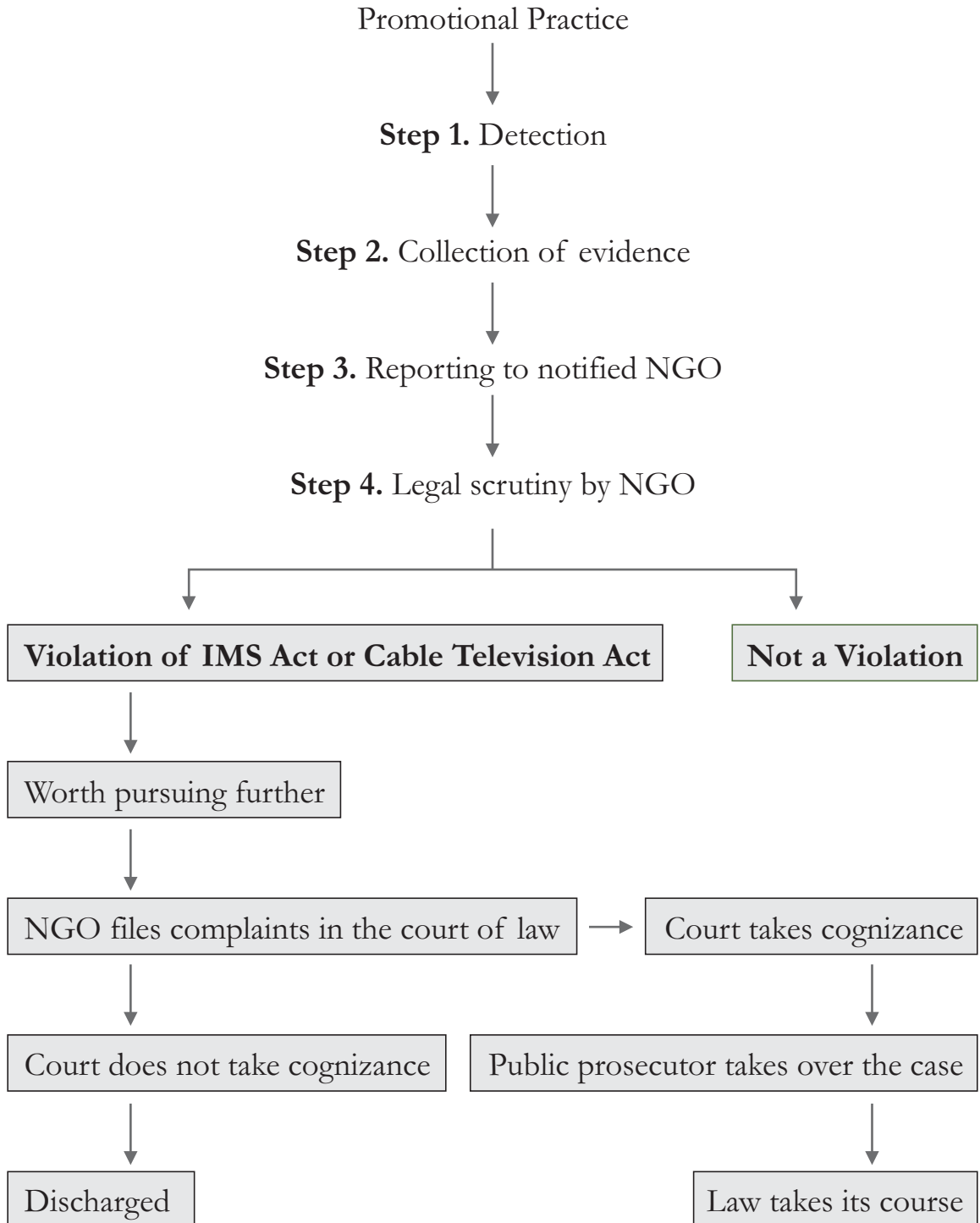
Monitoring the Activities of Baby Food Manufacturers

Checking what manufacturers of baby foods are doing requires monitoring of the *IMS Act* and *Cable Television Networks (Regulation) Amendment Act, 2000*. This involves observing and checking the practices of baby food manufacturers regularly. It also includes collecting evidence of such violations from healthcare institutions, health professionals, educational materials being provided, as well as information available in various magazines, radio and television. The evidence needs to be reported to the appropriate authorities for action. Only by doing so, can we end the irresponsible and dangerous marketing practices of manufacturers of infant milk substitutes, feeding bottles or infant foods.



Watching manufacturer's behavior will help us in knowing the type of violation and the method of violation adopted. This information will help the governments and other organisations in their campaign to protect infant health and further strengthen the Act. The following flow chart will help you understand the process of detecting violations and legal analysis.

MONITORING FLOW CHART



The following is a detailed description of the steps 1 to 4

Step 1:-

Detection of possible promotional practice

Familiarise yourself with the main provisions of the Act, the names of manufacturers of infant milk substitutes, feeding bottles and infant foods and the brand names of their products available in your area.

Whenever you visit hospitals, maternity wards, nurseries, pediatric wards, oral rehydration units, clinics of doctors including pediatricians and obstetricians and office of administrators, look for:

1. Any promotional materials. Observation would give plenty of information.
2. Samples of milk, posters, charts and booklets for the mothers or health workers, gifts of any type like clocks, pens, pads, which have been given by the company representatives, and their visiting cards.
3. Sponsorship of hospital equipments, seminars, research projects or functional support to the health care institution.
4. Special displays, leaflets, posters etc. in the hospital or the chemist shops and pharmacies.

For monitoring the media and other direct consumer advertising, look particularly in magazines for parents, women and children in addition to those for health professionals. Also look out for advertising on the television, hoardings, direct mail to customers, displays at public events and baby shows.

Step 2:-

Collection of Evidence

Whenever you spot any promotional activity, make a careful record of dates, companies and brand names of products, name and address of hospital, clinic, store etc., name and position of person giving information, description of posters, displays that you see in a healthcare facility. If possible take photographs of the displays and posters. Collect an original copy of the magazine, newspaper, educational material, etc. where promotion is spotted.

Step 3:-

Reporting - Send a copy of the report with relevant proof to BPNI, ACASH or Government agencies

Step 4:-

Legal scrutiny by voluntary agency - The voluntary or authorised agency like BPNI or ACASH will take a legal opinion to find out if the promotion constitutes a violation and is worth pursuing for a legal action.

If it is worth pursuing in the court, a complaint will be filed against the violators. If the court takes the cognizance, then the case will be taken forward by the public prosecutor otherwise the case would be closed.

What could be a Violation of the Act

Infant food companies are violating the **IMS Act** if they...

- * Promote any food by whatever name for children up to two years.
- * Promote unnecessary introduction of these foods without assessing the need of introducing. (For example a doctor prescribing to bring infant milk substitute before the time of delivery to a pregnant woman)
- * Advertise by any means - television, newspapers, magazines, journals, through SMS, emails, radio, pamphlets etc.
- * Distribute the product or samples to any person.
- * Contact pregnant or lactating mothers in a hospital, marketplace, residence or by sending mails etc.
- * Provide gifts and samples to the mothers and health providers, use of tied sales by providing free consumer products like soaps/ bowls with these products.
- * Distribute information and educational material to mothers, families etc.
- * Give tins, cartons, accompanied leaflets of these products having picture of mothers or babies, cartoons or any other such images.
- * Display placards or posters in a hospital, nursing home, chemist shop etc. for promoting these products.

- * Sponsor hoardings of these products to a hospitals, nursing homes or chemist shops.
- * Promotion of production to doctors by any means.
- * Make payments to the doctors or nurses for promoting these products.
- * Demonstrate mother or their family members how to feed with these products. However a doctor can demonstrate this to the mother.
- * Give gifts to doctors, nurses for promoting these products.
- * Give benefits to doctors, nurses or a association like IAP, IMA, NNF or other branches of these etc. like funds for organising seminars, meeting, conferences, contests, fees of educational courses, sponsoring for projects, research work, tours or articles in medical journals.
- * Fix commission of employees on the basis of volume of sales of these products.

Role of a Citizen

The Government is committed for protecting, promoting and supporting breastfeeding. As a citizen, you can help in the following ways:

- * Seek correct and scientific information about infant and young child feeding.
- * Understand the hazards of using infant milk substitutes, feeding bottles and infant foods.
- * Create awareness and public opinion on promotion, protection and support of breastfeeding.
- * Help to form groups or work with NGOs which protect, promote and support breastfeeding.
- * Educate people on the provisions of the Act and on the procedures for reporting violations.
- * Observe and investigate the practices in hospitals, clinics, chemist shops etc.
- * Report violations to the right authorities.
- * Form Community Watch Groups for identifying and reporting promotional activities of baby food manufacturers.
- * Inform/publicise the organisations where they can report these violations.
- * Write to companies to stop promoting baby foods.

If we join hands we can force the companies to abandon their illegal and unethical practices and protect the practice of breastfeeding.



The IMS Act - What has been Amended in 2003?

With the purpose of regulating the production, supply and distribution of infant milk substitutes, feeding bottles and infant foods the Government of India has amended *IMS Act* in 2003 to bring up certain provisions for greater protection of mothers and children. For the benefit of the readers and interested citizens, BPNI has analysed the *IMS Act of 1992 as amended in 2003* to easily understand what has been amended. The amended Act defines certain terms to clear the ambiguities in the earlier Act. In other clauses, the Act addresses to prohibit activities in relation to promotion. It also strengthens the section regarding labelling of infant foods, distribution of educational materials and funding health workers and their associations for better implementation and effective enforcement of the Act. This document has been developed to understand the amendments better for practical purposes and assist in effective implementation of the amended *IMS Act*. The document provides you a section-wise analysis of what was there, what has been amended and what is likely to be the effect of this amendment.



What has been Amended in 2003?

Section	IMS Act, 1992	IMS Act 1992 as amended in 2003	What has been Amended	Effect
Section 1	<i>The Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992</i>	<i>The Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992 (As Amended in 2003)</i>	New sections added and some of the old ones strengthened	Increased protection of mothers and babies from commercial influence and implementation of the World Health Assembly Resolutions 2001 & 2002 and the Global Strategy on Infant and Young Child Feeding. India is at the helm of the flagship of infant and young child health protection.
Section 2(a)	“advertisement” includes any notice, circular, label, wrapper and other documents and also includes any visible representation or announcement made by means of any light, sound, smoke.	“advertisement” includes any notice, circular, label, wrapper or any other document and also includes any visible representation or announcement made by means of any light, sound, smoke or gas or by means of electronic transmission or by audio or visual transmission.	Advertisement will also include electronic or audio or visual transmission.	Ambit of advertisements has been widened, for infant milk substitutes, feeding bottles and infant foods (the products under the scope of the Act).
Section 2(b)	“container” means a box, bottle, casket, tin, can, barrel, case, tube, receptacle, sack, wrapper or other thing in which any infant milk substitute, feeding bottle	Same as IMS Act, 1992		

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	or infant food is placed or packed for sale or distribution.			
Section 2(C)	“Feeding bottle” means any bottle or receptacle used for the purpose of feeding <i>infant milk substitutes</i> , and includes a teat and a valve attached or capable of being attached to such bottle or receptacle;	Same as <i>IMS Act</i> , 1992		
Section 2(d)	“ <i>health care system</i> ” means an institution or organisation engaged, either directly or indirectly, in healthcare for mothers, infants or pregnant women, and includes health worker in private practice, but does not include a pharmacy or drug store.	“ <i>Health care system</i> ” means an institution or organisation engaged, either directly or indirectly, in healthcare for mothers, infants or pregnant women, and includes health worker in private practice, a pharmacy, drug store and any association of health workers.	Healthcare system will also include a pharmacy, drug store and any association of health workers.	Pharmacy, drug store and association of health workers are included in the clause of health care system to avoid commercial exploitation for promotional activities. This strengthens it further from 1992 and widens its scope.
Section 2 (e)	“ <i>health worker</i> ” means a person engaged in health care for mothers, infants or pregnant women;	Same as <i>IMS Act</i> , 1992		

<p>Section 2(f)</p>	<p>“<i>Infant food</i>” means any food (by whatever name called) being marketed or otherwise represented as a complement to mother’s milk to meet the growing nutritional needs of the infant after the age of four months.</p>	<p>(f) “<i>Infant food</i>” means any food (by whatever name called) being marketed or otherwise represented as a complement to mother’s milk to meet the growing nutritional needs of the infant after the age of six months and up to the age of two years;</p>	<p>Infant food is any food that can be introduced after six months of age and up to two years of age.</p>	<p>The Act defines infant foods more clearly. It is a food that is for use after the age of six months as a complement to mother’s milk. This intends to promote exclusive breastfeeding for the first six months and continued breastfeeding for two years or beyond.</p>
<p>Section 2(g)</p>	<p>“<i>Infant milk substitute</i>” means any food being marketed or otherwise represented as a partial or total replacement for mother’s milk, whether or not it is suitable for such replacement.</p>	<p>“<i>Infant milk substitute</i>” means any food being marketed or otherwise represented as a partial or total replacement for mother’s milk for infant up to the age of two years</p>	<p>Infant milk substitute means any food, which replaces mother’s milk for infant’s up to the age of two years.</p>	<p>The Act defines infant milk substitutes as any food, which replaces mother’s milk up to two years of age. Therefore, this tends to promote continued breastfeeding for two years or beyond, considering the importance of continuing breastfeeding for two years or beyond.</p>
<p>Section 2(h)</p>	<p>“<i>Label</i>” means a display of written, marked, stamped, printed or graphed matter affixed to, or appearing upon, any container;</p>	<p>Same as <i>IMS Act, 1992</i></p>		
<p>Section 2(i)</p>	<p>“<i>prescribed</i>” means prescribed by rules made under this Act.</p>	<p>Same as <i>IMS Act, 1992</i></p>		

