

THE KHYBER PAKHTUNKHWA PROTECTION OF BREAST-FEEDING

AND CHILD NUTRITION ACT, 2015.

(KHYBER PAKHTUNKHWA ACT NO. VII OF 2015)

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AND CHILD NUTRITION ACT, 2015.

(KHYBER PAKHTUNKHWA ACT NO. VII OF 2015)

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the Khyber Pakhtunkhwa in the Gazette of Khyber Pakhtunkhwa
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AN
ACT

to provide for the protection of breast-feeding and nutrition
for infants and young children in the Province of the Khyber Pakhtunkhwa

WHEREAS it is expedient to ensure safe and adequate nutrition for infants and
young children by promoting and protecting breast-feeding in the Province of the Khyber
Pakhtunkhwa, and by regulating the marketing and promotion of designated products
including breast milk substitutes, and of feeding bottles, valves for feeding bottles, nipple
shields, teats and pacifier and to provide for matters connected therewith or ancillary
thereto;

It is hereby enacted as follows:

CHAPTER- I
INTRODUCTORY

1. Short title, extent and commencement.---(1) This Act may be called the Khyber
Pakhtunkhwa Protection of Breast-Feeding and Child Nutrition Act, 2015.

(2) It extends to the whole of the Province of the Khyber Pakhtunkhwa.

(3) It shall come into force at once.

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

(a) "advertise" or "advertising" means to make any representation by any means
whatsoever for the purpose of promoting sale or use of a designated product;

(b) "Board" means the Khyber Pakhtunkhwa Infant Feeding Board constituted
under section 3 of this Act;

(c) "Committee" means the District Infant Feeding Committee constituted under
section 6 of this Act;

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"complementary food" means any food suitable as an addition to breast milk or to a breast milk substitute when either becomes insufficient to satisfy the nutritional requirements of an infant, also commonly called weaning food or breast milk and young child supplement;

"container" means any form of packaging of a designated product for sale as retail unit;

"distributor" means any person engaged in the business of marketing, whether wholesale or retail, and includes a person providing product public relations and information services;

"designated product" means-

(i) any milk manufactured, marketed and promoted for the use of an infant or otherwise represented as a partial or total replacement for mother's milk, whether or not it is suitable for such replacement;

(ii) any product manufactured, marketed, promoted or otherwise represented as a complement to mother's milk to meet the growing nutritional needs of an infant;

(iii) any feeding bottle, teat, valve for feeding bottle, pacifier or nipple shield; and

(iv) such other product as Government may, by notification in the official Gazette, declare to be a designated product for the purposes of this Act;

"feeding bottle" means any bottle or receptacle marketed for the purpose of feeding an infant or a young child;

"follow-up formula" means an animal or vegetable based milk product marketed for infants older than six months or young child and formulated industrially in accordance with the standards of the Codex Alimentarius Commission and the Codex Code of Hygienic Practice for Foods for infants and children;

"Government" means the Government of the Khyber Pakhtunkhwa;

"health care facility" means a Government, Non-Government, Semi-Government or private institution or organization, or private medical practitioner engaged, directly or indirectly, in the provision of health care to infants, young children, pregnant women or mothers, and includes a day-care center, nursery and any other child-care institution;

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"health professional" means a medical practitioner, nurse, nutritionist or such other person as Government may, by notification in the official Gazette, specify;

"health worker" means any person providing services to infants, young children, pregnant women or mothers as a medical practitioner, and includes a health professional, homeopath practitioner, hakim, nurse, midwife, traditional birth attendant, pharmacist, dispensing chemist, nutritionist, hospital administrator or employee, whether professional or not, whether paid or not, and any other person providing such services as the Government may, by notification in the official Gazette, specify;

"infant" means a child up to the age of twelve months;

"infant-formula" means an animal or vegetable based milk product manufactured in accordance with the standards recommended by the Codex Alimentarius Commission and the Codex Code of Hygienic Practice for Foods for infants and children to approximate the normal nutritional requirements of an infant up to the age of six months;

"inspector" means any person designated as Inspector under section 14 of this Act;

"label" means any tag, mark, pictorial or other descriptive matter which is written, printed, stenciled, marked, embossed, attached or otherwise appearing on a container;

"manufacturer" means a person, corporation or other entity engaged or involved in the business of producing, processing, compounding, formulating, filling, packing, repacking, altering, ornamenting, finishing and labeling a designated product, whether directly, through an agent, or through a person controlled by or under an agreement;

"market" means any method of introducing or selling a designated product, and includes, but not limited to, promotion, distribution, advertising,

distribution of samples, product public relations and product information services;

