

রেজিস্টার্ড নং ডি এ-১

বাংলাদেশ



গেজেট

অতিরিক্ত সংখ্যা
কর্তৃপক্ষ কর্তৃক প্রকাশিত

রবিবার, মে ২৫, ২০১৪

Government of the People's Republic of Bangladesh
Ministry of Law, Justice and Parliamentary Affairs
Legislative and Parliamentary Affairs Division

NOTIFICATION

Dated the 14th May, 2014/31st Boishakh, 1421

S.R.O. No 79-Law/2014.—In exercise of the powers conferred by section 23 of the Breast-milk Substitutes, Infant Foods, Commercially Manufactured Complementary Foods and the Accessories Thereto (Regulation of Marketing) Act, 2013 (Act No. XXXV of 2013), the Government is pleased to publish the following Authentic English Text of the Act, and it shall take effect from the date on which the Bangla Text of the Act comes into force under sub-section (2) of section 1 thereof:

The Breast-milk Substitutes, Infant Foods, Commercially Manufactured Complementary Foods and the Accessories Thereof (Regulation of Marketing) Act, 2013

(Act No. 35 of 2013)

An

Act to re-enact, with amendments, the Breast-milk Substitutes (Regulation of Marketing) Ordinance, 1984 (Ordinance No. XXXIII of 1984) and repeal thereof.

Whereas it is necessary and expedient to re-enact, with amendments, the Breast-milk Substitutes (Regulation of Marketing) Ordinance, 1984 (Ordinance No. XXXIII of 1984) and repeal thereof;

(১৩৭০৫)

মূল্য : টাকা ১২.০০

Therefore, it is enacted as follows:—

1. Short title and commencement.—(1) This Act may be called the Breast-milk Substitutes, Infant Foods, Commercially Manufactured Complementary Foods and the Accessories Thereof (Regulation of Marketing) Act, 2013.

(2) It shall come into force at once.

2. Definitions.—Unless there is anything repugnant in the subject or context, in this Act,—

- (a) “National Advisory Committee” means the committee constituted under section 8;
- (b) “receptacle” means package of any kind, wherein any breast-milk substitutes, infant foods, commercially manufactured complementary foods is kept, filled, put or placed for sale or distribution, such as: a box, bottle, casket, tin, can, barrel, container, case, tube, glass, mug, sack or any other similar things;
- (c) “prescribed” means prescribed by rules;
- (d) “Director” means Director of the Institute of Public Health Nutrition;
- (e) “publicity” means dissemination of information of any kind through attractive advertisement of any breast-milk substitutes, infant foods, commercially manufactured complementary foods or accessories thereof for marketing, sale or distribution;
- (f) “Criminal Code” means the Code of Criminal Procedure, 1898 (Act V of 1898);
- (g) “breast-milk substitutes” means any infant food, for a child upto the age of six months, prepared, marketed or otherwise presented as a partial or total replacement of breast-milk;
- (h) “infant foods” means any food, for a child above the age of six months, prepared, marketed or otherwise presented as a partial or total replacement of breast-milk;

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- (i) “label” means any display, in a written, articulated, stamped, printed, drawn or designed form, which is affixed to or otherwise pasted on or glued with any receptacle;
- (j) “commercially manufactured complementary foods” means any food, by whatever name called, for requirement of a child from six months to five years of age manufactured commercially with appropriate nutrients;
- (k) “advertisement” shall include an announcement or also a presentation in a written or printed form or through light or sound, of any notice, circular, envelope, label or any other similar documents through print and electronic media, email or internet;
- (l) “person” shall include any company, society, organization, or group of people, and also include, incorporated or not, any importer, producer, marketing agency, seller or distributor of any breast-milk substitutes, infant foods, commercially manufactured complementary foods and any accessories thereto;
- (m) “health worker” means for carrying out the purposes of this Act, a person engaged to provide health care services to an infant mother of an infant or a pregnant women;
- (n) “health care centre” means a public or private institution or organization or private practitioner’s clinic or child day care centre which is engaged in providing health care, directly or indirectly, to infants, mothers of infants or pregnant woman; and shall also include a nursery or any other similar child care institution.

