

Djibouti Law 2010 (Translated from French)

Law No 89/AN/10/6ème L on Regulation of manufacture, provision and distribution of breastmilk substitutes and protection and promotion of breastfeeding

THE NATIONAL ASSEMBLY ADOPTED
THE PRESIDENT OF THE REPUBLIC DECREED
THE LAW OF FOLLOWING CONTENT:

IN VIEW OF:

The Constitution of 15 September 1992;
The International Code of Marketing of Breastmilk Substitutes;
The Penal Code;
The Labour Code;
The Law No. 49/AN/99/4ème L of 3 July 1999 on National Health Policy;
The Law No. 173/AN/07/5ème L of 22 April 2007 on Reorganisation of the Ministry of Health;
The Decree No. 2008-0083/PRE of 26 March 2008 on Appointment of the Prime Minister;
The Decree No. 2008-0084/PRE of 27 March 2008 on Appointment of Government Members;

The Council of Ministers received at its meeting on 23 February 2010.

Article 1: The purpose of this Law is to protect, promote and support breastfeeding, by the provision of adequate information on the appropriate feeding of infants and regulation of the marketing of BMS.

DEFINITIONS

Article 2: For the purposes of this Law, the following definitions apply:

Breastfeeding: Method of feeding newborns and infants. It can be breastfeeding, artificial or mixt feeding.

- 1) Mother's milk provides the infant with the necessary nutrients for healthy growth and best protection against diseases.
- 2) Exclusive breastfeeding is the method of breastfeeding consisting of giving only breastmilk during the first six months of life.
- 3) Mixt feeding alternates breastfeeding with any other liquid or solid food (fed) by bottle or other container.
- 4) BMS: any food marketed or presented as a partial or total replacement of breastmilk.

BMS for infants: Any food marketed or presented in any other manner as a partial or total replacement of breastmilk.

Feeding bottle: A container used to contain and give BMS to an infant with an artificial nipple or any other liquid food.

Teats and rings: Valves attached to or attachable to feeding bottles used to contain BMS.

Infant foods: Any food marketed or presented in any manner as a complement to breastmilk and fulfilling the nutritional needs of the growing infant from the age of six months onward.

Advertising: Any form of communication, recommendation or commercial activity that aims at or has as effect or likely effect the direct or indirect promotion of a product, with the purpose of making it more known and thus encouraging its sale or consumption.

Industry: Any company manufacturing, distributing or marketing foods for infants and young children.

Distributor: An individual, company or entity of the public or private sector who, directly or indirectly, markets a product under the scope of this Law, at the wholesale or retail level. A wholesale distributor is the sales agent of a manufacturer, his representative, his national distributor or dealer.

Marketing: promotion, distribution, sales and advertising of a product to the public and related information services.

Retailer: A merchant who retails infant and young child foods.

Promotion: Presentation, by whatever means, of a product or service, directly or indirectly, that may influence and created attitudes, beliefs and behaviours, with the aim of promoting its sales or consumption.

Samples: single or small quantities of a product provided without cost, with the aim of promoting the product.

Packaging: Any form of wrapping of products for sales at the retail level, including the container or any other object in which infant foods are sold.

Label: Any tag, brand, mark, pictorial or other descriptive matter, written, printed, stencilled, marked, embossed or impressed on, or attached to, a container of any products within the scope of this Code.

Manufacturer: A corporation or other entity in the public or private sector engaged in the business or function (whether directly or through an agent or through an entity controlled by or under contract with it) of manufacturing a product within the scope of this Code.

Health worker: A person working in a component of a health care system, whether professional or at the community level, including voluntary, unpaid workers.

Health care system: A governmental, nongovernmental or private institutions or organizations engaged, directly or indirectly, in health care for mothers, infants and pregnant women; and nurseries or child-care institutions. It also includes health workers in private practice.

Blue = same as Code

Colostrum: Is the first milk produced by a mother after delivery; it satisfies the immediate essential needs of the infant and has all the complex protection and nutrition elements that the infant needs. It is rich in living cells and antibodies that protect the infant from microbial attacks.

Breastmilk is an appropriate food for infants, a means of acquiring and preserving good health. Breastmilk can feed a child up to two years and beyond. The introduction of other liquid, semi-liquid or solid foods is advisable as of the age of six months. Breastfeeding is all the more recommended in situations of poverty where women do not have access to clean potable water of good quality, and to avoid the high risk of infections.

Article 3: Exclusive breastfeeding is recommended up to six months age, followed by continued breastfeeding in addition to a diversity of other foods, up to the age of two years and more.

Article 4: Obstetric and birth-care facilities, whether governmental or private, shall ensure that mothers can breastfeed their newborns immediately after delivery.

Article 5: Governmental, non-governmental and private organisations, as well as foreign companies with establishments in the country, who employ women, shall ensure conditions that allow for their regular pre- and post-natal care and that they benefit from appropriate maternity leave before and after delivery, as well as breastfeeding breaks. Mothers shall receive information and education about the promotion of breastfeeding and their other rights.

