No. 18 of 2023.

***Infants and Young Children's Food Supply (Control) Act* 2023.**

Certified on : 21 DEC 2023

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ARRANGEMENT OF SECTIONS.

PART I. - PRELIMINARY.

No. 18 of 2023.

AN ACT

entitled

***Infants and Young Children's Food Supply (Control) Act* 2023,**

Being an Act to -

(*a*) promote and safeguard the health and nutrition of infants and young children; and
(*b*) reduce and prevent malnutrition in infants and young children; and
(*c*) develop or adopt standards for feeding products; and
(*d*) regulate the Dealers of commercially available complimentary food and feeding products; and
(*e*) repeal the ***Baby Feeds Supplies (Control) Act* 1977** (Chapter 365),

MADE by the National Parliament to come into operation in accordance with a notice in the National Gazette by the Head of State, acting with, and in accordance with, the advice of the Minister.

PART I. - PRELIMINARY.

1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.

This Act, to the extent that it regulates or restricts a right or freedom referred to in Subdivision III.3C ***(Qualified Rights)***, namely -

(*a*) the right from arbitrary search and entry conferred by Section 44; and
(*b*) the right to freedom of expression conferred by Section 46; and
(*c*) the right to reasonable privacy conferred by Section 49; and
(*d*) the right to freedom of information conferred by Section 51,

of the ***Constitution***, is a law that is made subject to Section 38 of the ***Constitution*** taking account of the National Goals and Directive Principles and Basic Social Obligations for the purpose of giving effect to the public interest in public order, public welfare, and to protect and exercise the rights and freedoms of others in respect of access to affordable legal aid and related services, to the extent that it is reasonably justifiable in a democratic society having proper regard to the rights and dignity of all mankind.

2. INTERPRETATION.

In this Act, unless the contrary intention appears -

"advertisement" means an advertisement under Section 36;
"apparatus" means the whole or any part of a utensil or appliance used for collecting, preparing, storing, serving, delivery or taking of food and is designated as a feeding product under List A of Schedule 1 or as declared by the Minister under Section 4;
"artificial feeding" means feeding with any manufactured food product which replaces breastmilk either partially or totally;
"authorisation" means a written authorisation referred to under Section 17;
"authorised person" means a person referred to under Section 18;
"bottle feeding" means feeding liquid or semi-solid food from a feeding bottle with a teat;
"brand name" means a name given by the manufacturer to a product or range of products;
"breast-milk substitute" means any milk (or product that could be used to replace milk) in either liquid or powdered form, that is specifically marketed for feeding infants or young children and including, but not limited to infant formula, follow-up formula and growing-up milk designated under List B of Schedule 1 or declared by the Minister under Section 4;

"commercially available complementary food" means a complementary food product that is commercially processed and available for sale designated under List C of Schedule 1 or declare by the Minister under Section 4;

"complementary food" means any food suitable or represented as suitable as an addition to breastmilk or a breastmilk substitute fed to an infant from the age of six months;

"container" means any form of packaging of a feeding product for sale as a retail unit, including wrappers;

"cross-promotion" means the use of similar brand names, packaging designs, labels, text, images, colour schemes, symbols or slogans or other means for the purpose of promoting another product described under Section 39;

"Dealer" means a manufacturer or distributor who supplies feeding products;

"Departmental Head" means the Departmental Head of the Department responsible for health matters;

"distributor" means a person, a corporation or any other entity engaged in the business of marketing any feeding product, whether wholesale or retail;

"dummy" means an artificial teat of any shape and substance for infants and young children to suck and is also referred to as a pacifier;

"feeding bottle" means a device under Section 11 used to feed liquids to infants and young children;

"feeding product" means a product designated under List A, List B and List C of Schedule 1 or such other products as may be declared by the Minister under Section 4 to be a feeding product;

"follow-up formula" means a milk or milk-like product of animal or vegetable origin formulated industrially in accordance with the applicable Codex Alimentarius Standard for Follow-up Formula referred to under Section 30;

"health care facility" means a public or private institution or organisation or private practitioner engaged directly or indirectly in the provision of health care or in health care education and includes day-care centres, nurseries or other infant-care facilities;

"health claim" means a health claim under Section 13;

"health professional" means a health worker with a professional degree, diploma or licence, such as a medical practitioner, a registered nurse or a midwife;

"Health Promotion Trust Fund" means the Health Promotion Trust Fund established under the ***Tobacco Control Act*** **2016**;

