FOOD ACT, 2005

(2005 NO.9)

BREASTFEEDING PROMOTION REGULATIONS, 2006

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IN EXERCISE of the powers conferred on the Secretary of State for Health and Social Welfare under section 43 of the Food Act, 2005 and on the advice of the National Nutrition Agency, these Regulations, are hereby made.

Citation

1. These Regulations may be cited as the Breast-feeding Promotion Regulations, 2006.

Interpretation

2. (1) In these Regulations, unless the context otherwise requires-

"Act" means the Food Act, 2005;

"advertise" includes to make any representation by any means for promoting, directly or indirectly the sale or disposal of a designated product and is not limited to-

(a) a written publication;

(b) television, radio, film, video or telephone;

(c) a display of signs, hoarding, notices or goods; or

(d) an exhibition of pictures or models;

"Agency" means the National Nutrition Agency established under section 4 of the Act;

"authorized officer" has the meaning given to it in the Act;

"Board" means the Agency Board established under section 5 of the Act;

"breast milk substitute" means any food that is marketed, or otherwise represented, as a partial or total replacement of breast milk, whether suitable for that purpose or not;

“complementary food” or “food complement” means any food substitute, or alternative to breast milk, suitable as a complement to breast milk or to infant formula, when either the breast milk or infant formula becomes insufficient to satisfy the nutritional requirements of the infant;

“container” means any form of packaging products for sale, including a wrapper;

“designated product” means infant formula, any other product marketed, or otherwise represented, as suitable for feeding infants up to six months of age, follow-up formula, feeding bottles, teats, pacifiers or such other product as the Secretary of State may by order designate;

“distributor” includes a person engaged in the business, whether wholesale or retail, of marketing any designated product and includes a person engaged in the business of providing information or public relations services in relation to a designated product;

“follow-up formula” means an animal or vegetable-based product intended for infants older than six months and young children and formulated industrially in accordance with prescribed standards or, in the absence of those standards, in accordance with the International Codex Alimentarius Standards;

“health care facility” includes-

(a) a public or private health care institution, organization, or practice, engaged directly or indirectly in the provision of health care or health care education; and

(b) day care centres, nurseries or other infant-care facilities;

“health personnel” includes a person working in a health care facility, whether professional or non-professional, including a person providing voluntary service;

“infant” means a child from birth up to the age of twelve months;

“infant formula” means an animal or vegetable-based product, formulated industrially in accordance with prescribed standards or, in the absence of those standards, in accordance with the International Codex Alimentarius Standards, to satisfy some or all of the nutritional requirements of infants up to the age of six months and adapted to their physiological characteristics for use as food or drink;

“label” includes any tag, brand mark, pictorial or other descriptive matter, written, printed, stencilled, marked, embossed, impressed or attached to a container of a designated product;

“manufacturer” means a person engaged in the business of manufacturing a designated product, whether directly or through an agent;

“marketing personnel” means a person who promotes the sale of a designated product;

“maternalised” means infant formula processed in a manner that makes it similar to breast milk;

“pacifier” means a rubber teat not attached to a bottle;

“promote” means a direct or an indirect method of introducing or encouraging a person to purchase a designated product;

“public place” means a place to which the public has or is permitted to have access, with or without the payment of a fee or charge;

“sample” means a single or small quantity of a designated product provided without cost;

“Secretary of State” means the Secretary of State for Health and Social Welfare;

“sell” has the meaning given to it in the Food Act;

“tie-in-sales” means the sale of a designated product that is linked to the purchase of any other product, including a designated product;

"young children" means children above the age of twelve months but under the age of three years.

(2) A word or an expression used in these Regulations, which is defined in the Act, has the meaning given to it in the Act.

Prohibition of sale and promotion of designated products

3. (1) A person shall not-

(a) sell, advertise, promote or assist in the sale, advertisement or promotion of a designated product in a health care facility; or

(b) undertake or participate in any promotional practice in respect of a designated product in a public place.