Article 6: All healthcare organisations and all health workers have a duty to protect and promote breastfeeding and ensure that appropriate information and advice is given to mothers on the value and superiority of breastmilk and appropriate feeding practices at each level of child development.

Article 7: Health workers, governmental organisations, communities and the public shall be sensitized to the importance of breastfeeding and its superiority over any other method of infant feeding.

Article 8: Breastfeeding mothers should be supported, by eliminating any obstacles and preventing difficulties they might encounter in healthcare facilities, at their work place or in the community.

Article 9: All health workers concerned shall

- a) be familiarized and regularly informed about appropriate and updated infant and young child feeding practices, about breastfeeding and the role of maternity services;
- b) recommend appropriate complementary feeding practices from the age of six months on, stressing the continuation of breastfeeding.

Article 10: All necessary steps shall be taken

- a) to inform workers as well as employers' organisations about the many advantages of breastfeeding for both infant and mother, as well as the implications for maternity protection at the place of work;
- b) to strengthen national capacity to improve infant and young child feeding practices, particularly by producing methods and criteria to evaluate infant feeding trends and practices.

Article 11: When no breastmilk is available, and under certain regulated conditions, breastmilk can be adequately replaced by a substitute, an industrial breastmilk substitute usually milk-based.

Article 12: When breastfeeding is stopped, it must be followed by appropriate complementary feeding practices, from six months on.

Article 13: Inappropriate marketing practices of breastmilk substitutes and similar products can aggravate health problems. The marketing of infant milks, bottles, teats and other infant foods is regulated according to the International Code of Marketing of Breastmilk Substitutes.

Article 14: Breastmilk substitutes include milk-based products, cereals, vegetable mixes, fruit juices, tea, water, feeding bottles, teats and dummies.

Article 15: When breastmilk substitutes are necessary to feed an infant, health workers shall provide clear explanations about the use of the products and the risks of inappropriate use.

Article 16: There shall be no free or subsidized distribution of breastmilk substitutes or other products covered by the International Code of Marketing of Breastmilk Substitutes in any facility of the healthcare system.

Article 17: When a breastmilk substitute is used (he/she/it?) shall exert extreme care to ensure protection, promotion and support of breastfeeding, taking care that breastmilk substitutes or other products under the scope of the International Code are not given, unless all the following conditions are present:

- The infants need a breastmilk substitute, according to the guiding principles on the main health and socio-economic circumstances under which infants need to be fed a breastmilk substitute;
- Provision of breastmilk substitute is ensured as long as the infants concerned need them.

Article 18: Infants shall only receive appropriate complementary foods after the age of six months. Complementary foods should not be used as breastmilk substitutes before the age of six months.

Article 19: (??) Create an environment favourable to breastfeeding by providing advice to mothers on the superiority of breastfeeding and, where necessary, on the correct use of infant formula.

Article 20: The marketing and use of products that are not in conformity with this Law is prohibited.

Article 21: Provisions covering the following points shall be respected:

- Composition
- Marketing
- Sale and other means of provision of breastmilk substitutes and complementary foods for infants
- Information on labels
- Name of product
- Compulsory text
- Statement on nutritional value
- Sale and information about materials for families and personnel responsible for feeding of infants and young children
- Specific provisions
- Text on packaging of breastmilk substitutes and complementary foods
- Content of materials
- Distribution of materials and samples
- Donation and low-price sale of breastmilk substitutes and complementary foods.

Article 22: Advertising and marketing practices of breastmilk substitutes constitute (sic), in terms of this Law, breastmilk substitutes the foods suitable to feed infants up to six months and sufficient, alone, to cover all their needs.

Article 23: Scientific publications concerning breastmilk substitutes are allowed only in written publications for health workers. It is forbidden to encourage the use or sale of breastmilk substitutes or feeding bottles.

Article 24: Free distribution, in retail trade, of breastmilk substitutes or samples thereof, or of any promotional gift, either directly or indirectly through the health care system or through health workers shall be banned.

Article 25: The decree to implement this Law shall establish:

1. Conditions for the free distribution of documentation on breastmilk substitutes and presentation material of the same.
2. Conditions under which the ban imposed by Article 31 of this Law may, under exceptional circumstances, be waived, in the interest of the health of infants and mothers.
3. The information that shall appear on containers and labels of breastmilk substitutes or infant foods.
4. Donations of bms or feeding bottles or equipment or materials related to bms, for infants or feeding bottles.
5. Information that shall appear in educational and other materials about feeding or contents.

Article 26: Any person who has infringed the provisions of this Law shall be punished with 6 months prison (avec sursis) and a fine of 1,000,000 FD. In case of repetition of the offense, imprisonment term and fine may be doubled.

Corporate entities are fully responsible and held responsible for the payment of fines and legal costs of their leaders or representatives.

Article 27: Regulatory texts shall set the measure for implementation of this Law, which shall be registered and published in the Official Journal of the Republic of Djibouti as soon as it is promulgated.

Djibouti, 17 August 2010
The President of the Republic
Head of State
ISMAIL OMAR GUELLEH