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

ARRANGEMENT OF SECTIONS

SECTIONS

1. Short title, extent and commencement.
2. Definitions.
3. Certain prohibitions in relation to infant milk substitutes, feeding bottles and infant foods.
4. Prohibition of incentives for the use or sale of infant milk substitutes or feeding bottles.
5. Donations of infant milk substitutes or feeding bottles or equipment of materials relating thereto.
6. Information on containers and labels of infant milk substitutes of infant foods.
7. Educational and other materials relating to feeding of infants to contain certain particulars.
8. Health care system.
9. Inducement to health worker for promoting use of infant milk substitutes, etc.
10. Special provision relating to employees of person who produces, supplies, distributes or sells infant milk substitutes, etc.
11. Standards of infant milk substitutes, feeding bottles or infant foods.
12. Powers of entry and search.
13. Power to seize infant milk substitutes, etc., or containers thereof.
14. Confiscation.
15. Power to give option to pay cost in lieu of confiscation.
16. Confiscation not to interfere with other punishments.
17. Adjudication.
18. Giving of opportunity to the owner of the seized infant milk substitute or feeding bottle or infant food or container thereof.
19. Appeal.
20. Penalty.
21. Cognizance of offences.
22. Offences by companies.
23. Offences to be cognizable and bailable.
24. Protection of action taken in good faith.
25. Application of Act 37 of 1954 not barred.
26. Power to make rules.

IndiaCode

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

ACT NO. 41 OF 1992

[29*th 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. Short title, extent and commencement.—(*1*) This Act may be called the Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date[1] as the Central Government may, by notification in the Official Gazette, appoint.

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

[2][(*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 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, [3][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 [4][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 [5][for infant up to the age of two years];

(*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;

[6][(*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.]

1. 1st August 1993, *vide* notification No. G.S.R. 527(E), dated 31st July, 1993, *see* Gazette of India, Extraordinary, Part I, sec. 3(*i*).
2. Subs. by Act 38 of 2003, s. 2, for clause (*a*) (w.e.f. 1-11-2003).
3. Subs. by s. 2, *ibid.*, for "but does not include a pharmacy or drug store" (w.e.f. 1-11-2003).
4. Subs. by s. 2, *ibid.*, for "after the age of four months" (w.e.f. 1-11-2003).
5. Subs. by s. 2, *ibid.*, for ", whether or not it is suitable for such replacement" (w.e.f. 1-11-2003).
6. Ins. by s. 2, *ibid.* (w.e.f. 1-11-2003).

(*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. Certain prohibitions in relation to infant milk substitutes, feeding bottles and infant foods.—No person shall—

(*a*) advertise, or take part in the publication of any advertisement, for the distribution, sale or supply of infant milk substitutes [1][, feeding bottles or infant foods]; or

(*b*) give an impression or create a belief in any manner that feeding of [2][infant milk substitutes and infant foods are] equivalent to, or better than, mother's milk; or

[3][(*c*) take part in the promotion of infant milk substitutes, feeding bottles or infant foods.]

4. Prohibition of incentives for use or sale of infant milk substitutes or [4][feeding bottles or infant foods].—No person shall—

(*a*) supply or distribute samples of infant milk substitutes or [4][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 [4][feeding bottles or infant foods].

5. Donations of infant milk substitutes or feeding or equipment or materials relating thereto.—Subject to the provisions of sub-section (*4*) of section 8, no person shall donate or distribute—

(*a*) infant milk substitutes or [5][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 [5][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. Information on containers and labels of infant milk substitutes or infant foods.—(*1*) Without prejudice to the provisions of [6][the Food Safety and Standards Act, 2006] 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;

1. Subs. by Act 38 of 2003, s. 3, for "or feeding bottles" (w.e.f. 1-11-2003).
2. Subs. by s. 3, *ibid.*, for "infant milk substitutes is" (w.e.f. 1-11-2003).
3. Subs. by s. 3, *ibid.*, for clause (*c*) (w.e.f. 1-11-2003).
4. Subs. by s. 4, *ibid.*, for "feeding bottles" (w.e.f. 1-11-2003).
5. Subs. by s. 5, *ibid.*, for "feeding bottles" (w.e.f. 1-11-2003).
6. Subs. by Act 34 of 2006, for "the Prevention of the Food Adulteration Act, 1954 (37 of 1954)" (w.e.f. 29-7-2010).