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<p>Section 2 (f)</p>		<p>“<i>promotion</i>” means to employ directly or indirectly any method of encouraging any person to purchase or use infant milk substitute, feeding bottle or infant food.</p>	<p>This is the new definition incorporated in the Act. Earlier the 1992 Act did not define “promotion”</p>	<p>The Act prohibits any kind of activity to promote the products under the scope of the Act. Inclusion of this definition helps in better interpretation of the legal clauses.</p>
<p>Section 3 (a)</p>	<p>No person shall advertise, or take part in the publication of any advertisement, for the distribution, sale or supply of infant milk substitutes or feeding bottles.</p>	<p>No person shall advertise, or take part in the publication of any advertisement, for the distribution, sale or supply of infant milk substitutes, feeding bottles or infant foods.</p>	<p>Advertisement of infant foods is also prohibited.</p>	<p>No person can advertise infant milk substitutes, feeding bottles or infant foods by any means.</p>
<p>Section 3 (b)</p>	<p>No person shall give an impression or create a belief in any manner that feeding of infant milk substitutes is equivalent to, or better than, mother's milk.</p>	<p>No person shall give an impression or create a belief in any manner that feeding of infant milk substitutes and infant foods are equivalent to, or better than, mother's milk.</p>	<p>“Infant food” has also been included in the prohibitory clauses of advertisement.</p>	<p>Advertisements are prohibited to create an impression that infant milk substitutes or infant foods are equivalent to or better than mother's milk.</p>
<p>Section 3 (c)</p>	<p>No person shall take part in the promotion of use or sale of infant milk substitutes or feeding bottles otherwise than in accordance with the provisions of this Act.</p>	<p>No person shall take part in the promotion of infant milk substitutes, feeding bottles or infant foods;</p>	<p>People and company have been prohibited to promote the use or sale of infant foods as well.</p>	<p>No individual or company can encourage or promote the use or sale of infant milk substitutes, feeding bottles or infant foods.</p>

Section 4(a)	No person shall supply or distribute samples of <i>infant milk substitutes or feeding bottles</i> or gifts of utensils or other articles; or	No person shall supply or distribute samples of <i>infant milk substitutes or feeding bottles or infant foods</i> or gifts of utensils or other articles; or	Distributing samples of infant foods is also prohibited.	Supply or distribution of free samples of infant milk substitutes, feeding bottles or infant foods or any gifts is prohibited.
Section 4(b)	No person shall contact any pregnant woman or the mother of an infant.	Same as <i>IMS Act, 1992</i>		Contacting pregnant women or mothers is prohibited.
Section 4(c)	No person shall offer inducement of any other kind, for the purpose of promoting the use or sale of <i>infant milk substitutes or feeding bottles</i> .	No person shall offer inducement of any other kind, for the purpose of promoting the use or sale of <i>infant milk substitutes or feeding bottles or infant foods</i> .	Offering inducements of any kind for the purpose of promoting the use of infant food is also prohibited.	No inducement can be given for promoting the use of infant milk substitutes, feeding bottles or infant foods.
Section 5(a)	No person shall donate <i>infant milk substitutes or feeding bottles</i> to any other person except to an orphanage.	No person shall donate <i>infant milk substitutes or feeding bottles or infant foods</i> to any other person except to an orphanage.	Donating infant foods is also prohibited.	Indirect encouragement of consumption by means of donating infant milk substitutes, feeding bottles or infant foods is not permitted now.
Section 5(b)	No person shall donate any informational or educational equipment or material relating to <i>infant milk substitutes or feeding bottles</i> .	No person shall donate any informational or educational equipment or material relating to <i>infant milk substitutes or feeding bottles or infant foods</i> .	Donating any informational or educational equipment or material relating to infant food is also prohibited.	Baby food manufacturers cannot promote use of infant milk substitutes, feeding bottles or infant foods on the pretext of donation of educational material.

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<p>Section 6(1)</p>	<p>No person shall produce, supply or distribute any <i>infant milk substitute or infant food</i> unless every container thereof or any label affixed there to indicates in a clear, conspicuous and in an easily readable and understandable manner, in such language as may be prescribed and indicating there under the following particulars in the same language, namely: -</p> <p>(a) a statement “mother’s milk is best for your baby” in capital letters;</p> <p>(b) a statement that <i>infant milk substitute or infant food</i> should be used only on the advice of a health worker as to the need for its use and the proper method of its use;</p> <p>(c) a warning that <i>infant milk substitute or infant food</i> is not the sole source of nourishment of an infant;</p> <p>(d) the instructions for its appropriate preparation and a warning against the health hazards of its inappropriate preparation;</p> <p>(e) the ingredients used;</p> <p>(f) the composition or analysis;</p> <p>(g) the storage conditions required;</p> <p>the batch number, date of its manufacture and the date before which it is to be consumed, taking into account the climatic and storage conditions of the country.</p>	<p>Same as <i>IMS Act, 1992</i></p>	<p>The labels or containers of infant milk substitutes, feeding bottles or infant food shall bear the words “important notice” in capital letters and other particulars of the clause in the prescribed language.</p>
<p>Section 6 (2)</p>	<p>No container or label referred to in sub-section (1) relating to <i>infant milk substitute</i> shall</p> <p>(a) have pictures of an infant or a woman or both; or</p> <p>(b) have pictures or other graphic material or phrases designed to increase the saleability of <i>infant milk substitutes or</i></p>	<p>No container or label referred to in sub-section (1) relating to <i>infant milk substitute or infant food shall</i></p>	<p>Use of pictures or other graphic material or phrases designed on the label or container to increase the</p>
<p>Containers or labels of infant milk substitutes or infant foods cannot have</p>			

	<p>(C) use on it the word “humanised” or “maternalised” or any other similar word; or bear on it such other particulars as may be prescribed.</p>	<p>(a) Same as <i>IMS Act, 1992</i> (b) have pictures or other graphic material or phrases designed to increase the saleability of <i>infant milk substitutes or infant food</i> (c) Same as <i>IMS Act, 1992</i></p>	<p>saleability of infant foods is also prohibited.</p>	<p>pictures or graphic materials.</p>
<p>Section 7(1)</p>	<p>Every educational or other material whether audio or visual, dealing with pre-natal or post-natal care or with the feeding of an infant and intended to reach pregnant women or mothers of infants shall include clear information relating to</p> <p>(a) the benefits and superiority of breastfeeding;</p> <p>(b) the preparation for, and the continuance of, breastfeeding;</p> <p>(c) the harmful effects on breastfeeding due to the partial adoption of bottle feeding;</p> <p>(d) the difficulties in reverting to breastfeeding of infants after a period of feeding by infant milk substitute;</p> <p>(e) the financial and social implications in making use of <i>infant milk substitutes and feeding bottles</i>;</p> <p>(f) the health hazards of improper use of <i>infant milk substitutes and feeding bottles</i>;</p> <p>(g) such other matters as may be prescribed.</p>	<p>Every educational or other material including advertisements or material relating to promotion of <i>infant milk substitutes, feeding bottles and infant foods</i> whether audio or visual, dealing with pre-natal or post-natal care or with the feeding of an infant and intended to reach pregnant women or mothers of infants shall include clear information relating to</p> <p>(a) Same as <i>IMS Act, 1992</i> (b) Same as <i>IMS Act, 1992</i> (c) Same as <i>IMS Act, 1992</i> (d) Same as <i>IMS Act, 1992</i> (e) Same as <i>IMS Act, 1992</i> (f) Same as <i>IMS Act, 1992</i> (Fa) the date of printing and publication of such material and the name of the printer and publisher; (g) Same as <i>IMS Act, 1992</i></p>	<p>According to the new bill, educational materials shall also include advertisements or material relating to promotion of infant milk substitutes, feeding bottles or infant foods.</p> <p>This is a new provision added in the law. Earlier Act did not bear such a mandate.</p>	<p>For the purpose of the Act advertisements reaching people will bear all the restrictions as that on educational materials.</p> <p>For the purpose of the Act it is important to ensure that for all educational materials, related to the products under the scope</p>

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				of the Act it should bear: the date of printing and publication name of the printer & the publisher
Section 7(2)	No material referred to in sub-section (1) shall be utilised to promote the use or sale of <i>infant milk substitutes or feeding bottles</i> .	No material referred to in sub-section (1) shall be utilised to promote the use or sale of <i>infant milk substitutes or feeding bottles or infant foods</i>	No educational material will now be used for promoting the use and sale of infant foods.	Manufacturers cannot use any educational material for the promotion of infant milk substitutes, feeding bottles or infant foods.
Section 8	(1) No person shall use any health care system for the display of placards or posters relating to, or for the distribution of, materials for the purpose of promoting the use or sale of <i>infant milk substitutes or feeding bottles or infant foods</i> : Provided that the provisions of this sub-section shall not apply to (a) the donation or distribution of informational or educational equipment or material made in accordance with the provision to clause (b) of section 5; and the dissemination of information to a health worker about the scientific and factual matters relating to the use of <i>infant milk substitutes or feeding bottles</i>	Same as IMS Act, 1992		Use of the health care system is prohibited for the displaying and distributing materials related to infant milk substitute, feeding bottles or infant foods.

	<p><i>or infant foods</i> along with the information specified in sub-section (1) of section 7.</p> <p>(2) No person who produces, supplies, distributes or sells <i>infant milk substitutes or feeding bottles or infant foods</i> shall make any payment to any person who works in the health care system for the purpose of promoting the use or sale of such substitutes or bottles or foods.</p> <p>(3) No person, other than a health worker, shall demonstrate feeding with <i>infant milk substitutes or infant foods</i> to a mother of an infant or to any member of her family and such health worker shall also clearly explain to such mother or such other member the hazards of improper use of <i>infant milk substitutes or feeding bottles or infant foods</i>.</p> <p>(4) No person, other than an institution or organisation, engaged in health care for mothers, infants or pregnant women, shall distribute <i>infant milk substitutes or feeding bottles</i> to a mother who cannot resort to breastfeeding and who cannot afford to purchase <i>infant milk substitutes or feeding bottles</i>.</p> <p>(5) An orphanage may purchase <i>infant milk substitutes or feeding bottles</i> at a price lower than their sale price for the purpose of utilising them in the said orphanage.</p>		<p>Manufacturers of infant milk substitutes, feeding bottles or infant foods are prohibited from making payment to the person associated with health care system.</p> <p>Only health workers can demonstrate to mothers how to feed on infant milk substitutes or infant foods and also explain her the hazards of improper use of infant milk substitutes, feeding bottles or infant foods.</p> <p>No person can distribute samples of infant milk substitutes or feeding bottles except a person who is engaged with the health care for mothers.</p> <p>Orphanages can purchase infant milk substitutes or feeding bottles at a price lower than their sale price</p>
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<p>Section 9</p>	<p>(1) No person who produces, supplies, distributes or sells <i>infant milk substitutes or feeding bottles or infant foods</i> shall offer or give, directly or indirectly, any financial inducements or gifts to a health worker or to any member of his family for the purpose of promoting the use of such substitutes or bottles or foods.</p> <p>(2) Where such person makes any contribution to, or incurs any expenditure on, a health worker, either directly or indirectly, such person and such health worker shall disclose the same to the institution or organisations to which such health worker is attached.</p>	<p>Same as IMS Act, 1992</p> <p>No producer, supplier or distributor referred to in sub-section (1), shall offer or give any contribution or pecuniary benefit to a health worker or any association of health workers, including funding of seminar, meeting, conferences, educational course, contest, fellowship, research work or sponsorship</p>	<p>No producer, supplier or distributor of infant milk substitutes, feeding bottles or infant foods shall give any benefit to a health worker or association of health workers for any purpose.</p>	<p>The Act prohibits manufacturers of baby foods from giving any financial inducements or gifts to a health worker or to any member of his family.</p> <p>This clause now strengthens the IMS Act by prohibiting baby food manufacturers from giving any kind of inducement or grants to health professionals and their associations to avoid misuse of the healthcare system by the industry for their commercial benefits and clearly defines the “conflict of interest” between baby food manufacturers and health professionals.</p>
<p>Section 10</p>	<p>(1) No person who produces, supplies, distributes or sells <i>infant milk substitutes or feeding bottles or infant foods</i> shall fix the remuneration of any of his employees or give any commission to such employees on the basis of the volume of sale of such substitutes or</p>	<p>Same as IMS Act, 1992</p>		<p>This section prohibits manufacturers from offering commissions or inducement to their employees for promoting the sales of their products.</p>

	bottles or foods made by such employees. (2) The employees of such person shall not perform any function, which relates to educating a pregnant woman or mother of an infant on pre-natal or post-natal care of the infant.				It prohibits the employees of manufacturers of baby foods to indulge in educating pregnant women.
Section 11-19	Sections 11-19 set out steps for quality control and enforcement of the Act	Same as IMS Act, 1992			Section 11 aims to ensure quality control of infant milk substitutes, feeding bottles or infant foods. Section 12-19 of the Act deals with the enforcement of the earlier stated provisions.
Section 20(1)	Any person who contravenes the provisions of section 3,4,5,7,8,9,10 or sub-section (2) of section 11 shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to five thousand rupees, or with both.	Any person who contravenes the provisions of Section 3,4,5,7,8,9,10 or sub-section (2) of Section 11 and the rules made under Section 26 of the Act shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to five thousand rupees, or with both.	Any person who contravenes the provision of rules made under Section 26 of the Act is also punishable.	Any person who contravenes the provision of rules made under Section 26 of the Act is also punishable.	This section stipulates the penalties for violations under the Act and rules made under Section 26 of the Act.
Section 20(2)	Any person who contravenes the provisions of section 6 or sub-sector (1) of section 11 shall be punishable with	Any person who contravenes the provisions of section 6 or sub-sector (1) of section	Any person who contravenes	Any person who contravenes	This section stipulates the penalties for violations under the Act and rules made