3. Overriding effect of the Act.—Notwithstanding anything contained contrary in any other law for the time being in force or any other legal instrument having the force of law, the provisions of this Act shall prevail.

4. Restrictions on the matters relating to breast-milk substitutes, infant foods, etc.—(1) For the purpose of import, local production, marketing, sale or distribution, no person shall print, exhibit, circulate or publish any advertisement of any breast-milk substitutes, infant foods, commercially manufactured complementary foods and any accessories thereof or engage himself in any such work.

(2) Within the scope of sub-section (1), among others the following things particularly shall not be done, namely—

- (a) to distribute to any people, particularly any person or student or their family member who is engaged in or related to health care, nutrition, or education, any leaflet, handbill or similar instrument wherein there is an advertisement of any breast-milk substitutes, infant foods, commercially manufactured complementary foods or any accessories thereof;
- (b) for the purposes of promotion or allurements of sale of any breast-milk substitutes, infant foods, complementary infant foods manufactured commercially or any accessories thereof—
 - (i) to offer or propose to offer any person any gift, discount coupon, price reduction or any other material free of cost;
 - (ii) to offer or give any financial or other benefits to any person or any officer or staff of any health care centre or any health worker for receiving any higher education or engaging in any research, in addition to, attending or participating in any seminar, conference, symposium, workshop, training, scientific meeting, education tour or international conference organized or sponsored by the manufacturer thereof;
 - (iii) to give financial alluring or any other gift to any health worker or any of their family members;
 - (iv) to use any health care centre or any medicine selling centre;
- (c) to organize any competition or function for or to render any other assistance to, children;
- (d) to give an impression or to conduct such activities to create a belief that breast-milk substitutes, infant foods and commercially manufactured complementary foods is better than or equivalent to breast-milk;
- (e) to make direct contact with or to offer an alluring proposal to any pregnant woman, lactating mother or mother of children;

- (f) during the publicity of any commodity, particularly child commodity (such as: diaper, clothes, toy, doll, cosmetics, toiletries, etc), to distribute any leaflet or gift relating to any breast-milk substitutes, infant foods, complementary infant foods manufactured commercially or any accessories thereof;
- (g) to donate or distribute, among the organizations or rescue shelters that are engaged in saving or reducing risk of children below five years of age or pregnant woman or newly delivered woman who are affected or endangered by natural calamity as defined in clause (11) of section 2 of the Disaster Management Act, 2012 (Act no. 34 of 2012), any breast-milk substitutes, infant foods, commercially manufactured complementary foods or any accessories thereof;
- (h) to do any other prescribed act.

5. Provisions relating to import, local production, sale etc. of breast-milk substitutes, infant foods, etc.—No person shall, without registration under this Act, import, produce locally, market, sell or distribute any breast-milk substitutes, infant foods, commercially manufactured complementary foods or any accessories thereof.

6. Information relating to breast-milk substitutes, infant foods, etc. on the receptacle and label.—(1) Without prejudice to the provisions of any other law for the time being in force, no person shall market, sell and distribute any breast- milk substitutes, infant foods, complementary infant foods manufactured commercially, or any accessories thereof, unless the following information and statements, under a heading ‘Important Information’, are printed or depicted on every receptacle or label attached thereto with distinct, easily visible, readable, sensible, understandable bangla letters with bright colour, namely—

- (a) an statement captioned as “There is no substitutes of or equivalent to breast-milk”, just below the name of the commodity, with such size of letters that are equal to the name of the commodity;
- (b) batch number, registration number and date of manufacture and expiry;
- (c) as the case may be, a warning message captioned as—“Breast-milk substitutes, infant foods not the real source of nutrition” or “commercially manufactured complementary foods are not real source of nutrition”;

- (d) ingredients used and analysis thereof;
- (e) instructions for preservation;
- (f) any other prescribed descriptions.

(2) A receptacle or a label attached to the receptacle as mentioned in sub-section (1)—

- (a) shall not contain any picture of a baby or a mother or both or any other similar picture thereof;
- (b) shall not contain any graphics or cartoon pictures for easy identification of a breast-milk substitutes, infant foods, and commercially manufactured complementary foods;
- (c) shall not print any word suitable for or usable by a child or any other similar word;
- (d) shall not print or contain any other prescribed descriptions.