(*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 [1][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 [1][infant milk substitute 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. Educational and other materials relating to feeding of infants to contain certain particulars.—(*1*) [2][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 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;

(*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;

[3][(*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 [4][feeding bottles or infant foods].

8. Health care system.—(*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

1. Subs. by Act 38 of 2003, s. 6, for "infant milk substitute" (w.e.f. 1-11-2003).
2. Subs. by s. 7, *ibid.*, for "Every educational or other material" (w.e.f. 1-11-2003).
3. Ins. by s. 7, *ibid.* (w.e.f. 1-11-2003).
4. Subs. by s. 7, *ibid.*, for "feeding bottles" (w.e.f. 1-11-2003).

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.

9. Inducement to health worker for promoting use of infant milk substitutes, etc.—(*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.

[1][(*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.]

10. Special provision relating to employees of person who produces, supplies distributes or sells infant milk substitutes, etc.—(*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. Standards of infant milk substitutes, feeding bottles or infant foods.—(*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 [2][the Food Safety and Standards Act, 2006], 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 (63 of 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 [2][the Food Safety and Standards Act, 2006], 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. Powers of entry and search.—(*1*) [3][Any Food Safety Officer appointed under the Food Safety and Standards Act, 2006] (hereinafter referred to as the [4][the Food Safety Officer]) 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.

(*2*) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), relating to searches and seizures shall, so far as may be, apply to every search or seizure made under this Act.

---

1. Subs. by Act 38 of 2003, s. 8, for sub-section (*2*) (w.e.f. 1-11-2003).
2. Subs. by Act 34 of 2006, s. 100, for "the Prevention of Food Adulteration Act, 1954 (37 of 1954)" (w.e.f. 29-7-2010).
3. Subs. by s. 100, *ibid.*, for "Any food inspector appointed under section 9 of the Prevention of Food Adulteration Act, 1954 (37 of 1954) (w.e.f. 29-7-2010).
4. Subs. by s. 100, *ibid*., for "Food Inspector" (w.e.f. 29-7-2010).

13. Power to seize infant milk substitutes, etc., or containers thereof.—(*1*) If any [1][the Food Safety Officer] 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 [1][the Food Safety Officer] 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. Confiscation.—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. Power to give option to pay cost in lieu of confiscation.—(*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. Confiscation not to interfere with other punishments.—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. Adjudication.—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;

(*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. Giving of opportunity to the owner of the seized infant milk substitute or feeding bottle or infant food or container thereof.—(*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 (5 of 1908), shall, so far as may be, apply to every proceeding referred to in sub-section (*1*).

1. Subs. by Act 34 of 2006, s. 100, for "Food Inspector" (w.e.f. 29-7-2010).

19. Appeal.—(*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. Penalty.—(*1*) Any person who contravenes the provisions of section 3, 4, 5, 7, 8, 9, 10 or sub-section (*2*) of [1][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-section (*1*) of [1][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 judgment, 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. Cognizance of offences.—(*1*) Save as otherwise provided in section 173 of the Code of Criminal Procedure, 1973 (2 of 1974), no court shall take cognizance of any offence punishable under this Act except upon a complaint in writing made by—

[2][(*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 (34 of 2006); 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 (2 of 1974), the Assistant Public Prosecutor for that court shall take charge of the case and conduct the prosecution.

22. Offences by companies.—(*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.

1. Subs. by Act 38 of 2003, s. 9, for "section 11" (w.e.f. 1-11-2003).
2. Subs. by Act 34 of 2006, s. 100, for clause (*a*) (w.e.f. 29-7-2010).

*Explanation***.**—For the purposes of this section,—

(*a*) "company" means any body corporate and includes a firm of other association of individuals; and

(*b*) "director", in relation to a firm, means a partner in the firm.

23. Offences to be cognizable and bailable.—Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), an offence punishable under this Act shall be—

(*a*) bailable;

(*b*) cognizable.

24. Protection of action taken in good faith.—No suit, prosecution or other legal proceeding shall lie against the Central Government or any State Government or any officer of the Central Government [1][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. Application of Act 37 of 1954 not barred.—The provisions of this Act, or the rules made thereunder shall be in addition to, and not in derogation of, [2][the Food Safety and Standards Act, 2006], or the rules made thereunder.

26. Power to make rules.—(*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 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.

1. Subs. by Act 38 of 2003, s. 10, for "or of any State Government" (w.e.f. 1-11-2003).
2. Subs. by Act 34 of 2006, s. 100, for "the Prevention of Food Adulteration Act, 1954 (37 of 1954)" (w.e.f. 29-7-2010).