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	imprisonment for a term which shall not be less than six months but which may extend to three years and with fine which shall not be less than two thousand rupees:	11 and the rules made under section 26 of the Act shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to three years and with fine which shall not be less than two thousand rupees:	the provision of rules made under section 26 of the act is also punishable.	under section 26 of the Act.
Section 21-23	Refers to the power of prosecution	Same as IMS Act, 1992		Refers to the power of prosecution
Section 24	No suit, prosecution or other legal proceeding shall lie against the Central Government or any State Government or any officer of the Central Government or of any State Government for anything which is in good faith done or intended to be done under this Act.	No suit, prosecution or other legal proceeding shall lie against the Central Government or any State Government or any officer of the Central Government or a representative of such voluntary organization which is notified under clause (c) of sub-section (1) of section 21 for anything which is in good faith done or intended to be done under this Act.	No suit, prosecution or other legal proceeding shall also lie against representative of such voluntary organization, which is notified under clause (c) of sub-section (1) of section 21.	This section gives protection to NGO's and it helps to enhance the confidence of Central Government, State Government, and Voluntary Organisations to take legal action.
Section 25	The provisions of this Act, or the rules made there under shall be in addition to, and not in derogation of, the Prevention of Food Adulteration Act, 1954, or the rules made there under.	Same as <i>IMS Act</i> , 1992		The provisions of Prevention of Food Adulteration Act, 1954, or rules made under this Act shall not be barred.

<p>Section 26</p>	<p>Authorises the Central Government to make rules, without prejudice to the generality of the foregoing power and in particular, to carry out the provisions of this Act.</p>	<p>Authorises the Central Government to make rules, without prejudice to the generality of the foregoing power and in particular, to carry out the provisions of this Act.</p>	<p></p>	<p>This section authorises Government to make rules.</p>

The Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992, as Amended in 2003 (IMS Act)

NOTE -BPNI has put efforts to provide you with a merged text of both the IMS Act 1992 and IMS Amendment Act 2003. This may help you better in better understanding of scope of this Act.

An Act to amend the Infant Milk Substitutes, Feeding Bottles and Infants Foods (Regulation of Production, Supply and Distribution) Act, 1992. It provides for the regulation of production, supply and distribution of infant milk substitutes, feeding bottles and infant foods with a view to the protection and promotion of breastfeeding and ensuring the proper use of infant foods and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows: -

1. (1) This Act may be called the Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992, as amended in 2003 (IMS Act)

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires, -

(a) “advertisement” includes any notice, circular, label, wrapper or any other document or visible representation or announcement made by means of any light, sound, smoke or gas or by means of electronic transmission or by audio or visual transmission;

(b) “container” means a box, bottle, casket, tin, can, barrel, case, tube, receptacle, sack, wrapper or other thing in which any infant milk substitute, feeding bottle or infant food is placed or packed for sale or distribution;

(c) “feeding bottle” means ant bottle or receptacle used for the purpose of feeding infant milk substitutes, and includes a teat and a valve attached or capable of being attached to such bottle or receptacle;

(d) “health care system” means an institution or organisation engaged, either directly or indirectly, in health care for mothers, infants or pregnant women, and includes a health workers in private practice, a pharmacy, drug store and any association of health workers;

(e) “health worker” means a person engaged in health care for mothers, infants or pregnant

women;

(f) “infant food” means any food (by whatever name called) being marketed or otherwise represented as a complement to mother's milk to meet the growing nutritional needs of the infant after the age of six months and up to the age of two years;

(g) “infant milk substitute” means any food being marketed or otherwise represented as a partial or total replacement for mother's milk, for infant up to the age of two years

(h) “label” means a display of written, marked, stamped, printed or graphed matter affixed to, or appearing upon, any container;

(i) “prescribed” means prescribed by rules made under this Act.

(j) “promotion” means to employ directly or indirectly any method of encouraging any person to purchase or use infant milk substitute, feeding bottle or infant food.

(2) Any reference in this Act to any other enactment or any provision thereof, shall, in relation to an area in which such enactment or such provision is not in force, be construed as a reference to the corresponding law or the relevant provision of the corresponding law, if any, in force in that area.

3. No person shall -

(a) advertise, or take part in the publication of any advertisement, for the distribution, sale or supply of infant milk substitutes, feeding bottles or infant foods; or

(b) give an impression or create a belief in any manner that feeding of infant milk substitutes and infant foods are equivalent to, or better than, mother's milk; or

(c) take part in the promotion of infant milk substitutes, feeding bottles or infant foods;

4. No person shall -

(a) supply or distribute samples of infant milk substitutes or feeding bottles or infant foods or gifts of utensils or other articles; or

(b) contact any pregnant woman or the mother of an infant; or

(c) offer inducement of any other kind,

for the purpose of promoting the use or sale of infant milk substitutes or feeding bottles or infant foods.

5. Subject to the provisions of sub-section (4) of section 8, no person shall donate or distribute

(a) infant milk substitutes or feeding bottles or infant foods to any other person except to an orphanage;

(b) any informational or educational equipment or material relating to infant milk substitutes or feeding bottles or infant foods;

Provided that nothing in this clause shall apply to the donation or distribution, subject to such conditions and restrictions as may be prescribed, of such equipment or material through the health care system.

6. (1) Without prejudice to the provisions of the Prevention of Food Adulteration Act, 1954

and the rules made thereunder, no person shall produce, supply or distribute any infant milk substitute or infant food unless every container thereof or any label affixed thereto indicates in a clear, conspicuous and in an easily readable and understandable manner, the words “important notice” in capital letters in such language as may be prescribed and indicating thereunder the following particulars in the same language, namely:-

- (a) a statement “mother's milk is best for your baby” in capital letters;
- (b) a statement that infant milk substitute or infant food should be used only on the advice of a health worker as to the need for its use and the proper method of its use;
- (c) a warning that infant milk substitute or infant food is not the sole source of nourishment of an infant;
- (d) the instructions for its appropriate preparation and a warning against the health hazards of its inappropriate preparation;
- (e) the ingredients used;
- (f) the composition or analysis;
- (g) the storage conditions required;
- (h) the batch number, date of its manufacture and the date before which it is to be consumed, taking into account the climatic and storage conditions of the country;
- (i) such other particulars as may be prescribed.

(2) No container or label referred to in sub-section (1) relating to infant milk substitute or infant food shall

- (a) have pictures of an infant or a woman or both; or
- (b) have pictures or other graphic material or phrases designed to increase the saleability of infant milk substitutes or infant food ; or
- (c) use on it the word “humanised” or “maternalised” or any other similar word; or
- (d) bear on it such other particulars as may be prescribed.

7. (1) Every educational or other material including advertisements or material relating to promotion of infant milk substitutes, feeding bottles and infant foods whether audio or visual, dealing with pre-natal or post-natal care or with the feeding of an infant and intended to reach pregnant women or mothers of infants shall include clear information relating to

- (a) the benefits and superiority of breastfeeding;
- (b) the preparation for, and the continuance of, breastfeeding;
- (c) the harmful effects on breast-feeding due to the partial adoption of bottle feeding;
- (d) the difficulties in reverting to breastfeeding of infants after a period of feeding by infant milk substitute;
- (e) the financial and social implications in making use of infant milk substitutes and feeding bottles;
- (f) the health hazards of improper use of infant milk substitutes and feeding bottles;
- (fa) the date of printing and publication of such material and the name of the printer and publisher;

(g) such other matters as may be prescribed.

(2) No material referred to in sub-section (1) shall be utilised to promote the use or sale of infant milk substitutes or feeding bottles or infant foods.

8. (1) No person shall use any health care system for the display of placards or posters relating to, or for the distribution of, materials for the purpose of promoting the use or sale of infant milk substitutes or feeding bottles or infant foods:

Provided that the provisions of this sub-section shall not apply to

(a) the donation or distribution of informational or educational equipment or material made in accordance with the proviso to clause (b) of section 5; and

(b) the dissemination of information to a health worker about the scientific and factual matters relating to the use of infant milk substitutes or feeding bottles or infant foods along with the information specified in sub-section (1) of section 7.

(2) No person who produces, supplies, distributes or sells infant milk substitutes or feeding bottles or infant foods shall make any payment to any person who works in the health care system for the purpose of promoting the use or sale of such substitutes or bottles or foods.

(3) No person, other than a health worker, shall demonstrate feeding with infant milk substitutes or infant foods to a mother of an infant or to any member of her family and such health worker shall also clearly explain to such mother or such other member the hazards of improper use of infant milk substitutes or feeding bottles or infant foods.

(4) No person, other than an institution or organisation, engaged in health care for mothers, infants or pregnant women, shall distribute infant milk substitutes or feeding bottles to a mother who cannot resort to breastfeeding and who cannot afford to purchase infant milk substitutes or feeding bottles.

(5) An orphanage may purchase infant milk substitutes or feeding bottles at a price lower than their sale price for the purpose of utilising them in the said orphanage.

Explanation - For the purposes of this sub-section, such purchases shall not amount to an inducement for promoting the use or sale of infant milk substitutes or feeding bottles.

9. (1) No person who produces, supplies, distributes or sells infant milk substitutes or feeding bottles or infant foods shall offer or give, directly or indirectly, any financial inducements or gifts to a health worker or to any member of his family for the purpose of promoting the use of such substitutes or bottles or foods.

(2) No producer, supplier or distributor referred to in sub-section (1), shall offer or give any

contribution or pecuniary benefit to a health worker or any association of health workers, including funding of seminar, meeting, conferences, educational course, contest, fellowship, research work or sponsorship.

10. (1) No person who produces, supplies, distributes or sells infant milk substitutes or feeding bottles or infant foods shall fix the remuneration of any of his employees or give any commission to such employees on the basis of the volume of sale of such substitutes or bottles or foods made by such employees.

(2) The employees of such person shall not perform any function which relates to educating a pregnant woman or mother of an infant on pre-natal or post-natal care of the infant.

11. (1) No person shall sell or otherwise distribute any infant milk substitute or infant food unless it conforms to the standards, specified for such substitute or food under the Prevention of Food Adulteration Act, 1954, and the rules made thereunder and the container thereof has the relevant Standard Mark specified by the Bureau of India Standards established under section 3 of the Bureau of Indian Standards Act, 1986 to indicate that the infant milk substitute or infant food conforms to such standards:

Provided that where no standards have been specified for any infant milk substitute or infant food under the Prevention of Food Adulteration Act, 1954, no person shall sell or otherwise distribute such substitute or food unless he has obtained the approval of the Central Government in relation to such substitute or food and the label affixed to the container thereof under the rules made under that Act.

(2) No person shall sell or otherwise distribute any feeding bottle unless it conforms to the Standard Mark specified by the Bureau of Indian Standards referred to in sub-section (1) for feeding bottles and such mark is affixed on its container.

12. (1) Any food inspector appointed under section 9 of the Prevention of Food Adulteration Act 1954 (hereinafter referred to as the food inspector) or any officer not below the rank of a Class I officer authorised in this behalf by the State Government (hereinafter referred to as the authorised officer) may, if he has any reason to believe that any provision of section 6 or section 11 has been or is being contravened, enter and search at any reasonable time any factory, building, business premises or any other place where any trade or commerce in infant milk substitutes or feeding bottles or infant foods is carried on or such substitutes or bottles or foods are produced, supplied or distributed.

bottles or foods are produced, supplied or distributed.

(2) The provisions of the Code of Criminal Procedure, 1973, relating to searches and seizures shall, so far as may be, apply to every search or seizure made under this Act.

13. (1) If any food inspector or authorised officer has reason to believe that in respect of any infant milk substitute or feeding bottle or infant food or container thereof, the provisions of this

Act have been or are being contravened, he may seize such substitute or bottle or food or container.

(2) No such substitute or food or bottle or container shall be retained by any food inspector or authorised officer for a period exceeding ninety days from the date of its seizure unless the approval of the District Judge, within the local limits of whose jurisdiction such seizure has been made, has been obtained for such retention.

14. Any infant milk substitute or feeding bottle or infant food or container thereof, in respect of which any provision of this Act has been or is being contravened, shall be liable to confiscation:

Provided that where it is established to the satisfaction of the court adjudging the confiscation that the person in whose possession, power or control any such substitute or bottle or food or container is found is not responsible for the contravention of the provisions of this Act, the court may, instead of making an order for the confiscation of such substitute or bottle or food or container, make such other order authorised by this Act against the person guilty of the breach of the provisions of this Act as it may think fit.

