

**THE BREAST-MILK SUBSTITUTES (REGULATION OF MARKETING) ORDINANCE,
1984**

(ORDINANCE NO. XXXIII OF 1984).

[24th May, 1984]

An Ordinance to promote breast-feeding by regulating the marketing of breast-milk substitutes.

WHEREAS it is expedient to promote breast-feeding by regulating the marketing of breast-milk substitutes and to provide for matters incidental thereto;

NOW, THEREFORE, in pursuance of the Proclamation of the 24th March, 1982, and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance:-

Short title and commencement

1. (1) This Ordinance may be called the Breast-Milk Substitutes (Regulation of Marketing) Ordinance, 1984.

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

Definitions

2. In this Ordinance, unless there is anything repugnant in the subject or context,-

(a) "breast-milk substitute" means any food represented as a partial or total substitute for breast-milk and includes a complementary food;

¹[(aa) "breast-milk supplement or weaning food" means any food manufactured or locally prepared to be used as a complement to breast-milk or infant formula, when either becomes insufficient to satisfy the nutritional requirements of infants;]

(b) "complementary food" means any food represented as a complement to breast-milk or ²[infant formula, and includes any breast-milk supplement or weaning food];

(c) "infant formula" means a breast-milk substitute formulated to satisfy the normal nutritional requirements of infants up to six months of age;

(d) "protected person" means a pregnant woman, a mother of an infant whose apparent age is not more than two years, and a person who is the husband of such woman or mother or father of such child; and

(e) "prescribed" means prescribed by rules made under this Ordinance.

Prohibition against certain advertisement regarding breast-milk substitutes

3. No person shall make, exhibit, distribute, circulate, display or publish any advertisement-

(a) promoting the use of any breast-milk substitute; or

(b) implying or designed to create the belief or impression that breast-milk substitute feeding is equivalent or superior to breast-milk feeding.

Promotion of breast-milk substitute prohibited

4. No person shall promote any breast-milk substitute either by advertisement or by offering or giving any gift, prize, discount coupon, or other free item or by any other means.

Registration of breast-milk substitutes

³[4A. (1) From the date as may be notified by the Government in the official Gazette, no breast-milk substitute of any kind shall be imported, distributed, marketed, stored, sold, offered for sale or be locally manufactured for sale unless it is registered under this Ordinance.

(2) A breast-milk substitute shall be registered in such manner and on payment of such fees as may be prescribed.

(3) A registration granted under this section shall be valid for a period of three years and may be cancelled before the expiry of that period in such manner as may be prescribed.

(4) Registration of a breast-milk substitute shall be published in the official Gazette.]

Container and labelling

5. (1) No breast-milk substitute shall be marketed unless-

(a) it is put in a sealed and hermetically closed container;

(b) an easily readable and understandable message in Bangla is printed on a conspicuous part of its container to the effect that nothing is substitute for or equivalent or superior to breast-milk;

(c) clear instructions on the proper method of its preparation and information regarding its composition are printed on the container or in a literature kept inside the container; and

(d) ⁴[its registration number and the dates] of its manufacture and the expiry of its usefulness are printed on the container.

(2) Neither the container nor any literature kept inside the container shall have any picture of infant or such other picture or writing which may idealise the use of any breast-milk substitute.

Advisory Committee

6. (1) The Government may appoint an Advisory Committee consisting of a Chairman and not more than such number of other members as the Government may determine.

⁵[(2) The Advisory Committee shall-

(a) advise the Government on the proper observation of the International Code of Marketing of Breast-Milk Substitutes;

(b) perform such other functions relating to the purpose of this Ordinance as may be prescribed.]

Penalties

7. Whoever contravenes any of the provisions of sections 3, 4 and 5 of this

Ordinance shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to five thousand Taka, or with both.

Offences by Companies

8. (1) If the person contravening any of the provisions of this Ordinance is a company, every person who at the time the offence has been 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 contravention 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 provided in this Ordinance if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Ordinance 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 individual, and

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

Cognizance of offence

9. No Court shall take cognizance of any offence punishable under this Ordinance except upon a report in writing made by any officer authorised by the Government.

Indemnity

10. No suit, prosecution or other legal proceeding shall lie against the authorised officer for anything which is in good faith done or intended to be done under this Ordinance.

Explanation.- In this section, “authorised officer” means an officer authorised by the Government in writing to perform all or any of the functions under this Ordinance and includes any officer authorised by such authorised Officer.

Power to make rules

11. The Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Ordinance.

¹ Clause (aa) was inserted by section 2 of the Breast-Milk Substitutes (Regulation of Marketing) (Amendment) Act, 1990 (Act No. XVI of 1990)

² The words and comma “infant formula, and includes any breast-milk supplement or weaning food” were substituted for the words “infant formula” by section 2 of the Breast-Milk Substitutes (Regulation of Marketing) (Amendment) Act, 1990 (Act No. XVI of 1990)

³ Section 4A was inserted by section 3 of the Breast-Milk Substitutes (Regulation of Marketing) (Amendment) Act, 1990 (Act No. XVI of 1990)

⁴ The words “its registration number and the dates” were substituted for the words “the dates,” by section 4 of the Breast-Milk Substitutes (Regulation of Marketing) (Amendment) Act, 1990 (Act No. XVI of 1990)

⁵ Sub-section (2) was substituted by section 5 of the Breast-Milk Substitutes (Regulation of Marketing) (Amendment) Act, 1990 (Act No. XVI of 1990)