"nipple shield" means an appliance with a teat for a baby to suck from the breast;

"pacifier or dummy" means an artificial teat for babies to suck;

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person" means any individual, partnership, association, unincorporated

organization, company, co-operative, corporation, trustee, agent or any group of persons;

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"prescribed" means prescribed by rules;

"promote" or "promotion" means any method of introducing a person to, or familiarizing a person with, a designated product or inducing a person to buy or use a designated product, and includes, but not limited to, advertising, offer of samples or gifts, distribution of literature, public relations and information services related to a designated product, but does not include any prescription issued by a medical practitioner based on health grounds;

"Province" means the Province of the Khyber Pakhtunkhwa;

"rules" mean rules made under this Act;

"sample" means any quantity of a designated product provided free of cost;
and

"young child" means a child from the age of twelve months up to the age of two years.

CHAPTER- II ADMINISTRATION

3. Khyber Pakhtunkhwa Infant Feeding Board.---(1) Government shall, by notification in the official Gazette, constitute the Board to be known as the Khyber Pakhtunkhwa Infant Feeding Board.

(2)

The Board shall consist of-

(i) Minister for Health, Khyber Pakhtunkhwa; Chairman

(ii) Additional Secretary, Health Department; Member

(iii) President, Pakistan Pediatric Association, Member
Khyber Pakhtunkhwa;

(iv) a Professor of Gynae and Obstetrics to be Member
nominated by Government;

(v) Director, Provincial Health Services Member
Academy;

(vi) a representative of Khyber Medical Member
University;

(vii) Secretary, Health Regulatory Authority; Member

- (viii) Additional Secretary, Home Department; Member
- (ix) a representative of Food Safety Authority; Member
- (x) a representative of the industry involved in Member

the manufacturing and marketing of
designated infant milk and food products to
be nominated by Government; and

- (xi) Director, Health Services, Khyber Member/Secretary
Pakhtunkhwa.

(3) The members of the Board at clauses (iv) and (x) shall hold office for such term as Government may determine.

(4) The members of the Board at clauses (iv) and (x), may resign from his office by serving one month's notice in writing to Government.

4. Powers and functions of the Board.---The Board shall-

- (a) receive reports of violations of the provisions of this Act or the rules;
- (b) recommend investigation of cases to Government against

manufactures, distributors or health workers found to be violating
the provisions of this Act or the rules;

- (c) plan for co-ordinate the dissemination of informational and educational materials on the topic of infant feeding and recommend continuing education courses for health workers on topics related to this Act; and

- (d) advise Government, on policies or guidelines for the promotion and protection of breast-feeding, and matters relating to designated products especially infant and young child nutrition, particularly through education campaigns, and to organize health education on the same for health workers and general public.

5. Meeting of the Board.---(1) The Secretary of the Board shall call meetings of the Board on the direction of the Chairman and shall maintain minutes and record of such meetings.

(2) The Chairman shall preside over the meeting and in the absence of the Chairman, any member of the Board to be nominated by the Chairman shall preside over the meeting.

(3) The sitting of the Board shall be at Peshawar.

6. District Infant Feeding Committee--- (1) Government shall, by notification in the official Gazette, constitute District Infant Feeding Committee for carrying out the activities

provided in this Act at district level.

(2) The Committee shall consist of-

(i) Nazim, District Council of the district Chairman concerned;

(ii) Deputy Commissioner of the district Member concerned;

(iii) Coordinator Public Health of the district Member concerned;

(iv) two Female Members of District Council of Member

the concerned district;

(v) District Khateeb/Religious Leader of the Member district concerned;

(vi) three representatives of various NGOs Members working in the Health Sector in the district concerned;

(vii) two renowned Social Worker form the Members

district concerned; and

(viii) District Health Officer of the district Member/Secretary

concerned.

(3) The members of the Committee other than ex-officio members shall be nominated by the Nazim of the District concerned.

(4) The Committee may coped such other persons as it may deemed appropriate.

(5) The members of the Committee other than ex-officio members may resign from his office by serving one month notice in writing to Nazim.

7. Powers and functions of the District Breast Feeding Promotion Committee---
The Committee shall-

(a) plan and promote Breast Feeding in the district through dissemination of informational and educational materials and organize health education sessions on breast feeding for general public;

(b) arrange continuing education courses for health workers on topics related promotion and protection of breast feeding;

(c) report to the Board, violations of the provisions of this Act or the rules made thereunder, in their respective district; and

(d) perform any other function assigned by the Board.