"health worker" means a person providing health care services in a health care facility or in training to provide health care services in a health care facility, whether professional or non-professional including voluntary unpaid workers;

"infant" means a child from birth up to the age of 12 months;

"infant formula" means a milk or milk-like product of animal or vegetable origin formulated industrially in accordance with the applicable Codex Alimentarius Standard for Infant Formula intended to satisfy, by itself, the nutritional requirements of infants;

"inspector" means any class of person or persons appointed under Section 41;

"label" means a label under Section 28;

"logo" means an emblem, picture or symbol by means of which a company or a feeding product is identified;

"manufacturer" means a person, corporation or other entity engaged in the business of manufacturing a commercially available complementary food or feeding product whether directly, through an agent, or through a person controlled by or under an agreement with and includes any entity or person working to further the manufacturer's interest;

"market" means to promote, distribute, sell or advertise a feeding product and includes product public relations and information services;

"nutrition claim" means a nutrient claim under Section 13;

"pharmacist" means a person registered as a pharmacist under the ***Medicine and Cosmetics Act*** **1999**;

"promote" means to employ any method of directly or indirectly encouraging a person to purchase or use a feeding product;
"sample" means a single or small quantity of a feeding product provided without cost;
"sponsorship" means any financial or in-kind assistance to a person or a group of persons or an entity, whether public or private, and "sponsor" has a corresponding meaning;
"supply" means to provide to another person whether by means of sale or otherwise and whether or not for reward;
"teat" means the part of a feeding bottle from which the baby sucks liquid and is also referred to as a nipple;
"young child" means a child from the age of 12 to 36 months;
"young child formula" means an industrially formulated milk or milk-like product of animal or vegetable origin that is marketed or otherwise represented as suitable for feeding young children from 12 months of age and is also referred to as "growing up milk", "formulated milk" or "toddler milk".

3. ACT TO BIND THE STATE.
This Act binds the State.

4. DECLARATION BY THE MINISTER.
(1) The Minister shall make a declaration of feeding products that are subject to the requirements of this Act.

(2) The declaration is in addition to the feeding products designated under Schedule 1.

PART II. - ADMINISTRATION.

Division 1. - General Responsibilities.

5. RESPONSIBILITIES OF THE DEPARTMENTAL HEAD.
The Departmental Head shall be responsible for the following:
(*a*) to set the national standards for an apparatus; and
(*b*) to publish and disseminate materials on infant and young children feeding product; and
(*c*) to authorise the distribution and sale of feeding products under List A and B of Schedule 1; and
(*d*) to keep a register of all Dealers and feeding products supplied by Dealers in Papua New Guinea; and
(*e*) to issue labelling requirements for manufacturers of feeding products designated under Schedule 1 or declared by the Minister under Section 4; and
(*f*) to monitor and enforce the requirements under this Act through the inspectors appointed under Section 41.

6. TECHNICAL ADVISORY COMMITTEE.
(1) A Technical Advisory Committee is established.

(2) The functions of the Committee are -
(*a*) to provide advice on standards applicable to feeding products; and
(*b*) to make recommendations on standards for feeding products to comply with in terms of the nutrient components of the product; and
(*c*) to act on directions of the Food Sanitation Council or the Pharmaceutical Board on matters under this Act,
and any other matters under this Act.

7. COMPOSITION OF THE COMMITTEE.

(1) The Committee shall comprise of the following:

(*a*) the officer-in-charge of nutrition in the Department responsible for health matters, ***ex-officio***; and

(*b*) the officer-in-charge of food safety in the Department responsible for health matters, ***ex-officio***; and

(*c*) the officer-in-charge of product registration in the Department responsible for health matters, ***ex-officio***; and

(*d*) a representative of the United Nations International Children's Emergency Fund; and

(*e*) a representative from the Paediatric Society of Papua New Guinea; and

(*f*) the CODEX focal person for Papua New Guinea, ***ex-officio***.

(2) The members listed in Paragraphs (*d*) and (*e*) shall be nominated by the heads of their organisations.

Division 2. - Standards.

8. STANDARDS FOR BREAST-MILK SUBSTITUTES.

In consistent with the Departmental Head's responsibilities under Section 5 -

(*a*) the National Department of Health may adopt or develop standards for breast-milk substitutes for manufacturing and distribution purposes; and

(*b*) a breastmilk substitute that does not meet the standards shall not be imported or distributed by Dealers.