(2) For the purpose of sub-paragraph (b) of paragraph (1), promotional practice includes-

(a) advertising;

(b) use of sale strategies, including rebates, special display to promote sales, tie-in sales, rewards, discount coupons, prizes and gifts; and

(c) the distribution, without charge, to a person of one or more samples of a designated product.

Exhibition of manufacture and expiry dates

4. (1) A person shall not sell, distribute for sale, exhibit for sale, or stock for sale, a designated product which-

(a) does not have the dates of manufacture and expiry on the label; and

(b) is not in its original container.

(2) A person shall not sell, distribute for sale, or exhibit for sale, a designated product the expiry date for which has expired.

Distribution of free and low cost designated products

5. (1) No person shall distribute free, or at low cost, supplies or samples of any designated product to-

(a) a health personnel;

(b) a health care facility; or

(c) a person known to that other person as an employee of a health care facility in the premises of the facility.

(2) A health personnel shall not accept or give to any other person a sample of a designated product.

(3) A person shall not, without the prior written approval of the Secretary of State, carry out professional evaluation, research or activities of any other description at a health care facility in respect of a designated product.

Prohibition of display of printed material or designated products in a healthcare facility

6. A person shall not display, or permit to be displayed, in a health care facility or in any public place printed material that bear the name, logo or trade mark or any other description of a designated product or the name or logo of any manufacturer or distributor of a designated product.

Prohibition of donation of equipment and material

7. (1) A manufacturer or distributor of a designated product shall not directly, or indirectly donate any equipment or material to a health care facility, except with the prior approval in writing of the Secretary of State given after consultation with the Agency Board.

(2) A person shall not donate or distribute, within a health care facility, equipment or material that bears the name, logo, graphic, trademark or any other description of a designated product or the name or logo of any manufacturer or distributor of a designated product.

Provision of fellowship and sponsorship prohibited

8. (1) A manufacturer or distributor of a designated product shall not, directly or indirectly-

(a) provide a fellowship, research grant or any other financial assistance to a health personnel; or

(b) sponsor the attendance of a health personnel at a conference, seminar or any health related professional meeting,

without the approval of the Secretary of State given after consultation with the Agency Board;

(2) A manufacturer or distributor of a designated product shall not, for the purpose of promoting his or her business, directly or indirectly, offer a gift in cash or in kind from the manufacturer or distributor of the designated product for the purpose of promoting the use of the designated product.

(3) A health personnel shall not accept a gift in cash or in kind from a manufacturer or distributor of a designated product for the purpose of promoting the use of the designated product.

Production of material and giving information relating to feeding of infants

9. (1) Subject to the other provisions of this regulation and regulation 10, a person shall not directly or indirectly, produce educational or any other material, or provide information that relates to feeding of infants or young children.

(2) Paragraph (1) does not apply where a manufacturer or distributor provides to health personnel information, which is restricted to scientific and factual matters that relate to the technical aspects and methods for the use of the designated product.

Contents of materials and information

10. A person who produces in The Gambia any educational or other material, or information, whether written, audio or visual relating to the feeding of infants and young children shall-

(a) clearly explain-

(i) the benefits and superiority of breastfeeding,

(ii) how to initiate and maintain breast feeding, including maternal nutrition,

(iii) a recommended duration of six months exclusive breastfeeding from birth and sustained breastfeeding after the six-month period until the child is two years or more,

(v) how and why the introduction of bottle feeding or early introduction of complementary foods interferes with breastfeeding, and

(vii) why it is difficult to return to breast-feeding after a period of bottle-feeding even if limited to a few bottles per day;

(b) contain correct and current information on bottle-feeding and not use any pictures or texts that encourage bottle-feeding or discourage breastfeeding;

(c) be written in English; and

(d) not make any reference to any designated product or contain the name or logo of any manufacturer or distributor of a designated product except by way of indicating a copyright.

Additional information in respect of breast milk substitutes and complementary foods

11. (1) Where any material or information referred to in regulation 10 includes the subject of feeding infants with breast milk substitutes through feeding bottle, the material or information shall clearly and conspicuously state-

(a) the proper preparation, storage and use of the product;

(b) the approximate financial cost of feeding an infant with the product for a period of six months;

(c) the health hazards of bottle-feeding and improper preparation of the product; and

(d) how to feed infants with a cup or cup and spoon.