8. Meeting of the Committee.--- The Secretary of the Committee, shall call meetings of the Committee on the direction of the Chairman and maintain the record and minutes of the meetings.

CHAPTER- III PROHIBITIONS

9. Prohibited practices.---(1) No person shall, in any form whatsoever, promote any designated product except as provided for under this Act.

(2) No person shall in any manner assert that any designated product is a substitute for mother's milk, or that it is equivalent to or comparable with or superior to mother's milk.

(3) No manufacturer or distributor shall offer, or make gift or contributions of any kind, or pay to any extent for any reason whatsoever, or give any kind of benefit, to a health worker or his family, or any personnel employed directly or indirectly in a health care facility, or any member of the Board or the Committee or the employees thereof.

(4) No manufacturer or distributor shall donate any designated product and equipment or services related to a designated product free of charge or at low cost to a health care facility, or offer or give any benefit to a professional association of medical practitioners for this purpose.

(5) No person other than a health worker who is not engaged by a manufacturer or distributor shall instruct any user on the need and proper preparation and use of any designated product:

Provided that a manufacturer or a distributor may instruct any user on the need and proper preparation and use of any designated product in accordance with the provisions of section 10.

(6) No distributor or manufacturer shall in furtherance of or for the purposes of his business have contact directly or indirectly, with general public within a health care facility.

(7) No manufacturer, distributor or any person engaged by them shall produce or distribute any educational or informational material relating to infant and young child feeding:

Provided that any educational or informational material relating to a designated product may be provided by a manufacturer or distributor to a health professional subject to the prescribed conditions, and that the same shall be restricted to scientific and factual matters, and shall not imply or create a belief that bottle-feeding is equivalent or superior to breast-feeding.

10. Prohibitions and guidance relating to labels of designated products.---(1) No designated product shall be marketed or sold in the Province unless its label is in accordance with the provisions of this Act and the rules, and approved in the manner as may be prescribed:

Provided that for any designated product already being sold in the Province, a manufacturer or a distributor shall provide for the label of such product within one hundred and eighty days of its approval in the manner as may be prescribed.

(2) Label of a designated product shall be designed so as not to discourage breast feeding and shall provide the necessary information in Urdu about the appropriate use of such product and the age before which a designated product should not be used.

(3) Every container shall have a clear, conspicuous and easily understood message printed on it, or on a label that cannot become separated from it, which shall be written in Urdu, and if so desired by the manufacturers, in English as well.

(4) The label shall-

(a) not contain anything that may discourage breast-feeding;

(b) contain a conspicuous notice in bold characters in the prescribed height stating the following, namely:

"MOTHER'S MILK IS BEST FOR YOUR BABY AND
HELPS IN PREVENTING DIARRHOEA AND OTHER
ILLNESSES";

(c) instead of or in addition to the notice specified in clause (b), contain any other message as may be prescribed with respect to any designated product;

(d) neither use expression such as materialized or humanized or equivalent nor contain any comparison with mother's milk;

(e) not show photographs, drawings or graphics, except that graphics may be used to illustrate the correct method of preparation;

(f) contain the name and address of manufacturer and of wholesale distributor if a designated product is an imported item; and

(g) except for bottles, teats, pacifiers and nipple shields, contain appropriate instructions in Urdu for the correct preparation in words and easily understood graphics, and indicate the ingredients, composition and analysis of a designated product, required storage conditions, batch number and expiry date, and contain any warning as may be prescribed for the implementation of this Act in a manner of the prescribed height in Urdu or regional language.

CHAPTER- IV INFORMATIONAL AND EDUCATIONAL MATERIALS

11. Informational and educational materials.---(1) Any person who produces or distributes any informational and educational materials referred in this section shall, before dissemination submit copies thereof to the Board.

(2) Government shall in consultation with the Board, arrange for and approve the dissemination of objective and consistent informational and educational materials on infant and young child feeding, excluding medical literature and may, by notification in the official Gazette, publish such instructions, guidelines or policies as it seems necessary or appropriate, for the purposes of producing and distributing informational and educational materials.

(3) Informational and educational materials, whether written, audio or visual, which refer to infant feeding shall contain only correct information and shall not use any pictures, graphics or text that encourage bottle-feeding or discourage breast-feeding.

12. Health workers and health care facilities.---(1) Health workers shall encourage, support and protect breast-feeding. They shall be expected to know the provisions of this Act, in particular, any instructions, guidelines or policies published under section 11, and to implement the same whenever possible.

(2) Health workers shall not accept or give samples of any designated product to any person, particularly pregnant women, mothers of infants and young children, or members of their families.