(3) The receptacle shall have an instruction guide containing the rules of use for the breast-milk substitutes, infant foods, commercially manufactured complementary foods which shall mention prescribed descriptions.

7. Educational or other information.—For the purpose of providing before-birth or after-birth health services, every material, educative or informative, written or audio-visual which is intended to be communicated to pregnant women, lactating mothers or mothers of child shall, among others, include be following information, namely—

- (a) benefits and excellence of breast-milk.
- (b) appropriate way of breastfeeding and continuation thereof;
- (c) give importance to the benefits of feeding *sal dudh* (initial breast-milk) within 1 (one) hour of birth, exclusive breastfeeding for six months, feeding homemade food in addition to breast-milk after 6 (six) months, and importance of breastfeeding up to two years of age;

- (d) information on why breast-milk substitutes, infant foods, commercially manufactured complementary foods and the accessories (such as: bottle, pacifiers, etc) thereof are harmful for health of a new born baby;
- (e) information on complementary food may be easily prepared at home with local ingredients (such as: local fruits, vegetables, fish, meat, milk, egg etc) and to encourage feeding the foods to the children;
- (f) information on the harmful effects of feeding breast-milk substitutes, infant foods, commercially manufactured complementary foods, on to the health of mother and child, impediments to develop good citizens of the country and the bad effect of social and financial loss;
- (g) the difficulties for return to breastfeeding again after using breast-milk substitutes and infant foods;
- (h) any other prescribed information.

8. Formation of National Advisory Committee.—(1) To carry out the purposes of this Act, there shall be a committee to be called National Advisory Committee.

(2) The Committee shall consists of 9 (nine) members including the Chairman.

(3) The Chairman and the members of the committee shall be nominated for a period of 3 (three) years, and on such terms and conditions as the Government may decide.

(4) Meetings and functions of the committee shall be conducted or carried out in accordance with the prescribed manner.

(5) Institute of Public Health Nutrition shall provide necessary secretarial and other supports to accomplish the functions of the committee.

9. Functions of the committee.—The functions of the National Advisory Committee shall be as follows, namely—

- (a) to give advice to the Government so as to launch programmes and establish appropriate surveillance and activity, in the light of the International Code of Marketing and International Standard related thereto, applicable for breast-milk substitutes, infant foods, commercially manufactured complementary foods and any accessories thereof.

- (b) to carry out the purposes of this Act, to perform such other functions as the Government may entrust on, direct to or determine for it; and
- (c) to perform any other prescribed functions.

10. Registration of Breast-milk substitutes, infant foods, etc.—(1) The Director shall give registration to the breast-milk substitutes, infant foods, commercially manufactured complementary foods for carrying out the purposes of this Act.

(2) Every application for the registration under sub-section (1) is to be submitted to the Director and made in such manner, form on such condition and payment of such fees as may be prescribed.

(3) After considering the application submitted under sub-section (2) in accordance with the provision of this Act or any rule made thereunder, a registration certificate is to be issued within 60 (sixty) days from the date filing such application.

(4) The registration certificate issued under this section shall specify its period of validity and necessary conditions for registration.

(5) Every registration certificate issued under sub-section (3) shall be valid for 3 (three) years from the date of issuance thereof, and shall, on payment of prescribed fees, be renewable for such period as may be prescribed.

11. Suspension and cancellation of registration, etc.—(1) If any provision of this Act or any rule made thereunder is contravened or any condition specified in a registration certificate is not complied with or any false or untrue information is furnished for procuring registration certificate, the Director may, in the prescribed manner, pass an order to suspend or as the case may be, cancel the registration certificate.

(2) No registration certificate shall be suspended or as the case may be cancelled under sub-section (1) without giving the recipient of such registration certificate an opportunity of 15 (fifteen) days notice to show cause.

(3) Any person if aggrieved by an order passed under sub-section (1) may file an appeal to the Government within 30 (thirty) days from the date of receipt of such order.