9. STANDARDS FOR APPARATUSES.

(1) In consistent with the Departmental Head's responsibilities under Section 5 -

(*a*) the National Department of Health may adopt or develop standards for apparatuses for manufacturing and distribution purposes; and

(*b*) a Dealer must not import or distribute an apparatus that does not meet the standards required by this Act.

(2) A Dealer who does not comply with Section 8 and Section 9 by importing or distributing an apparatus that does not meet the standards, commits an offence.

Penalty: A fine not exceeding K50,000.00 or for continuous commission of the offence a fine not exceeding K100,000.00 or imprisonment for a term not exceeding five years.

Division 3. - Material and information.

10. MATERIALS ON INFANT AND YOUNG CHILD FEEDING.

(1) Any information and educational materials, whether written, audio or visual, which refers to infant and young child feeding product shall -

(*a*) contain only correct and current information and shall not use any pictures or text that -

(i) encourages artificial feeding, or the use of feeding bottles; or

(ii) discourage breastfeeding; and

(*b*) be written in English; and

(*c*) not give an impression or create a belief that a feeding product is equivalent to, comparable with or superior to breastmilk or to breastfeeding; and

(*d*) not contain the brand name or logo of any feeding product nor of any manufacturer or distributor of a feeding product.

(2) Subsection (1) does not apply to information about feeding products intended for health professionals.

11. MATERIALS ABOUT ARTIFICIAL FEEDING OR FEEDING BOTTLES.

(1) For purposes of this section, a feeding bottle -

(*a*) must be composed of a teat and a receptacle container to hold the liquid; and

(*b*) may have a locking ring to attach the teat to the container.

(2) If the materials referred to in Section 10 includes information or educational material of artificial feeding or the use of a feeding bottle, the material or the educational material must also include the following:

(*a*) instructions for the proper preparation, storage and use of the product including cleaning and sterilisation of feeding utensils; and

(*b*) how to feed infants with a cup; and

(*c*) the health risks of artificial feeding, the use of a feeding bottle and improper preparation of the product; and

(*d*) any other information detailed under a Regulation under this Act.

(3) Except as provided as a product information for health professionals in Section 12, materials that include the topic of artificial feeding shall not contain -

(*a*) any health claims; or

(*b*) nutrition claims; or

(*c*) other representation that states or suggests that a relationship exists between -

(i) the product or constituent in the product; or

(ii) the product and health; or

(iii) the product and physiological role of a nutrient in growth, development or normal functions of the body.

12. PRODUCT INFORMATION FOR HEALTH PROFESSIONALS.

Manufacturers and distributors may give materials about feeding products to health professionals on request of the health professional if the materials -

(*a*) are restricted to scientific and factual matters regarding the technical aspects and methods of use of the product; and

(*b*) provide references to published and peer-reviewed studies to support any representation or claim that states or suggests that a relationship exists between the product or a constituent in the product and health, growth or development; and

(*c*) are otherwise in accordance with Section 10 and Section 11 of this Act.

13. HEALTH CLAIM AND NUTRITION CLAIM.

(1) For purposes of Section 11(3), health claim means -

(*a*) a state of complete physical, mental and social wellbeing and not merely the absence of disease or infirmity; and

(*b*) any representation that states, suggests or implies that a relationship exists between a feeding product or a constituent of the feeding product and health.

(2) The following does not constitute a nutrition claim:

(*a*) a nutrient function claim that describes the physiological role of the nutrient in growth, development and normal functions of the body; and

(*b*) a function claim concerning specific beneficial effects of the use or consumption of a feeding product or a constituent of the feeding product that relates to a positive contribution to health or to the improvement of a function or to modifying or preserving health; and

(*c*) a reduction of disease risk claim relating to the use or consumption of a feeding product or a constituent of the feeding product to the reduced risk of developing a disease or a health-related condition.

(3) For purposes of Section 11(3), a nutrition claim means a claim that states, suggests or implies that a feeding product has particular nutritional properties including but not limited to the energy value and to the content of protein, fat and carbohydrates, and the content of vitamins and minerals.

(4) The following does not constitute a nutrition claim:
(*a*) the mention of substances in the list of ingredients; or
(*b*) the mention of nutrients as a mandatory part of nutrition labelling; or
(*c*) quantitative or qualitative declaration of certain nutrients or ingredients on the label if required by the relevant health laws.