(3) Health workers and their associations shall not promote in any way whatsoever, any designated product.

(4) Health workers falling within the jurisdiction of Government shall make in writing a report to the Board, of any offer of a gift or other financial benefit made by a manufacturer or distributor or any other contravention of the provisions of this Act or the rules.

(5) The abstracts of this Act as may be prescribed by Government shall be posted in some conspicuous place in every health care facility in Urdu or in such other language as may be deemed appropriate by Government.

(6) Disciplinary action shall be initiated by Government, on the recommendation of the Board, against the Health Worker or Health Professionals, who violates the provisions of this Act.

CHAPTER- V REGISTRATION OF DESIGNATED PRODUCTS AND QUALITY ASSURANCE

13. Quality assurance.---(1) No designated product shall be manufactured, sold or otherwise distributed in the Province unless it is formulated industrially in accordance with the standards recommended by the Codex Alimentarius Commission and the Codex Code of Hygienic Practice for foods for infants and children, and in addition, shall meet such applicable standards specified in this Act and the rules.

(2) The Board may require an Inspector or any other person invested with powers under this Act to test any designated product sold in the Province in order to determine whether it is fit for human consumption.

(3) A designated product that does not meet the standards for use in the country of manufacture shall not be sold in the Province.

(4) A designated product that has reached the expiry date shall not be marketed, sold or distributed.

(5) A designated product shall be sold only in the original container in order to prevent quality deterioration, adulteration or contamination thereof.

14. Investigation and inspection.---(1) Government may designate any number of persons professionally qualified with respect to infant and young child nutrition as Inspectors to conduct inspection investigation and prosecution for the purposes of this Act and to monitor compliance with the provisions of this Act.

(2) After an inspection for the purpose of this Act, an Inspector shall refer the case, and if so required, provide one portion of the sample of a designated product or the whole of a designated product if it is such that it cannot be divided, to the Board.

15. Investigation and filling of a case.---(1) Upon completion of an investigation and receipt of a complete report and after giving the concerned party an opportunity of being heard, the Board shall recommend to Government whether or not to institute prosecution under this Act.

(2) No court inferior to the court of Magistrate of the 1st class shall take cognizance of any offence punishable under this Act, except on a report in writing by an officer authorized by Government, or any other person as Government may by notification in the official Gazette, authorize in this behalf.

(3) An offence punishable under this Act shall be non-cognizable.

16. Appeal.---(1) Any person sentenced by a Court under this Act may prefer an Appeal to the Session Court within thirty days of the order.

(2) The provisions of sections 5 and 12 of the Limitation Act, 1908 (IX of 1908), shall be applicable to an appeal preferred under sub-section (1).

17. Public enforcement.--- Any person whosoever may make an application in writing to the Board concerning contravention of any of the provisions of this Act or the rules or in the event of an investigation reveals an offence, the Board shall follow the procedure specified in section 15 for recommending prosecution.

CHAPTER- VI PENALTIES AND PROCEDURES

18. Revocation or suspension of licence, etc.---(1) Where any person, except a medical practitioner, has been found to have contravened any of the provisions of this Act or the rules, the concerned authority upon written recommendation of the Board and after giving such person an opportunity of being heard, may recommend to Government to suspend or cancel, his licence for the practice of his profession or occupation or for the pursuit of his business.

(2) In the case of a contravention involving a medical practitioner registered under the Medical and Dental Council Act, 1962 (XXXII of 1962), the matter shall be referred to the Pakistan Medical and Dental Council for further action.

19. Penalties.---(1) Any manufacture or distributor who contravenes any of the provisions of section 9 and 10, sub-sections (1), (3), (4) and (5) of section 13, shall be punishable with imprisonment for a term which may extend to two years, or with fine which shall not be less than fifty thousand rupees or more than five hundred thousand rupees, or both.

(2) Any other person, who contravenes any of the provision of this Act, or the rules made thereunder, shall be punishable with a fine, which may extend to five hundred thousand rupees.

20. Responsibility of an individual for the act of a company, corporation, partnership, or an institution.---Where the offence is found to have been committed by a company, corporation, partnership or an institution, as a result of an institutional or operational instructions issued by it or implemented by it, the company, corporation, partnership or the institution may be found guilty in addition to the individuals directly responsible for the commission of such offence.

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

22. Overriding effect.---The provisions of this Act shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force.

23. Repeal.--- The Protection of Breast-Feeding and Child Nutrition Ordinance, 2002 (Ordinance No. XCIII of 2002) is hereby repealed to the extent of the Province of the Khyber Pakhtunkhwa.