15. (1) Whenever any confiscation is authorised by this Act the court adjudging it may, subject to such conditions as may be specified in the order adjudging the confiscation, give to the owner thereof an option to pay in lieu of confiscation such cost not exceeding the value of the infant milk substitute or feeding bottle or infant food or container thereof in respect of which the confiscation is authorised as the court thinks fit.

(2) On payment of the cost ordered by the court the seized infant milk substitute or feeding bottle or infant food or container shall be returned to the person from whom it was seized on the condition that such person shall, before making any distribution, sale or supply of such substitute or bottle or food or container, give effect to the provisions of this Act.

16. No confiscation made or cost ordered to be paid under this Act shall prevent the infliction of any punishment to which the person affected thereby is liable under the provisions of this Act or under any other law.

17. Any confiscation may be adjudged or costs may be ordered to be paid, -
(a) without any limit, by the principal civil court of original jurisdiction within the local limits of whose jurisdiction such confiscation has been made or costs have been ordered to be paid, as the case may be;
paid, as the case may be;
(b) Subject to such limits as may be specified by the Central Government in this behalf, by such other court, not below a civil court having pecuniary jurisdiction exceeding five thousand rupees, as the Central Government may, by notification in the Official Gazette, authorise in this behalf.

18. (1) No order adjudicating confiscation or directing payment of costs shall be made unless the owner of the infant milk substitute or feeding bottle or infant food or container thereof has been given a notice in writing informing him of the grounds on which it is proposed to confiscate such substitute or bottle or food or container and giving him a reasonable opportunity of making a representation in writing, within such reasonable time as may be specified in the notice, against the confiscation and if he so desires, of being heard in the matter:

Provided that where no such notice is given within a period of ninety days from the date of the seizure of the infant milk substitute or feeding bottle or infant food or container thereof, such substitute or bottle or food or container shall be returned after the expiry of that period to the person from whose possession it was seized.

(2) Save as otherwise provided in sub-section (1), the provisions of the Code of Civil Procedure, 1908, shall, so far as may be, apply to every proceeding referred to in sub-section (1).

19. (1) Any person aggrieved by any decision of the court adjudicating a confiscation or ordering the payment of costs may prefer an appeal to the court to which an appeal lies from the decision of such court.

(2) The appellate court may, after giving the appellant an opportunity of being heard, pass such order as it thinks fit confirming, modifying or revising the decision or order appealed against or may send back the case with such directions as it may think fit for a fresh decision or adjudication, as the case may be, after taking additional evidence if necessary:

Provided that an order enhancing any fine in lieu of confiscation or for confiscating goods of greater value shall not be made under this section unless the appellant has had an opportunity of making a representation and if he so desires of being heard in his defence.

(3) No further appeal shall lie against the order of the court made under sub-section (2).

20. (1) Any person who contravenes the provisions of section 3,4,5,7,8,9,10 or sub-section (2) of section 11 and the rules made under section 26 of the Act shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to five thousand rupees, or with both.

(2) Any person who contravenes the provisions of section 6 or sub-sector (1) of section 11 and the rules made under section 26 of the Act shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to three years and with fine which shall not be less than two thousand rupees.

Provided that the court may, for any adequate and special reasons to be mentioned in the judgement, impose a sentence of imprisonment for a term which shall not be less than three months but which may extend to two years and with fine which shall not be less than

one thousand rupees.

21. (1) Save as otherwise provided in section 173 of the Code of Criminal Procedure, 1973, no court shall take cognizance of any offence punishable under this Act except upon a complaint in writing made by

(a) a person authorised in this behalf under sub-section (1) of section 20 of the Prevention of Food Adulteration Act, 1954; or

(b) An officer not below the rank of a Class I officer authorised in this behalf, by general or special order, by the Government; or

(c) a representative of such voluntary organisation engaged in the field of child welfare and development and child nutrition as the Government may, by notification in the Official Gazette, authorise in this behalf.

(2) Where a complaint has been made by a representative of the voluntary organisation authorised under clause (c) of sub-section (1) and the court has issued a summons or, as the case may be, a warrant under sub-section (1) of section 204 of the Code of Criminal Procedure, 1973, the Assistant Public Prosecutor for that court shall take charge of the case and conduct the prosecution.

22. (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation For the purposes of this section,

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(B) “director”, in relation to a firm, means a partner in the firm.

23. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, an offence punishable under this Act shall be

- (a) bailable;
- (b) cognizable.

24. No suit, prosecution or other legal proceeding shall lie against the Central Government or any State Government or any officer of the Central Government or a representative of such voluntary organisation which is notified under clause (c) of sub-section (1) of section 21 for anything which is in good faith done or intended to be done under this Act.

25. The provisions of this Act, or the rules made thereunder shall be in addition to, and not in derogation of, the Prevention of Food Adulteration Act, 1954, or the rules made thereunder.

26. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

- (a) the conditions and restrictions subject to which educational equipment and other material may be donated or distributed under the provision to clause (b) of section 5;
- (b) the language in which the notice and other particulars shall be indicated under sub-section (1) of section 6;
- (c) the particulars which are to be indicated under clause (i) of sub-section (1) of section 6;
- (d) the particulars which a container or label shall not bear under clause (d) of sub-section (2) of section 6;
- (e) the matters to be included in the information which reaches pregnant women or mothers of infants under clause (g) of sub-section (1) of section 7;
- (f) any other matter which is required to be, or may be, prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Rules, 1993, as Amended in 2003

NOTE -BPNI has put efforts to provide you with a merged text of both the IMS Rules 1993 and IMS Amendment Rules 2003. This may help you better in better understanding of scope of this Act.

In exercise of the powers conferred by section 26 of the Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992 (41 of 1992), the Central Government hereby makes the following rules further to amend the Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Rules, 1993, namely: -

1. Short title and commencement (1) These rules may be called the Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Rules 1993, as amended in 2003.

(2) They shall come into force on the 1st Day of January, 2004.

2. Definitions (1) In these rules, unless the context otherwise requires

(a) “Act” means the Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Amendment Act, 1992, as amended in 2003;

(b) “authorised officer” means an officer not below the rank of a Class I (Group A or whatever name called) officer of the Government duly authorised by the State Government under section 12;

(c) “Food inspector” means a person appointed by the Government as such under sector 9 of the Prevention of Food Adulteration Act, 1954 (37 of 1954);

(d) “Section” means a section of the Act.

(2) Words and expressions used in these rules and not defined but defined in the Act shall have the respective meanings assigned to them in the Act.

3. Local limits of jurisdiction of food inspectors. The local limits of jurisdiction of food inspectors shall be the same as are assigned to them under the Prevention of Food Adulteration Act, 1954 (37 of 1954).

4. Authorised officers (1) No officer of the Government shall be authorised by the State Government under section 12 unless he is -

(a) a medical officer in charge of health administration of a local area; or

(b) a graduate in medicine and has received at least one month's training in food inspection under the Prevention of Food Adulteration Act, 1954 (37 of 1954) by the Central Government or a State Government.

(2) The State Government may, by notification in the Official Gazette, define the local limits of jurisdiction of authorised officers.

5. Conditions and restrictions for donations and distribution of infant milk substitutes or infant foods or feeding bottles or equipments and materials relating to them through health care system. No institution, organisation or health worker in private practice, pharmacy, drug store or any association of health workers, engaged in health care for mothers, infants or pregnant women, shall donate or distribute any educational or other informational or communication aids relating to infant milk substitutes or infant food or feeding bottles without complying with the following conditions and restrictions, namely: -

(a) the donee should be informed in writing on

(i) the need for promoting breastfeeding;

(ii) the nutritional superiority of mother's milk;

(iii) the benefits of breastmilk, that is to say that breast milk is

(A) the best natural food for infants;

(B) always clean;

(C) protects the infant from infection and diseases;

(D) available always;

(E) requires no special preparation;

(iv) that breastfeeding helps parents to space their children.

(v) the danger of microbial contaminations involved in bottle feeding.

(b) informational or educational equipment or material relating to infant milk substitutes or feeding bottles should be donated or distributed only in case it is found necessary for healthy growth of the infant by a medical practitioner.

6. Language of the notice and other particulars of declaration. (1) No person shall produce, supply or distribute any infant milk substitute or infant food unless the container thereof or any label affixed thereto indicates in a clear, conspicuous and in an easily readable and understandable manner the words "IMPORTANT NOTICE", in capital letters in English and

its equivalent in Hindi in Devnagri script.

Provided that nothing herein contained shall prevent the use of any local language in addition to the language required to be used under this sub-rule.

(2) The particulars of declaration to be specified on the label under the Prevention of Food Adulteration Act, 1954 (37 of 1954) and the rules made thereunder shall be in English or in Hindi in Devnagri script.

Hindi in Devnagri script.

Provided that nothing herein contained shall prevent the use of any language in addition to the language required to be used under this sub-rule.

7. Particulars of labelling of infant milk substitutes and infant foods. In addition to the requirements specified by or under the Prevention of Food Adulteration Act, 1954 and under section 6 of the Act, the label or the container of every infant milk substitute or infant food shall conform to the following, namely:-

(a) the types of letters used shall not be less than 5 millimetres in size.

(b) the colour of the text printed or used shall be different from that of the background of the label, container, as the case may be.

(c) the text of the particulars shall be prominent and conspicuous in the central panel of the label, container.

(d) it shall indicate

(i) that an infant milk substitute or an infant food should be prepared appropriately and hygienically besides taking adequate care in cleaning of utensils, bottles and teats.

(ii) a warning against health hazards of inappropriate preparation as under:-

“Infant milk substitutes/Infant foods

“Warning/caution Careful and hygienic preparation of infant food is most essential for health. Do not use fewer scoops than directed, since diluted feeding will not provide adequate nutrients needed by your infant. Do not use more scoops than directed since concentrated feed will not provide the water needed by your infant.”

(iii) the approximate composition of nutrients per 100 grams of product including its energy value in calories.

(iv) the storage conditions specifically stating “Store in cool and dry place in an air-tight container” or the like.

(v) The feeding chart and direction for use and instruction for discarding left over feed, the batch number and date of manufacture.

(vi) instructions for use of measuring scoop (level or heaped) and the quantity per scoop.

(vii) the prescribed period by which the infant milk substitutes or the infant foods, as the case

may be is to be consumed.

(viii) the Protein Efficiency Ratio (PER) which shall be minimum of 2.5 if the product other than the infant milk substitutes and infant foods is claimed to have high quality protein.

8. Particulars which a label or container should not contain Without prejudice to the requirements under the Prevention of Food Adulteration Act, 1954 (37 of 1954) and the rules made thereunder, the following restrictions on use of words in any language on the label or container, as the case may be, shall be applicable:-

(a) the label or container shall not contain any reference to the Act or these rules or any comment on, or reference, to or explanation of any particulars or declaration required by the Act or any of these rules to be included in the label which directly or by implication, contradicts, qualifies or modifies such particulars or declaration.

(b) no words implying “recommended by the medical profession” or any words which imply or suggest that the food is recommended, prescribed or approved by medical practitioners shall be used in a label or container

(c) the label or container shall not contain the terms “Humanised” or “Maternalised” or any other similar expressions in any language.

(d) No label or container of infant food shall exhibit the words “Full Protein Food”, “Energy Food”, “Complete Food” or “Health Food” or any other similar expressions in any language.

9. Details of information intended to reach pregnant women or mothers of infants through education or other material. (1) Every educational or other material, whether audio or visual, dealing with pre-natal or post-natal care or with the feeding of an infant and intended to reach pregnant women and mothers of infants shall, besides the information specified in clauses (a) to (f) of sub-section (1) of section 7 shall include:

(a) the following details of advantages, as also nutritional superiority of breastfeeding:-

(i) Immediately after delivery, breastmilk is yellowish and sticky. This milk is called colostrum, which is secreted during the first week of delivery. Colostrum is more nutritious than mature milk because it contains more protein, more anti-ineffective properties which are of great importance for the infant's defence against dangerous neonatal infections. It also contains higher levels of Vitamin 'A'.

(ii) breastmilk

(A) is a complete and balanced food and provides all the nutrients needed by the infant in the first six months of life;

- (B) has anti-infective properties that protect the infants from infection in the early months;
- (C) is always available;
- (D) needs no utensils or water (which might carry germs) or fuel for its preparation;

(iii) breastfeeding is much cheaper than feeding infant milk substitutes as the cost of the extra food needed by the mother is negligible compared to the cost of feeding infant milk substitutes;

(iv) mothers who breast feed usually have longer periods of infertility after child birth than non-lactators.

(b) details of management of breastfeeding as under:-

(i) breastfeeding -

(A) immediately after delivery enables the contraction of the womb and helps the mother to regain her figure quickly;

(B) is successful when the infant suckles frequently and the mother wanting to breastfeed is confident in her ability to do so.

(ii) in order to promote and support breastfeeding the mother's natural desire to breast feed should always be encouraged by giving, where needed, practical advice and making sure that she has the support of her relatives.

(iii) adequate care for the breast and nipples should be taken during pregnancy.

(iv) it is also necessary to put the infant to the breast as soon as possible after delivery.