(5) An application of a health claim or a nutrition claim under Section 31(2)(*f*) is a prohibited activity.

Penalty: (*a*) In the case of a first offence, a fine not exceeding K10,000.00 for non-compliance under this subdivision or imprisonment for a term not exceeding 12 months; and
(*b*) In the case of a second and subsequent offence, a fine not exceeding K20,000.00 or imprisonment for a term not exceeding 12 months.

14. PUBLICATION OF MATERIAL.

(1) The National Department of Health is the sole publisher of information relating to any matter dealt with under this Act in relation to infants and young children.

(2) The National Department of Health shall confiscate any material or information published in contravention of this section.

15. PRODUCT INFORMATION.

The National Department of Health may direct Dealers of baby feed products to provide material or information about feeding products.

16. DISTRIBUTOR TO DISPLAY PRODUCT CATALOGUE.

(1) A distributor may, to the extent necessary, display within his pharmacy a product catalogue bearing pictures and descriptive information of feeding products under List A of Schedule 1 to enable persons obtaining the relevant apparatus to choose those apparatus consistent with the prohibitions on promotion.

(2) It is not an offence under this Act -
(*a*) for a mother or other person for the time being, having the care of an infant or young child to use when feeding or soothing that infant or young child, a feeding product under List A or B of Schedule 1 that has been obtained for that infant or young child in accordance with this Act; or
(*b*) for an authorised person to use a feeding product under List A or List B of Schedule 1; or
(*c*) for any person to use a feeding product under List A or B of Schedule 1 to sooth or feed an infant or young child if, in the opinion of that person, there exist at that time circumstances in which the infant or young child would suffer harm if the apparatus was not used.

(3) A distributor who does not comply with provisions under this division commits an offence.

Penalty: (*a*) In the case of a first offence, a fine not exceeding K50,000.00; and
(*b*) In the case of a second or subsequent offence, a fine not exceeding K100,000.00, or imprisonment for a term not exceeding five years.

PART III. - AUTHORISATION.

Division 1. - Written authorisation, authorised person, etc.

17. WRITTEN AUTHORISATION.

An authorisation to supply a feeding product under List A of Schedule 1 must be a written authorisation signed by an authorised person with the following information:

(*a*) the name and address of the mother, or a person having the care of the infant or young child to whom the authorisation relates; and
(*b*) details of the feeding product under List A of Schedule 1; and
(*c*) the name, address and qualification of the authorised person giving the authorisation; and
(*d*) such other matters as may be prescribed.

18. AUTHORISED PERSON.

The following are authorised persons:

(*a*) a paediatrician registered or enrolled as such under the ***Medical Registration Act* 1980**; or
(*b*) in the absence of a paediatrician, a medical practitioner registered or enrolled as such under the ***Medical Registration Act* 1980**; or
(*c*) such other classes of persons as may be prescribed.

19. AUTHORISATION BY AN AUTHORISED PERSON.

(1) An authorisation under Section 17 refers to a prescription issued by an authorised person.

(2) An authorised person shall not give a prescription -

(*a*) unless the authorised person is first satisfied that giving the prescription is in the best interest of the infant or young child to whom the authorisation is intended, to be fed or soothed by a feeding product under List A of Schedule 1; and
(*b*) unless at the time of giving the authorisation the authorised person -
  (i) also gives cleaning and sterilising instructions in accordance with Schedule 3, to the person who will be feeding or soothing the infant or young child with the apparatus; and
  (ii) is satisfied that the person receiving the instructions understands the instructions; and
  (iii) advises the person receiving instructions that it is more hygienic for infants and young children to be fed using a cup.

(3) An authorised person must not give an authorisation to any person other than the mother or the person for the time being having the care of the infant or young child to whom the authorisation relates.

(4) An authorised persons and pharmacists shall keep a record of the supply of a feeding product authorised or supplied in accordance with this Act.

(5) An authorised person or a pharmacist who does not comply with this section and for non-compliance with the provisions of Section 8, commits an offence.

Penalty: (*a*) For a first offence, a fine not exceeding K2,000.00; and
(*b*) For a second and subsequent offence, a fine not exceeding K5,000.00.

20. AUTHORISATION TO SUPPLY FEEDING PRODUCT.

(1) A distributor may supply a feeding product under List A or B of Schedule 1 if the person to whom the feeding product to be supplied, produces a written authorisation from an authorised person.