(2) Where the material referred to in regulation 10 includes the subject of feeding infants with complementary foods, the material shall explain-

(a) the health hazards of introducing complementary foods before the infant is six months old;

(b) that complementary foods can easily be prepared at home using local ingredients; and

(c) the benefit and value of sustaining breastfeeding after the child is six months until the child is two years or more.

Labelling of designated products

12. (1) A manufacturer or distributor shall not offer for sale or sell a designated product, unless the container or label affixed to it -

(a) has a clear, conspicuous and easily readable message that breast milk is the best food for infants and prevents diarrhoea and other illnesses;

(b) provides instructions for the proper preparation and use of the designated product;

(c) includes a warning preceded by the words “Important Notice’’ against the health hazards of improper preparation and use of the designated product; and

(d) indicates the health hazards of introducing the product prior to the recommended age.

(2) A manufacturer or distributor shall not offer for sale or sell a designated product if the container or label affixed to the container includes, as a means of expression, the word “maternalised” or similar word or words.

(3) In addition to any other requirement in respect of designated products provided in these Regulations, a manufacturer or distributor shall not offer for sale or sell a designated product if the label affixed to the designated product -

(a) shows any photograph, drawing or other graphic representation, other than for illustrating the method for preparation of the designated product;

(b) is not written in English;

(c) does not contain-

(i) the name and address of the manufacturer and, where applicable, the distributor,

(ii) the dates of manufacture and expiry,

(iii) the composition and contents of the product,

(iv) the batch number,

(v) the required storage conditions for the product; and

(d) does not indicate the quantity of the food in the containers necessary to feed an infant during the first six months of his or her life.

(4) Where a designated product does not satisfy all the nutritional requirements of an infant but can be modified to do so, the manufacturer or distributor shall not offer for sale or sell the designated product, unless its label includes warning that-

(a) the unmodified product should not be the sole source of the infant's nourishment; and

(b) the designated product should not be used to feed an infant except under the guidance of health personnel.

(5) Where modification is required under paragraph (4), the manufacturer shall indicate how the modifications should be made on the label.

Labels on feeding bottles and teats

13. A manufacturer or distributor shall not offer for sale or sell a feeding bottle or teat, unless the label on the feeding bottle or on the package or container

of the feeding bottle and teat includes-

(a) a statement on the superiority of breast milk for feeding infants;

(b) a statement that feeding with a cup is safer than feeding with bottle;

(c) instructions for proper cleaning and sterilization of feeding bottles and teats;

(d) a warning on the potential health hazards of using a feeding bottle, especially if it is not properly sterilized;

(e) a warning on the negative impact of bottle feeding and the need to follow preparation instructions carefully to ensure that an infant does not fall ill; and

(f) the name and address of the manufacturer or distributor of the product or the local agent.

Labels on pacifiers

14. A manufacturer or distributor shall not offer for sale or sell a pacifier, unless the label on a pacifier has a notice indicating that the use of a pacifier can interfere with breastfeeding.

Labels on condensed milk

15. A manufacturer or distributor shall not offer for sale or sell condensed milk unless the label on the container of the condensed milk has a clear and conspicuous warning that it shall not be used for infant feeding.

Offences

16. A person who contravenes a provision of these Regulation commits an offence and is liable on conviction to a fine of not less than twenty thousand dalasis or imprisonment for a term not exceeding two years, or to both the fine and imprisonment.

Functions of authorized officers

17. A person appointed and designated as an authorized officer under the Act shall carry out such functions as may be necessary to give full effect to the provisions of these Regulations.

Health personnel to support breast-feeding

18. The health personnel in a health facility shall support, protect and promote breastfeeding.

MADE this 20th day of June 2006

TAMSIR MBOWE
SECRETARY OF STATE FOR HEALTH AND SOCIAL WELFARE