(v) let the mother and the infant stay together after the delivery, the mother and her infant should be allowed to stay together (in hospital, this is called "rooming-in").

(vi) give the infant colostrum as it is rich in many nutrients and anti-infective factors protecting the infants from infections during the few days of its birth.

(vii) the practice of discarding colostrum and giving sugar water, honey water, butter or other concoctions instead of colostrum should be very strongly discouraged.

(viii) let the infants suckle on demand.

(ix) every effort should be made to breastfeed the infants whenever they cry.

(x) mother should keep her body and clothes and that of the infant always neat and clean.

List of Products Under the Scope of the Act

List of companies below. There might be some more in different areas.

Infant milk substitutes

<u>Name of the company</u>		<u>Brands</u>
Nestle	:	Lactogen-1, Lactogen-2, Nestogen-1, Nestogen-2, Nan-1, Nan-2
Amul	:	Amul Spray
Raptakos Brett	:	Lactodex-1, Lactodex-2, Zerolac
Nutricia	:	Dexolac, Nusobee
Mead Johnson Nutrition	:	Enfamil
Abbott Nutrition	:	Similac, Isomil
FDC Ltd.	:	Prosoyal
British Life Sciences	:	MMS, LF-100

Complementary Foods

<u>Name of the company</u>		<u>Brands</u>
Nestle	:	Nestum, Cerelac
Heinz	:	Heinz Blueberry Oat Porridge
Nutricia	:	Farex
Raptakos Brett & Co. Ltd.	:	Veelac
British Life Science	:	Mum's Care
Shree Matha Nutrifooods	:	Wholesum Foods Rice Sattva
Pristine	:	1st Bites Organic Baby Cereal with Milk

Feeding Bottles and Nipples

* Bonne	* Shishu Soother
* Wipro	* Boon
* Mother Touch	* Little's
* Funny Bunny	* Hello Baby

Addresses of Manufacturers of Infant Milk Substitutes and Infant Foods

Nestle India Ltd.

Nestlé House,
Jacaranda Marg M Block
DLF City Phase II, National
Highway 8, Gurgaon 122 002
Haryana

Nutricia International Pvt. Ltd.

The Centruim,
Office Premise No. 1, 3rd Floor,
Level 4, Phoenix Market City,
LBS Marg, Kurla (West).
Mumbai – 400070, Maharashtra

Heinz (India) Pvt.Ltd.

D-Shivsagar, 7th & 8th Floors,
Dr. Annie Besant Road, Worli,
Mumbai – 400 018, Maharashtra

Raptakos, Brett & Co. Ltd

253, Dr Annie Besant Road,
Worli, Mumbai - 400 030
Maharashtra

FDC Limited

B-8, MIDC Area,
Waluj - 431 136
Dist. Aurangabad, Maharashtra

Abbott India Limited

3-4 Corporate Park
Sion-Trombay Road
Chembur, Mumbai - 400 071

Mead Johnson Nutrition India Pvt. Ltd.

3rd Floor, Piramal Towers,
Peninsula Corporate Park
G.K. Marg, Lower Parel, Mumbai
- 400 013, INDIA

British Life Sciences Private Limited

No 410/1 Puttenahally Main
Road (Behind Inchara Hotel)
6th Phase JP Nagar
Bangalore - 560078
Karnataka

Amul

Gujarat Cooperative Milk
Marketing Federation,
PO Box 10, Amul Dairy Road,
Anand 388 001, Gujarat, India

Notified Agencies under the Act

Under the Act, the following voluntary organisations have been notified as monitoring agencies by the Central Government to make complaint to the court of law throughout India. Complaints should be sent regarding the violations under the Act to any of the following:

- 1. Breastfeeding Promotion Network of India (BPNI)**
BP-33 Pitampura,
Delhi - 110034
- 2. Association of Consumer Action on Safety and Health (ACASH)**
Servants of India Society Building,
2nd floor, SVP Road, Girgaum,
Mumbai - 400002
- 3. Indian Council for Child Welfare**
4, Deen Dayal Upadhyay Marg,
New Delhi - 110002
- 4. Central Social Welfare Board**
B-12, Qutab Institutional Area,
New Delhi - 110016

Useful Addresses of Concerned Government Departments :

Ministry of Women & Child Development

A wing, Shastri Bhawan,
Dr. Rajendra Prasad Road
New Delhi - 110001

Director General of Health Services

Ministry of Health and Family Welfare

Nirman Bhawan
New Delhi - 110001

Department of Health & Family Welfare

Ministry of Health and Family Welfare
Nirman Bhawan,
New Delhi - 110001

Annexures

Annex 1 - The Text of “ The Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992”

Annex 2 - The Text of “ The Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Rules, 1993”

Annex 3 - Notification by Department of Women and Child Development Authorizing Voluntary Organisations to make Complaints in Writing, 1994

Annex 4 - Notification by Department of Women and Child Development Authorizing BPNI to make a Complaint in Writing, 1995

Annex 5 - The Text of “ The Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Amendment Act, 2003”

Annex 6 - The Text of “ The Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Amendment Rules, 2003”

Annex 7 - Notification by Department of Women and Child Development to Enact the IMS Amendment Act, 2003

Annexure 8 - Section of The Food Safety and Standards Act, 2006 (No. 34 OF 2006 [*23rd August, 2006.*]) relevant to infant food and Infant milk substitutes are reproduced here

THE INFANT MILK SUBSTITUTES, FEEDING BOTTLES
AND INFANT FOODS (REGULATION OF PRODUCTION,
SUPPLY AND DISTRIBUTION) ACT, 1992

No. 41 OF 1992

[29th December, 1992.]

An Act to provide for the regulation of production, supply and distribution of infant milk substitutes, feeding bottles and infant foods with a view to the protection and promotion of breast-feeding and ensuring the proper use of infant foods and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992.

Short
title,
extent
and com-
mence-
ment.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Defini-
tions.

(a) "advertisement" includes any notice, circular, label, wrapper and other documents and also includes any visible representation or announcement made by means of any light, sound, smoke or gas;

(b) "container" means a box, bottle, casket, tin, can, barrel, case, tube, receptacle, sack, wrapper or other thing in which any infant milk substitute, feeding bottle or infant food is placed or packed for sale or distribution;

(c) "feeding bottle" means any bottle or receptacle used for the purpose of feeding infant milk substitutes, and includes a teat and a valve attached or capable of being attached to such bottle or receptacle;

(d) "health care system" means an institution or organisation engaged, either directly or indirectly, in health care for mothers, infants or pregnant women, and includes a health worker in private practice, but does not include a pharmacy or drug store;

(e) "health worker" means a person engaged in health care for mothers, infants or pregnant women;

Infant Milk Substitutes, Feeding Bottles and Infant Foods [ACT 41
(*Regulation of Production, Supply and Distribution*)

(f) "infant food" means any food (by whatever name called) being marketed or otherwise represented as a complement to mother's milk to meet the growing nutritional needs of the infant after the age of four months;

(g) "infant milk substitute" means any food being marketed or otherwise represented as a partial or total replacement for mother's milk, whether or not it is suitable for such replacement;

(h) "label" means a display of written, marked, stamped, printed or graphic matter affixed to, or appearing upon, any container;

(i) "prescribed" means prescribed by rules made under this Act.

(2) Any reference in this Act to any other enactment or any provision thereof, shall, in relation to an area in which such enactment or such provision is not in force, be construed as a reference to the corresponding law or the relevant provision of the corresponding law, if any, in force in that area.

Certain prohibitions in relation to infant milk substitutes, feeding bottles and infant foods.

3. No person shall—

(a) advertise, or take part in the publication of any advertisement, for the distribution, sale or supply of infant milk substitutes or feeding bottles; or

(b) give an impression or create a belief in any manner that feeding of infant milk substitutes is equivalent to, or better than, mother's milk; or

(c) take part in the promotion of use or sale of infant milk substitutes or feeding bottles or infant foods otherwise than in accordance with the provisions of this Act.

Prohibition of incentives for the use or sale of infant milk substitutes or feeding bottles.

4. No person shall—

(a) supply or distribute samples of infant milk substitutes or feeding bottles or gifts of utensils or other articles; or

(b) contact any pregnant woman or the mother of an infant; or

(c) offer inducement of any other kind,

for the purpose of promoting the use or sale of infant milk substitutes or feeding bottles.

Donations of infant milk substitutes or feeding bottles or equipment or materials relating thereto.

5. Subject to the provisions of sub-section (4) of section 3, no person shall donate or distribute—

(a) infant milk substitutes or feeding bottles to any other person except to an orphanage;

(b) any informational or educational equipment or material relating to infant milk substitutes or feeding bottles;

Provided that nothing in this clause shall apply to the donation or distribution, subject to such conditions and restrictions as may be prescribed, of such equipment or material through the health care system.

of 1992] *Infant Milk Substitutes, Feeding Bottles and Infant Foods*
(*Regulation of Production, Supply and Distribution*)

37 of 1954.

6. (1) Without prejudice to the provisions of the Prevention of Food Adulteration Act, 1954 and the rules made thereunder, no person shall produce, supply or distribute any infant milk substitute or infant food unless every container thereof or any label affixed thereto indicates in a clear, conspicuous and in an easily readable and understandable manner, the words "important notice" in capital letters in such language as may be prescribed and indicating thereunder the following particulars in the same language, namely:—

(a) a statement "mother's milk is best for your baby" in capital letters;

(b) a statement that infant milk substitute or infant food should be used only on the advice of a health worker as to the need for its use and the proper method of its use;

(c) a warning that infant milk substitute or infant food is not the sole source of nourishment of an infant;

(d) the instructions for its appropriate preparation and a warning against the health hazards of its inappropriate preparation;

(e) the ingredients used;

(f) the composition or analysis;

(g) the storage conditions required;

(h) the batch number, date of its manufacture and the date before which it is to be consumed, taking into account the climatic and storage conditions of the country;

(i) such other particulars as may be prescribed.

(2) No container or label referred to in sub-section (1) relating to infant milk substitute shall—

(a) have pictures of an infant or a woman or both; or

(b) have pictures or other graphic material or phrases designed to increase the saleability of infant milk substitute; or

(c) use on it the word "humanised" or "maternalised" or any other similar word; or

(d) bear on it such other particulars as may be prescribed.

7. (1) Every educational or other material, whether audio or visual, dealing with pre-natal or post-natal care or with the feeding of an infant and intended to reach pregnant women or mothers of infants shall include clear information relating to—

(a) the benefits and superiority of breast-feeding;

(b) the preparation for, and the continuance of, breast-feeding;

(c) the harmful effects on breast-feeding due to the partial adoption of bottle feeding;

Information on containers and labels of infant milk substitutes or infant foods.

Educational and other materials relating to feeding of infants to contain certain particulars.

Infant Milk Substitutes, Feeding Bottles and Infant Foods [ACT 41
(*Regulation of Production, Supply and Distribution*)

(d) the difficulties in reverting to breast-feeding of infants after a period of feeding by infant milk substitute;

(e) the financial and social implications in making use of infant milk substitutes and feeding bottles;

(f) the health hazards of improper use of infant milk substitutes and feeding bottles;

(g) such other matters as may be prescribed.

(2) No material referred to in sub-section (1) shall be utilised to promote the use or sale of infant milk substitutes or feeding bottles.

Health
care
system.

8. (1) No person shall use any health care system for the display of placards or posters relating to, or for the distribution of, materials for the purpose of promoting the use or sale of infant milk substitutes or feeding bottles or infant foods:

Provided that the provisions of this sub-section shall not apply to

(a) the donation or distribution of informational or educational equipment or material made in accordance with the proviso to clause (b) of section 5; and

(b) the dissemination of information to a health worker about the scientific and factual matters relating to the use of infant milk substitutes or feeding bottles or infant foods along with the information specified in sub-section (1) of section 7.

(2) No person who produces, supplies, distributes or sells infant milk substitutes or feeding bottles or infant foods shall make any payment to any person who works in the health care system for the purpose of promoting the use or sale of such substitutes or bottles or foods.

(3) No person, other than a health worker, shall demonstrate feeding with infant milk substitutes or infant foods to a mother of an infant or to any member of her family and such health worker shall also clearly explain to such mother or such other member the hazards of improper use of infant milk substitutes or feeding bottles or infant foods

(4) No person, other than an institution or organisation, engaged in health care for mothers, infants or pregnant women, shall distribute infant milk substitutes or feeding bottles to a mother who cannot resort to breast-feeding and who cannot afford to purchase infant milk substitutes or feeding bottles.

(5) An orphanage may purchase infant milk substitutes or feeding bottles at a price lower than their sale price for the purpose of utilising them in the said orphanage.

Explanation.—For the purposes of this sub-section, such purchases shall not amount to an inducement for promoting the use or sale of infant milk substitutes or feeding bottles.

of 1992] *Infant Milk Substitutes, Feeding Bottles and Infant Foods*
(Regulation of Production, Supply and Distribution)

9. (1) No person who produces, supplies, distributes or sells infant milk substitutes or feeding bottles or infant foods shall offer or give, directly or indirectly, any financial inducements or gifts to a health worker or to any member of his family for the purpose of promoting the use of such substitutes or bottles or foods.

Inducement to health worker for promoting use of infant milk substitutes, etc.

(2) Where such person makes any contribution to, or incurs any expenditure on, a health worker, either directly or indirectly, such person and such health worker shall disclose the same to the institution or organisation to which such health worker is attached.