(2) A written authorisation shall be issued in accordance with a form prescribed in Schedule 2.

(3) A person who does not comply with the provisions under this division commits an offence.

Penalty: (*a*) In the case of a first offence, a fine not exceeding K10,000.00; and
(*b*) In the case of a second and subsequent offence, a fine not exceeding K20,000.00, or imprisonment for a term not exceeding 12 months.

Division 2. - Registration.

21. REGISTRATION OF FEEDING PRODUCTS.

(1) Any feeding products -
(*a*) under List A of Schedule 1; or
(*b*) declared by the Minister under Section 4; or
(*c*) registered as a device,
is subject to the provisions of the ***Medicines and Cosmetics Act* 1991**.

(2) A person shall not manufacture or distribute a feeding product without first registering the feeding product and the Dealer in accordance with such conditions and procedures as may be prescribed.

(3) An application under this section must be made in writing in the form as prescribed under the Regulation and must -
(*a*) specify the name of the applicant and the address at which the applicant ordinarily resides; and
(*b*) specify the address of each premises at which the applicant carries on, in whole or in part, the business of manufacturing, importing, distributing and selling feeding products; and
(*c*) contain such other information as may be prescribed by Regulations.

22. RECORDS KEPT BY REGISTERED DEALERS.

(1) The registered Dealer must keep accurate records of the supply of feeding products.

(2) These records should be made available to the National Department of Health on a routinely basis for purposes of monitoring and oversight of the overall licensing regime.

(3) A person who knowingly provides information or a particular that is false or misleading, commits an offence.

(4) A person who does not comply with provisions of this Part, commits an offence.

Penalty: (*a*) In the case of a first time offence, a fine not exceeding K50,000.00; and
(*b*) In the case of a continuous offence, a fine not exceeding K100,000.00 for a subsequent offence or imprisonment for a term not exceeding five years.

Division 3. - Licensing.

23. LICENCE REQUIRED FOR IMPORTERS, MANUFACTURERS AND DISTRIBUTORS.

(1) A manufacturer or distributor who is carrying on business as a person in a partnership, as a corporation or in any other entity, shall not -

(*a*) conduct, on any premises; or

(*b*) carry on the business of manufacturing or distribution,

of feeding products without obtaining a feeding product manufacture or distribution licence upon payment of the prescribed fee.

(2) A person or entity shall apply to the Departmental Head to obtain a licence -

(*a*) to manufacture on specified premises feeding products; or

(*b*) to import by wholesale or retail baby feed products; or

(*c*) to sell a baby product by retail.

(3) The application shall -

(*a*) be in a prescribed form; and

(*b*) be accompanied by a prescribed non-refundable fee.

24. CONSIDERATION OF A LICENCE.

In considering an application for a licence, the licensing authority shall consider whether -

(*a*) the company is a registered company under the ***Investment Promotion Act*** **1992**; and

(*b*) the food product is registered; and

(*c*) the applicant meets the standards under the ***Food Sanitation Act*** **1991**; and

(*d*) the applicant meets the packaging and labelling requirements; and

(*e*) the licensing fee is paid; and

(*f*) the applicant meets any other requirement as directed by the Department Head.

25. GRANT OF LICENCE.

(1) Where the licensing authority has considered an application under Section 24, the licensing authority may -

(*a*) grant the application and issue the licence; or

(*b*) refuse the application and notify the applicant with the reasons for the refusal.

(2) A product licence granted under Subsection (1)(*a*) -

(*a*) shall be in the prescribed form; and

(*b*) shall contain such conditions as are determined by the licensing authority and specified in the licence; and

(*c*) is subject to the conditions specified in the licence; and

(*d*) subject to Subsection (3), comes into force on the date specified in the licence, or, where a date is not specified, on the date on which it is granted; and

(*e*) is subject to the payment of the prescribed licence fee; and

(*f*) is not transferable.

(3) Notwithstanding Subsection (2)(*d*), a product licence shall not come into force unless the prescribed licence fee is paid.

26. TERM OF LICENCE.

(1) A product licence shall be granted for a period not exceeding five years.

(2) The product licence is renewable at the expiration of the term granted.

(3) A licence other than a product licence shall be granted for a period of one year and is renewable at the expiration of the term granted.