(4) Within 60 (sixty) days from the date of filing of an appeal under sub-section (3). decision in this regard is to be made, and such decision of the Government shall be final.

12. Penalty.—(1) If anyone contravenes any provision of this Act, such contravention shall constitute an offence, and for that, he shall be punished with imprisonment which may extent to maximum 3 (three) years or with fine which may extent to maximum 5,00,000 (five lacs) or with both.

(2) If a child becomes ill or dies from the use of any breast-milk substitutes, infant foods, commercially manufactured complementary foods or of any accessories thereof, it shall constitute a punishable offence under this Act, and for that, the company that has produced such breast-milk substitutes, infant foods, complementary infant foods manufactured commercially or the accessories thereof shall be punished with 10 (ten) years of imprisonment or with fine which may extent to maximum 5,00,000 (five lacs) or with both and the fine so imposed shall be given in the prescribed manner as a compensation to the family of the victim.

13. Penalty for repetition of offence.—Whoever commits an offence punishable under this Act, for second time or again and again, shall consecutively be liable to be sentenced with double term of punishment specified for such offence.

14. Offence committed by Company.—(1) If any offence punishable under this Act is committed by any company, every director, manager, secretary, partner, officer and staff of such company having direct regard to such offence shall be deemed to have committed that offence unless he proves that the offence is committed beyond his knowledge or he has tried his level best to prevent that offence.

(2) If a company mentioned in sub-section (1) be a body corporate, such company may be accused and made guilty separately in the same proceeding in addition to accusing and making the persons mentioned in that sub-section guilty, but in a criminal case, only the fine specified in the relevant provision thereof may be imposable upon such company.

Explanation.—In this section—

- (a) “company” includes any commercial organization, partnership business, society or association or institution;
- (b) “director” includes, in the case of commercial organization, any partner or member of the board of directors thereof.

15. Forfeiture of goods, equipments, etc associated with offence.—If any offence punishable under this Act is committed, the goods, materials, equipments or any other things associated with such offence shall be subject to forfeiture or as the case may be, destruction.

16. Power of entry, etc.—Subject to the provisions of this Act or any rules made thereunder, the Director or any officer empowered by him on his behalf may, within a reasonable time, make search or enter into any building, godown or place or transport where an object or goods associated with an offence is or is being kept or kept hidden or stored.

17. Application of the Criminal Code.—For lodging a complaint, conducting an investigation, holding a trial and disposing an appeal in respect of an offence under this Act, the provisions of the Criminal Code shall be applicable.

18. Application of Act No. 59 of 2009.—Notwithstanding anything contained contrary in this Act, offence punishable under this Act may be triable in accordance with the provisions of the Mobile Court Act, 2009 (Act No. 59 of 2009).

19. Special provision to impose fine.—Notwithstanding anything contained contrary in the Criminal Code, the court shall have the power to impose the amount of fine specified in section 12 to a person who is subject to be fined under that section.

20. Offences to be cognizable and Non-bailable.—Notwithstanding anything contained contrary in the Criminal Code, all offences punishable under this Act shall be cognizable and non-bailable.

21. Power to make rules.—The Government may, by a notification in the official Gazette, make rules for carrying out the purposes of this Act,

22. Removal of difficulties.—For ambiguity in any provision of this Act, if there arises any difficulties in implementing any provision thereof, the Government may, by an order published in the official Gazette, issue instructions as to the course of action by giving clarification or interpretation of that provision.

23. Publication of authentic English Text.—(1) After the commencement of this Act, the Government shall, by a notification published in the official Gazette, publish an english text of this Act to be called Authentic English Text of this Act.

(2) In the case of any conflict between the English and Bangla Texts, the Bangla Text shall prevail.

24. Repeal and savings.—(1) The Breast-milk Substitutes (Regulation of Marketing) Ordinance, 1984 (Ordinance XXXIII of 1984) is hereby repealed.

(2) Notwithstanding such repeal, any case pending for trial or any proceeding in progress under the repealed Ordinance shall be disposed of in accordance with the then Ordinance.

On behalf of the President

MOHAMMAD SHAHIDUL HAQUE

Secretary.