10. (1) No person who produces, supplies, distributes or sells infant milk substitutes or feeding bottles or infant foods shall fix the remuneration of any of his employees or give any commission to such employees on the basis of the volume of sale of such substitutes or bottles or foods made by such employees.

Special provision relating to employees of person who produces, supplies, distributes or sells infant milk substitutes, etc.

(2) The employees of such person shall not perform any function which relates to educating a pregnant woman or mother of an infant on pre-natal or post-natal care of the infant.

11. (1) No person shall sell or otherwise distribute any infant milk substitute or infant food unless it conforms to the standards, specified for such substitute or food under the Prevention of Food Adulteration Act, 1954, and the rules made thereunder and the container thereof has the relevant Standard Mark specified by the Bureau of Indian Standards established under section 3 of the Bureau of Indian Standards Act, 1986 to indicate that the infant milk substitute or infant food conforms to such standards:

37 of 1954

63 of 1986.

Standards of infant milk substitutes, feeding bottles or infant foods.

Provided that where no standards have been specified for any infant milk substitute or infant food under the Prevention of Food Adulteration Act, 1954, no person shall sell or otherwise distribute such substitute or food unless he has obtained the approval of the Central Government in relation to such substitute or food and the label affixed to the container thereof under the rules made under that Act.

37 of 1954.

(2) No person shall sell or otherwise distribute any feeding bottle unless it conforms to the Standard Mark specified by the Bureau of Indian Standards referred to in sub-section (1) for feeding bottles and such mark is affixed on its container.

12. (1) Any food inspector appointed under section 9 of the Prevention of Food Adulteration Act 1954 (hereinafter referred to as the food inspector) or any officer not below the rank of a Class I officer authorised in this behalf by the State Government (hereinafter referred to as the authorised officer) may, if he has any reason to believe that any provision of section 6 or section 11 has been or is being contravened, enter and search at any reasonable time any factory, building, business premises or any other place where any trade or commerce in infant milk substitutes or feeding bottles or infant foods is carried on or such substitutes or bottles or foods are produced, supplied or distributed

37 of 1954

Powers of entry and search.

Infant Milk Substitutes, Feeding Bottles and Infant Foods [ACT 41
(*Regulation of Production, Supply and Distribution*)

2 of 1974

(2) The provisions of the Code of Criminal Procedure, 1973, relating to searches and seizures shall, so far as may be, apply to every search or seizure made under this Act.

Power to
seize
infant
milk
substi-
tutes, etc.,
or con-
tainers
thereof.

13. (1) If any food inspector or authorised officer has reason to believe that in respect of any infant milk substitute or feeding bottle or infant food or container thereof, the provisions of this Act have been or are being contravened, he may seize such substitute or bottle or food or container.

(2) No such substitute or food or bottle or container shall be retained by any food inspector or authorised officer for a period exceeding ninety days from the date of its seizure unless the approval of the District Judge, within the local limits of whose jurisdiction such seizure has been made, has been obtained for such retention.

Confis-
cation.

14. Any infant milk substitute or feeding bottle or infant food or container thereof, in respect of which any provision of this Act has been or is being contravened, shall be liable to confiscation:

Provided that where it is established to the satisfaction of the court adjudging the confiscation that the person in whose possession, power or control any such substitute or bottle or food or container is found is not responsible for the contravention of the provisions of this Act, the court may, instead of making an order for the confiscation of such substitute or bottle or food or container, make such other order authorised by this Act against the person guilty of the breach of the provisions of this Act as it may think fit.

Power to
give
option
to pay
cost in
lieu of
confis-
cation.

15. (1) Whenever any confiscation is authorised by this Act the court adjudging it may, subject to such conditions as may be specified in the order adjudging the confiscation, give to the owner thereof an option to pay in lieu of confiscation such cost not exceeding the value of the infant milk substitute or feeding bottle or infant food or container thereof in respect of which the confiscation is authorised as the court thinks fit.

(2) On payment of the cost ordered by the court the seized infant milk substitute or feeding bottle or infant food or container shall be returned to the person from whom it was seized on the condition that such person shall, before making any distribution, sale or supply of such substitute or bottle or food or container, give effect to the provisions of this Act.

Confis-
cation
not to
interfere
with
other
punish-
ments.

16. No confiscation made or cost ordered to be paid under this Act shall prevent the infliction of any punishment to which the person affected thereby is liable under the provisions of this Act or under any other law.

Adjudi-
cation.

17. Any confiscation may be adjudged or costs may be ordered to be paid,—

(a) without any limit, by the principal civil court of original jurisdiction within the local limits of whose jurisdiction such confiscation has been made or costs have been ordered to be paid, as the case may be;

of 1992] *Infant Milk Substitutes, Feeding Bottles and Infant Foods*
(*Regulation of Production, Supply and Distribution*)

(b) subject to such limits as may be specified by the Central Government in this behalf, by such other court, not below a civil court having pecuniary jurisdiction exceeding five thousand rupees, as the Central Government may, by notification in the Official Gazette, authorise in this behalf.

18. (1) No order adjudicating confiscation or directing payment of costs shall be made unless the owner of the infant milk substitute or feeding bottle or infant food or container thereof has been given a notice in writing informing him of the grounds on which it is proposed to confiscate such substitute or bottle or food or container and giving him a reasonable opportunity of making a representation in writing, within such reasonable time as may be specified in the notice, against the confiscation and if he so desires, of being heard in the matter:

Giving of opportunity to the owner of the seized infant milk substitute or feeding bottle or infant food or container thereof.

Provided that where no such notice is given within a period of ninety days from the date of the seizure of the infant milk substitute or feeding bottle or infant food or container thereof, such substitute or bottle or food or container shall be returned after the expiry of that period to the person from whose possession it was seized.

(2) Save as otherwise provided in sub-section (1), the provisions of the Code of Civil Procedure, 1908, shall, so far as may be, apply to every proceeding referred to in sub-section (1).

of 1908.

19. (1) Any person aggrieved by any decision of the court adjudicating a confiscation or ordering the payment of costs may prefer an appeal to the court to which an appeal lies from the decision of such court.

Appeal.

(2) The appellate court may, after giving the appellant an opportunity of being heard, pass such order as it thinks fit confirming, modifying or revising the decision or order appealed against or may send back the case with such directions as it may think fit for a fresh decision or adjudication, as the case may be, after taking additional evidence if necessary:

Provided that an order enhancing any fine in lieu of confiscation or for confiscating goods of greater value shall not be made under this section unless the appellant has had an opportunity of making a representation and if he so desires of being heard in his defence.

(3) No further appeal shall lie against the order of the court made under sub-section (2).

20. (1) Any person who contravenes the provisions of section 3, 4, 5, 7, 8, 9, 10 or sub-section (2) of section 11 shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to five thousand rupees, or with both.

Penalty.

(2) Any person who contravenes the provisions of section 6 or sub-section (1) of section 11 shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to three years and with fine which shall not be less than two thousand rupees:

Provided that the court may, for any adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for

44 Law—2.

Infant Milk Substitutes, Feeding Bottles and Infant Foods [ACT 41
(*Regulation of Production, Supply and Distribution*)

a term which shall not be less than three months but which may extend to two years and with fine which shall not be less than one thousand rupees.

Cogniz-
ance of
offences.

21. (1) Save as otherwise provided in section 173 of the Code of Criminal Procedure, 1973, no court shall take cognizance of any offence punishable under this Act except upon a complaint in writing made by—

2 of 1974.

(a) a person authorised in this behalf under sub-section (1) of section 20 of the Prevention of Food Adulteration Act, 1954; or

37 of 1954.

(b) an officer not below the rank of a Class I officer authorised in this behalf, by general or special order, by the Government; or

(c) a representative of such voluntary organisation engaged in the field of child welfare and development and child nutrition as the Government may, by notification in the Official Gazette, authorise in this behalf.

(2) Where a complaint has been made by a representative of the voluntary organisation authorised under clause (c) of sub-section (1) and the court has issued a summons or, as the case may be, a warrant under sub-section (1) of section 204 of the Code of Criminal Procedure, 1973, the Assistant Public Prosecutor for that court shall take charge of the case and conduct the prosecution.

2 of 1974.

Offences
by com-
panies.

22. (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

Offences
to be
cogniza-
ble and
bailable.

23. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, an offence punishable under this Act shall be—

2 of 1974.

(a) bailable;

(b) cognizable.

24. No suit, prosecution or other legal proceeding shall lie against the Central Government or any State Government or any officer of the Central Government or of any State Government for anything which is in good faith done or intended to be done under this Act.

Protection of action taken in good faith.

25. The provisions of this Act, or the rules made thereunder shall be in addition to, and not in derogation of, the Prevention of Food Adulteration Act, 1954, or the rules made thereunder.

Application of Act 37 of 1954 not barred.

26. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the conditions and restrictions subject to which educational equipment and other material may be donated or distributed under the proviso to clause (b) of section 5;

(b) the language in which the notice and other particulars shall be indicated under sub-section (1) of section 6;

(c) the particulars which are to be indicated under clause (i) of sub-section (1) of section 6;

(d) the particulars which a container or label shall not bear under clause (d) of sub-section (2) of section 6;

(e) the matters to be included in the information which reaches pregnant women or mothers of infants under clause (g) of sub-section (1) of section 7;

(f) any other matter which is required to be, or may be, prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

MINISTRY OF HUMAN RESOURCE DEVELOPMENT

(Department of Women and Child Development)

NOTIFICATIONS

New Delhi, the 31st July, 1993

G.S.R. 527(E)—In exercise of the powers conferred by sub-section (3) of section 1 of the Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992 (41 of 1992), the Central Government hereby appoints the first day of August, 1993 as the date on which the said Act shall come into force.

[No. F-12-1/93-NT]

Meenaxi Anand Chaudhry, Jt. Secy.

New Delhi, the 31st July, 1993

G.S.R. 528(E)—In exercise of the powers conferred by sub-section (1) of section 26 of the Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992 (41 of 1992), the Central Government hereby makes the following rules, namely:—

1. Short title and commencement — (1) These rules may be called the Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Rules, 1993.

(2) They shall come into force on the date of commencement of the Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992 (41 of 1992).

2. Definitions — (1) In these rules, unless the context otherwise requires —

- (a) “Act” means the Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992 (41 of 1992);
- (b) “authorised officer” means an officer not below the rank of a Class I (Group A or whatever name called) officer of the Government duly authorised by the State Government under section 12;
- (c) “Food inspector” means a person appointed by the Government as such under section 9 of the Prevention of Food Adulteration Act, 1954 (37 of 1954);
- (d) “Section” means a section of the Act.

(2) Words and expressions used in these rules and not defined but defined in the Act shall have the respective meanings assigned to them in the Act.

3. Local limits of jurisdiction of food inspectors. — The local limits of jurisdiction of food inspectors shall be the same as are assigned to them under the Prevention of Food Adulteration Act, 1954 (37 of 1954).

4. Authorised officers — (1) No officer of the Government shall be authorised by the State Government under section 12 unless he is —

- (a) a medical officer in charge of health administration of a local area; or
- (b) a graduate in medicine and has received at least one month’s training in food inspection and sampling work approved for the purpose of food inspection under the Prevention of Food Adulteration Act, 1954 (37 of 1954) by the Central Government or a State Government.

(2) The State Government may, by notification in the Official Gazette, define the local limits of jurisdiction of authorised officers.

5. Conditions and restrictions for donation and distribution of infant milk substitutes, feeding bottles or equipments and materials relating to

them through health care system. — No institution, organisation or health worker in private practice, engaged in health care for mothers, infants or pregnant women, shall donate or distribute any educational or other informational or communication aids relating to infant milk substitutes or feeding bottles without complying with the following conditions and restrictions, namely:—

- (a) the donee should be informed in writing on —
 - (i) the need for promoting breastfeeding;
 - (ii) the nutritional superiority of mother's milk;
 - (iii) the benefits of breast milk, that is to say that breast milk is —
 - (A) the best natural food for infants;
 - (B) always clean;
 - (C) protects the infant from infection and diseases;
 - (D) available always;
 - (E) requires no special preparation;
 - (iv) that breastfeeding helps parents to space their children.
 - (v) the danger of microbial contaminations involved in bottle feeding.
- (b) informational or educational equipment or material relating to infant milk substitutes or feeding bottles should be donated or distributed only in case it is found necessary for healthy growth of the infant by a medical practitioner.

6. Language of the notice and other particulars of declaration. — (1) No person shall produce, supply or distribute any infant milk substitute or infant food unless the container thereof or any label affixed thereto indicates in a clear, conspicuous and in an easily readable and understandable manner the words "IMPORTANT NOTICE", in capital letters in English and its equivalent in Hindi in Devnagri script:

Provided that nothing herein contained shall prevent the use of any local language in addition to the language required to be used under this sub-rule.

(2) The particulars of declaration to be specified on the label under the Prevention of Food Adulteration Act, 1954 (37 of 1954) and the

rules made thereunder shall be in English or in Hindi in Devnagri script:

Provided that nothing herein contained shall prevent the use of any language in addition to the language required to be used under this sub-rule.

7. Particulars of labelling of infant foods. — In addition to the requirements specified by or under the Prevention of Food Adulteration Act, 1954 (37 of 1954) and under section 6 of the Act, the label or the container of every infant milk substitute or infant food or their advertisements shall conform to the following, namely:-

- (a) the types of letters used shall not be less than 5 millimetres in size.
- (b) the colour of the text printed or used shall be different from that of the background of the label, container or the advertisement, as the case may be.
- (c) the text of the particulars shall be prominent and conspicuous in the central panel of the label, container or the advertisement.
- (d) it shall indicate —
 - (i) that an infant milk substitute or an infant milk food should be prepared appropriately and hygienically besides taking adequate care in cleaning of utensils, bottles and teats.
 - (ii) a warning against health hazards of inappropriate preparation as under:-

“Infant milk substitutes/Infant foods
“Warning/caution — Careful and hygienic preparation of infant food is most essential for health. Do not use fewer scoops than directed, since diluted feeding will not provide adequate nutrients needed by your infant. Do not use more scoops than directed since concentrated feed will not provide the water needed by your infant.”
 - (iii) the approximate composition of nutrients per 100 grams of product including its energy value in calories.
 - (iv) the storage conditions specifically stating “Store in

- cool and dry place in an air-tight container” or the like.
- (v) the feeding chart and direction for use and instruction for discarding left over feed, the batch number and date of manufacture.
 - (vi) instructions for use of measuring scoop (level or heaped) and the quantity per scoop.
 - (vii) the prescribed period by which the infant milk substitutes or the infant foods, as the case may be is to be consumed.
 - (viii) the Protein Efficiency Ratio (PER) which shall be minimum of 2.5 if the product other than the infant milk substitutes and infant foods is claimed to have high quality protein.

8. Particulars which a label, container or an advertisement should not contain — Without prejudice to the requirements under the Prevention of Food Adulteration Act, 1954 (37 of 1954) and the rules made thereunder, the following restrictions on use of words in any language on the label container or advertisement, as the case may be, shall be applicable:—

- (a) the label, container or advertisement shall not contain any reference to the Act or these rules or any comment on, or reference, to or explanation of any particulars or declaration required by the Act or any of these rules to be included in the label which directly or by implication, contradicts, qualifies or modifies such particulars or declaration.
- (b) no words implying “recommended by the medical profession” or any words which imply or suggest that the food is recommended, prescribed or approved by medical practitioners shall be used in a label, container or advertisement.
- (c) the label, container or advertisement shall not contain the terms “Humanised” or “Maternalised” or any other similar expressions in any language.
- (d) No label, container or advertisement of infant food shall exhibit the words “Full Protein Food”, “Energy Food”, “Complete Food” or “Health Food” or any other similar expressions in any language.

9. Details of information intended to reach pregnant women or mothers of infants through education or other material. — (1) Every educational or other material, whether audio or visual, dealing with pre-natal or post-natal care or with the feeding of an infant and intended to reach pregnant women and mothers of infants shall, besides the information specified in clauses (a) to (f) of sub-section (1) of section 7, shall include:

(a) the following details of advantages, as also nutritional superiority of breastfeeding:-

(i) Immediately after delivery, breast milk is yellowish and sticky. This milk is called colostrum, which is secreted during the first week of delivery. Colostrum is more nutritious than mature milk because it contains more protein, more anti-ineffective properties which are of great importance for the infant's defence against dangerous neonatal infections. It also contains higher levels of Vitamin 'A'.

(ii) breast milk —

(A) is a complete and balanced food and provides all the nutrients needed by the infant in the first few months of its birth;

(B) has anti-infective properties that protect the infants from infection in the early months;

(C) is always available;

(D) needs no utensils or water (which might carry germs) or fuel for its preparation;

(iii) breastfeeding is much cheaper than feeding infant milk substitutes as the cost of the extra food needed by the mother is negligible compared to the cost of feeding infant milk substitutes;

(iv) mothers who breast feed usually have longer periods of infertility after child birth than non-lactators.

(b) details of management of breastfeeding as under:-

(i) breastfeeding —

(A) immediately after delivery enables the contraction of the womb and helps the mother to regain her figure quickly;

- (B) is successful when the infant suckles frequently and the mother wanting to breastfeed is confident in her ability to do so.
- (iii) in order to promote and support breastfeeding the mother's natural desire to breast feed should always be encouraged by giving, where needed, practical advice and making sure that she has the support of her relatives.
 - (iii) adequate care for the breast and nipples should be taken during pregnancy.
 - (iv) it is also necessary to put the infant to the breast as soon as possible after delivery.
 - (v) let the mother and the infant stay together after the delivery, the mother and her infant should be allowed to stay together (in hospital, this is called "rooming-in").
 - (vi) give the infant colostrum as it is rich in many nutrients and anti-infective factors protecting the infants from infections during the few days of its birth.
 - (vii) the practice of discarding colostrum and giving sugar water, honey water, butter or other concoctions instead of colostrum should be very strongly discouraged.
 - (viii) let the infants suckle on demand.
 - (ix) every effort should be made to breast feed the infants whenever they cry.
 - (x) mother should keep her body and clothes and that of the infant always neat and clean.

[No. F. 12-1/93-NT]
MEENAXI ANAND CHAUDHRY, Jt. Secy.



MINISTRY OF HUMAN RESOURCE DEVELOPMENT

(Department of Women and Child Development)

NOTIFICATION

New Delhi, the 27th June, 1994

G.S.R. 540 — In exercise of the powers conferred by clause (c) of sub-section (1) of Section 21 of the Infant Milk Substitutes, Feeding Bottles and infant Foods (Regulation of Production, Supply and Distribution) Act, 1992 (41 of 1992), the Central Government hereby authorises the following voluntary organisations engaged in the field of child welfare and development and child nutrition to make a complaint in writing under the said section, namely :—

1. Central Social Welfare Board,
Samaj Kalyan Bhawan,
B-12, Tara Crescent, Institutional Area,
South of IIT, New Delhi - 110016.

2. Indian Council for Child Welfare,
4, Deen Dayal Upadhyaya Marg,
New Delhi - 110002.

3. Association for Consumer Action on Safety and Health (ACASH),
Room No. 21, Lawyer's Chambers,
R. S. Sapra Marg,
Bombay - 400002.

[F. No. 12-1/93-NT]

MEENAXI ANAND CHAUDHRY, Jt. Secy.

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सत्यमेव जयते

MINISTRY OF HUMAN RESOURCE DEVELOPMENT

(Department of Women and Child Development)

NOTIFICATION

New Delhi, the 27th July, 1995

G.S.R. 540 — In exercise of the powers conferred by clause (c) of sub-section (1) of Section 21 of the Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992 (41 of 1992), the Central Government hereby authorises the following voluntary organisations engaged in the field of child welfare and development and child nutrition to make a complaint in writing under the said section, namely :—

Breastfeeding Promotion Network of India (BPNI),
BP-33, Pitampura, Delhi - 34

and for the said purpose makes the following amendment in the notification of the Government of India in the Ministry of Human Resource Development (Department of Women and Child Development) G.S.R. 540 (E), dated the 27th June, 1994, namely :—

In the said notification, after serial No. 3 and the entry relating thereto, the following serial number and entry shall be added, namely :—

“4. Breastfeeding Promotion Network of India (BPNI),
BP-33, Pitampura, Delhi-34.”

[F. No. 12-9/94-NT]
B. SEN, Jt. Secy.



भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 2nd June, 2003/Jyaistha 12, 1925 (Saka)

The following Act of Parliament received the assent of the President on the 1st June, 2003, and is hereby published for general information: —

THE INFANT MILK SUBSTITUTES, FEEDING BOTTLES AND INFANT FOODS (REGULATION OF PRODUCTION, SUPPLY AND DISTRIBUTION) AMENDMENT ACT, 2003

(No. 38 of 2003)

[1st June, 2003.]

AN Act to amend the Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992.

BE it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Amendment Act, 2003.

Short title
and com-
mencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment
of section 2.

2. In section 2 of the Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992 (hereinafter referred to as the principal Act),—

(i) for clause (a), the following clause shall be substituted, namely:—

“(a) “advertisement” includes any notice, circular, label, wrapper or any other document or visible representation or announcement made by means of any light, sound, smoke or gas or by means of electronic transmission or by audio or visual transmission;”;

(ii) in clause (d), for the words “but does not include a pharmacy or drug store”, the words “a pharmacy, drug store and any association of health workers” shall be substituted;

(iii) in clause (f), for the words “after the age of four months”, the words “after the age of six months and up to the age of two years” shall be substituted;

(iv) in clause (g), for the words “, whether or not it is suitable for such replacement”, the words “for infant up to the age of two years” shall be substituted;

(v) after clause (i), the following clause shall be inserted, namely:—

“(j) “promotion” means to employ directly or indirectly any method of encouraging any person to purchase or use infant milk substitute, feeding bottle or infant food.”.

Amendment
of section 3

3. In section 3 of the principal Act,—

(i) in clause (a), for the words “or feeding bottles”, the words “, feeding bottles or infant foods” shall be substituted;

(ii) in clause (b), for the words “infant milk substitutes is”, the words “infant milk substitutes and infant foods are” shall be substituted;

(iii) for clause (c), the following clause shall be substituted, namely:—

“(c) take part in the promotion of infant milk substitutes, feeding bottles or infant foods.”.

Amendment
of section 4.

4. In section 4 of the principal Act, for the words “feeding bottles”, at both the places where they occur, the words “feeding bottles or infant foods” shall be substituted.

Amendment
of section 5.

5. In section 5 of the principal Act, for the words “feeding bottles”, at both the places where they occur, the words “feeding bottles or infant foods” shall be substituted.

Amendment
of section 6.

6. In section 6 of the principal Act, in sub-section (2), for the words “infant milk substitute”, at both the places where they occur, the words “infant milk substitute or infant food” shall be substituted.

Amendment
of section 7.

7. In section 7 of the principal Act,—

(a) in sub-section (1),—

(i) for the words “Every educational or other material”, the words “Every educational or other material including advertisements or material relating to promotion of infant milk substitutes, feeding bottles and infant foods” shall be substituted;

(ii) after clause (f), the following clause shall be inserted, namely:—

“(fa) the date of printing and publication of such material and the name of the printer and publisher;”;

(b) in sub-section (2), for the words “feeding bottles”, the words “feeding bottles or infant foods” shall be substituted.

8. In section 9 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

Amendment
of section 9

“(2) No producer, supplier or distributor referred to in sub-section (1), shall offer or give any contribution or pecuniary benefit to a health worker or any association of health workers, including funding of seminar, meeting, conference, educational course, contest, fellowship, research work or sponsorship.”.

9. In section 20 of the principal Act, for the word and figures “section 11”, at both the places where they occur, the words and figures “section 11 and the rules made under section 26 of the Act” shall be substituted.

Amendment
of section 20.

10. In section 24 of the principal Act, after the words “or of any State Government”, the words, brackets, letter and figures “or a representative of such voluntary organisation which is notified under clause (c) of sub-section (1) of section 21” shall be inserted.

Amendment
of section 24

SUBHASH C. JAIN,
Secy. to the Govt of India.



भारत का राजपत्र

The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (i)

PART II—Section 3—Sub-section (i)

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं. 612]

नई दिल्ली, सोमवार, दिसम्बर 22, 2003/पौष 1, 1925

No. 612]

NEW DELHI, MONDAY, DECEMBER 22, 2003/PAUSA 1, 1925

मानव संसाधन विकास मंत्रालय

(महिला और बाल विकास विभाग)

अधिसूचना

नई दिल्ली, 19 दिसम्बर, 2003

सा.का.नि. 959(अ).—केन्द्रीय सरकार, शिशु दुग्ध अनुकल्प, पोषण बोतल और शिशु खाद्य (उत्पादन, प्रदाय और वितरण विनियमन) अधिनियम, 1992 (1992 का 41) की धारा 26 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, शिशु दुग्ध अनुकल्प, पोषण बोतल और शिशु खाद्य (उत्पादन, प्रदाय और वितरण विनियमन) नियम, 1993 का और संशोधन करने के लिए निम्नलिखित नियम बनाती है, अर्थात् :—

1. (1) इन नियमों का संक्षिप्त नाम शिशु दुग्ध अनुकल्प, पोषण बोतल और शिशु खाद्य (उत्पादन, प्रदाय और वितरण विनियमन) संशोधन नियम, 2003 है।

(2) ये राजपत्र में 1 जनवरी, 2004 को प्रवृत्त होंगे।

2. शिशु दुग्ध अनुकल्प, पोषण बोतल और शिशु खाद्य (उत्पादन, प्रदाय और वितरण विनियमन) नियम, 1993 (जिन्हें इसमें उसके पश्चात् उक्त नियम कहा गया है) के नियम 5 में,—

- “शिशु दुग्ध अनुकल्प, पोषण बोतलों” शब्दों को स्थान पर, “शिशु दुग्ध अनुकल्प या शिशु खाद्य या पोषण बोतलों” शब्द रखे जाएंगे;
- “शिशु दुग्ध अनुकल्पों या पोषण बोतलों” शब्दों के स्थान पर, उन दोनों स्थानों पर, जहां-जहां वे आते हैं, “शिशु दुग्ध अनुकल्पों या शिशु खाद्य या पोषण बोतलों” शब्द रखे जाएंगे;
- “संगठन या निजी व्यवसाय में स्वास्थ्य कार्यकर्ता”, शब्दों के स्थान पर, “संगठन, निजी व्यवसाय में स्वास्थ्य कार्यकर्ता, फार्मसी, औषधि भण्डार या स्वास्थ्य कार्यकर्ताओं का कोई संगम” शब्द रखे जाएंगे।

3. उक्त नियमों के नियम 7 में,—

- पार्श्व शीर्षक “शिशु खाद्यों पर लेबल लगाने संबंधी विशिष्टियां” के स्थान पर, पार्श्व शीर्षक, “शिशु दुग्ध अनुकल्प, शिशु खाद्यों पर लेबल लगाने संबंधी विशिष्टियां” रखा जाएगा;
- “शिशु दुग्ध या शिशु खाद्य अनुकल्पों के लेबल या आधान या उनके विज्ञापन” शब्दों के स्थान पर, “शिशु दुग्ध अनुकल्प या शिशु खाद्य के लेबल या आधान” शब्द रखे जाएंगे;
- “लेबल या उनके आधान या उनके विज्ञापन” शब्दों के स्थान पर, उन दोनों स्थानों पर, जहां-जहां वे आते हैं, “लेबल या आधान” शब्द रखे जाएंगे;
- खण्ड (घ) के उपखण्ड (i) में, “शिशु दुग्ध खाद्य” शब्दों के स्थान पर, “शिशु खाद्य” शब्द रखे जाएंगे।

4. उक्त नियमों के नियम 8, में,—

- पार्श्व शीर्षक में, “लेबल, आधान या विज्ञापन” शब्दों के स्थान पर, “लेबल या आधान” शब्द रखे जाएंगे;
- “लेबल, आधान या विज्ञापन” शब्दों के स्थान पर, जहां-जहां वे आते हैं, “लेबल या आधान” शब्द रखे जाएंगे।

5. उक्त नियमों के नियम 9 के उपनियम (1) के खण्ड (क) के उपखण्ड (ii) की मद (अ) में, “उसके जन्म के प्रथम कुछ मास में” शब्दों के स्थान पर, “जीवन के प्रथम छह मास के लिए” शब्द रखे जाएंगे।

[फा. सं. 12-13/97-टीआर. II/आईएमएस(का 02)]

कस्तूरी गुप्ता मेनन, सचिव

पाद टिप्पण :—मूल नियम, भारत के राजपत्र में अधिसूचना सं. सा.का.नि. 528(अ), तारीख 31 जुलाई, 1993 द्वारा प्रकाशित हुए थे और तत्पश्चात् सा.का.नि. 726(अ), तारीख 2 दिसम्बर, 1993 और सा.का.नि. 50(अ), तारीख 22 जनवरी, 1999 द्वारा संशोधित किए गए।

MINISTRY OF HUMAN RESOURCE DEVELOPMENT

(Department of Women and Child Development)

NOTIFICATION

New Delhi, the 19th December, 2003

G.S.R. 959(E).— In exercise of the powers conferred by Section 26 of the Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992 (41 of 1992), the Central Government hereby makes the following rules further to amend the Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Rules, 1993, namely :—

1. (1) These rules may be called the Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Amendment Rules, 2003.

(2) They shall come into force on the 1st day of January, 2004.

2. In rule 5 of the Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Rules, 1993 (hereinafter referred to as the said rules),—

(i) for the words “infant milk substitutes, feeding bottles”, the words “infant milk substitutes or infant foods or feeding bottles” shall be substituted;

(ii) for the words “infant milk substitutes or feeding bottles” at both the places where they occur, the words “infant milk substitutes or infant foods or feeding bottles” shall be substituted;

(iii) for the word “organization or health worker in private practice”, the words “organization, health worker in private practice, pharmacy, drug store or any association of health workers” shall be substituted.

3. In rule 7 of the said rules, —

(i) for the marginal heading, “Particulars of labelling of infant foods”, the marginal heading “Particulars of labelling of infant milk substitute and infant foods” shall be substituted;

(ii) for the words “infant milk or infant food substitute or their advertisements”, the words “infant milk substitute or infant food” shall be substituted;

(iii) for the words “the label, container or the advertisement”, at both the places where they occur, the words “the label or container” shall be substituted;

(iv) In clause (d), sub-clause (i), for the words, “Infant milk food” the words, “Infant food” shall be substituted.

4. In rule 8 of the said rules, —

(i) in the marginal heading, for the words “a label, container or an advertisement”, the words “a label or container” shall be substituted;

(ii) for the words “a label, container or advertisement”, wherever they occur, the words “a label or container” shall be substituted.

5. In rule 9 of the said rules, in sub-rule (1), in clause (a), in sub-clause (ii), in item (A), for the words “in the first few months of its birth”, the words “for the first six months of life” shall be substituted.

[F. No. 12-13/97-TR.II/IMS(Vol. II)]

CASTURI GUPTA MENON, Secy.

Footnote :— The principal rules were published in the Gazette of India vide notification number G.S.R. 528(E), dated the 31st July, 1993 and subsequently amended vide G.S.R. 726(E), dated 2nd December, 1993 and G.S.R. 50(E), dated the 22nd January, 1999.



भारत का राजपत्र

The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं. 974]

नई दिल्ली, सोमवार, अक्टूबर 27, 2003/कार्तिक 5, 1925

No. 974]

NEW DELHI, MONDAY, OCTOBER 27, 2003/KARTIKA 5, 1925

मानव संसाधन विकास मंत्रालय

MINISTRY OF HUMAN RESOURCE DEVELOPMENT

(महिला और बाल विकास विभाग)

(Department of Women and Child Development)

अधिसूचना

NOTIFICATION

नई दिल्ली, 24 अक्टूबर, 2003

New Delhi, the 24th October, 2003

का.आ. 1235(अ).—केन्द्रीय सरकार, साधारण खंड अधिनियम, 1897 (1897 का 10) की धारा 21 के साथ पठित शिशु दुग्ध अनुकल्प, पोषण बोटल और शिशु खाद्य (उत्पादन, प्रदाय और वितरण विनियमन) संशोधन अधिनियम, 2003 (2003 का 38) की धारा 1 की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार के मानव संसाधन विकास मंत्रालय (महिला और बाल विकास विभाग) की अधिसूचना सं. का.आ. 880(अ) तारीख 1 अगस्त, 2003 को, जो भारत के राजपत्र, असाधारण, भाग II, खंड 3, उपखंड (ii) तारीख 1 अगस्त, 2003 में प्रकाशित की गई थी, विखंडित करती है और 1 जनवरी, 2004 को, उस तारीख के रूप में नियत करती है जिसको शिशु दुग्ध अनुकल्प, पोषण बोटल और शिशु खाद्य (उत्पादन, प्रदाय और वितरण विनियमन) संशोधन अधिनियम, 2003 (2003 का 38) प्रवृत्त होगा।

S.O. 1235(E).—In exercise of the powers conferred by Sub-section (2) of Section 1 of the Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Amendment Act, 2003 (38 of 2003) read with Section 21 of the General Clauses Act, 1897 (10 of 1897), the Central Government hereby rescinds the notification of the Government of India in the Ministry of Human Resource Development (Department of Women and Child Development) number S.O. 880(E), dated the 1st August, 2003, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), dated the 1st August, 2003 and appoints the 1st day of January, 2004, as the date on which the Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Amendment Act, 2003 (38 of 2003) shall come into force.

[फा. सं. 12-3/97-टीआर. II/एमई]

[No. F. 12-3/97-TR. II/ME]

कस्तूरी गुप्ता मेनन, सचिव

KASTURI GUPTA MENON, Secy.

Annexure-8

Section of
The Food Safety and Standards Act, 2006 (No. 34 OF 2006 [23rd August, 2006.]) relevant to infant food and infant milk substitutes are reproduced here

An Act to consolidate the laws relating to food and to establish the Food Safety and Standards Authority of India for laying down science based standards for articles of food and to regulate their manufacture, storage, distribution, sale and import, to ensure availability of safe and wholesome food for human consumption and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:-

2. It is hereby declared that it is expedient in the public interest that the Union should take under its control the food industry.

3. (1) In this Act, unless the context otherwise requires,-

(j) "food" means any substance, whether processed, partially processed or unprocessed, which is intended for human consumption and includes primary food to the extent defined in clause (ZK), genetically modified or engineered food or food containing such ingredients, infant food, packaged drinking water, alcoholic drink, chewing gum, and any substance, including water used into the food during its manufacture, preparation or treatment but does not include any animal feed, live animals unless they are prepared or processed for placing on the market for human consumption, plants prior to harvesting, drugs and medicinal products, cosmetics, narcotic or psychotropic substances:

Provided that the Central Government may declare, by notification in the Official Gazette, any other article as food for the purposes of this Act having regards to its use, nature, substance or quality;

(t) "Food Safety Officer" means an officer appointed under section 37;

(x) "infant food" and "infant milk substitute" shall have the meanings assigned to them in clauses (f) and (g) of sub-section (1) of section 2 of the Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992, respectively;

(zm) "risk", in relation to any article of food, means the probability of an adverse effect on the health of consumers of such food and the severity of that effect, consequential to a food hazard

18. General principles to be followed in administration of Act. - The Central Government, the State Governments, the Food Authority and other agencies, as the case may be, while implementing the provisions of this Act shall be guided by the following principles, namely :-

(1) (c) where in any specific circumstances, on the basis of assessment of available information, the possibility of harmful effects on health is identified but scientific uncertainty persists, provisional risk management measures necessary to ensure appropriate level of health protection may be adopted, pending further scientific information for a more comprehensive risk assessment;

(f) in cases where there are reasonable grounds to suspect that a food may present a risk for human health, then, depending on the nature, seriousness and extent of that risk, the Food Authority and the Commissioner of Food Safety shall take appropriate steps to inform the general public of the nature of the risk to health, identifying to the fullest extent possible the food or type of food, the risk that it may present, and the measures which are taken or about to be taken to prevent, reduce or eliminate that risk;

23. (1) No person shall manufacture, distribute, sell or expose for sale or despatch or deliver to any agent or broker for the purpose of sale, any packaged food products which are not marked and labelled in the manner as may be specified by regulations:

Provided that the labels shall not contain any statement, claim, design or device which is false or misleading in any particular concerning the food products contained in the package or concerning the quantity or the nutritive value implying medicinal or therapeutic claims or in relation to the place of origin of the said food products.

29. (4) The Food Safety Officers shall enforce and execute within their area the provisions of this Act with respect to which the duty is not imposed expressly or by necessary implication on some other authority.

40. (1) Nothing contained in this Act shall be held to prevent a purchaser of any article of food other than a Food Safety Officer from having such article analysed by the Food Analyst on payment of such fees and receiving from the Food Analyst a report of his analysis within such period as may be specified by regulations:

Provided that such purchaser shall inform the food business operator at the time of purchase of his intention to have such article so analysed:

Provided further that if the report of the Food Analyst shows that the article of food is not in compliance with the Act or the rules or regulations made thereunder, the purchaser shall be entitled to get refund of the fees paid by him under this section.

(2) In case the Food Analyst finds the sample in contravention of the provisions of this Act and rules and regulations made thereunder, the Food Analysts shall forward the report to the Designated Officer to follow the procedure laid down in section 42 for prosecution.

42. (1) The Food Safety Officer shall be responsible for inspection of food business, drawing samples and sending them to Food Analyst for analysis.

(2) The Food Analyst after receiving the sample from the Food Safety Officer shall analyse the sample and send the analysis report mentioning method of sampling and analysis within fourteen days to Designated Officer with a copy to Commissioner of Food Safety.

(3) The Designated Officer after scrutiny of the report of Food Analyst shall decide as to whether the contravention is punishable with imprisonment or fine only and in the case of contravention punishable with imprisonment, he shall send his recommendations within fourteen days to the Commissioner of Food Safety for sanctioning prosecution.

(4) The Commissioner of Food Safety shall, if he so deems fit, decide, within the period prescribed by the Central Government, as per the gravity of offence, whether the matter be referred to,-

(a) a court of ordinary jurisdiction in case of offences punishable with imprisonment for a term up to three years; or

(b) a Special Court in case of offences punishable with imprisonment for a term exceeding three years where such Special Court is established and in case no Special Court is established, such cases shall be tried by a court of ordinary jurisdiction.

(5) The Commissioner of Food Safety shall communicate his decision to the Designated Officer and the concerned Food Safety Officer who shall launch prosecution before courts of ordinary jurisdiction or Special Court, as the case may be; and such communication shall also be sent to the purchaser if the sample was taken under section 40.

100. As from the notified day, the provisions of the Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992 (herein referred to as the principal Act) shall apply subject to the following amendments, namely:-

(a) throughout the principal Act, any reference to "the Prevention of the Food Adulteration Act, 1954" shall be substituted by reference to "the Food Safety and Standards Act, 2006";

(b) in section 12 of the principal Act, the reference to "any Food Inspector appointed under section 9 of the Prevention of the Food Adulteration Act, 1954" shall be substituted by reference to "any Food Safety Officer appointed under the Food Safety and Standards Act, 2006";

(c) throughout the principal Act, any reference to "Food Inspector" shall be substituted by the expression "the Food Safety Officer"; and

(d) in section 21 of the principal Act, in sub-section (1), the reference to clause (a) shall be substituted by the following, namely:-

“(a) the Designated Officer or the Food Safety Officer directed under sub-section (5) of section 42 of the Food Safety and Standards Act, 2006; or”.



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