27. CANCELLATION OR SUSPENSION OF LICENCE.

(1) The licensing authority may, by written notice served on the holder of a licence, cancel or suspend the licence where the holder -

(*a*) fails to pay the prescribed licence fee; or
(*b*) is found guilty of an offence under this Act; or
(*c*) fails to comply with the conditions of his licence; or
(*d*) makes a written request for his licence to be cancelled or suspended; or
(*e*) ceases to operate or conduct the business for which the licence was issued under this part.

(2) Where it is proposed to cancel or suspend a licence under Subsection (1), the licensing authority shall serve on the holder of the licence a notice -

(*a*) advising the holder of the licence of the intention to cancel or suspend the licence and the reasons for the intended cancellation or suspension; and
(*b*) requiring the holder of the licence within 14 days of the date of service of the notice to make representations to the licensing authority as to why the licence should not be cancelled or suspended.

(3) On the request of the holder of the licence within the period referred to in Subsection (2)(*b*), the licensing authority shall allow the holder of the licence an opportunity to be heard.

(4) Where the holder of the licence does not -

(*a*) make representation under Subsection (2)(*b*); or
(*b*) request to be heard under Subsection (3),

the licensing authority may suspend or cancel the licence.

(5) The licensing authority shall consider any representations made under Subsection (2)(*b*) and, where appropriate, cancel or suspend the licence and such decision made by the licensing authority is final.

(6) The aggrieved person may, in taking into consideration Subsection (5), appeal to the National Court for a judicial review.

PART IV. - LABELLING.

28. LABEL.

(1) For purposes of this Part, a label includes -

(*a*) a tag; or
(*b*) a mark; or
(*c*) a pictorial matter; or
(*d*) other descriptive matter -
  (i) written; or
  (ii) printed; or
  (iii) stencilled; or
  (iv) marked; or
  (v) attached or otherwise,

appearing on a container of a feeding product.

(2) A label also includes packaging and inserts of such as stated in Subsection (1).

29. PROHIBITIONS RELATED TO LABELLING OF A FEEDING PRODUCT.

(1) A person shall not use a label that contains pictures, images, graphic illustrations other than those that illustrate methods of preparation.

(2) A manufacturer and a distributor must have labels indicating -

(*a*) the methods of preparation; and
(*b*) the recommended age of the infant or the young child; and
(*c*) the list of ingredients with the relevant Codex standards; and
(*d*) the required storage conditions for before and after opening; and
(*e*) the batch number and date of manufacture; and
(*f*) the name and address are clear, legible and in English.

(3) In accordance with the requirements under the ***Food Sanitation Act* 1991**, a person shall not use a label that attempts to sell a feeding product by suggesting a relationship between the product constituent and health or nutritional developmental benefits.

30. FOLLOW-UP FORMULA.

(1) A follow-up formula is also referred to as a "follow-on formula" or "follow-on milk".

(2) The follow-up formula must be marked or otherwise represented as suitable for feeding infants and young children older than six months of age.

31. PROHIBITIONS RELATED TO LABELLING OF FORMULA.

(1) A manufacturer and a distributor must prescribe specific labelling requirements on an infant formula, a follow-up formula and a young child formula.

(2) Subject to Subsection (1) the labelling requirement must include -

(*a*) clear warnings and important notices on the proper use of feeding products; and
(*b*) preparation instructions; and
(*c*) feeding charts; and
(*d*) indication of the source of protein; and
(*e*) suitable age usage; and
(*f*) prohibition of the use of health and nutrition claims referred to in Section 13(5).

32. PROHIBITIONS RELATED TO LABELLING OF COMMERCIALLY AVAILABLE COMPLEMENTARY FOOD PRODUCTS.

A manufacturer and a distributor must not use labelling or packaging on complementary feeding products that -

(*a*) suggest suitability of the product for infants below six months of age; and
(*b*) uses images that idealise or undermine breastfeeding; and
(*c*) suggests that the feeding product is superior to home prepared food; and
(*d*) promotes use of bottle feeding; and
(*e*) contains any form of endorsement by a health professional; and
(*f*) allows for cross-promotion.

33. PROHIBITIONS RELATED TO LABELLING OF FEEDING BOTTLES AND TEATS.

(1) A manufacturer and a distributor must ensure that a bottle or a teat has proper labelling.

(2) This requirement is in addition to the general labelling requirements under Sections 28, 29 and 31.

34. PROHIBITIONS RELATED TO LABELLING OF DUMMIES.

(1) A manufacturer and a distributor must ensure that dummies have proper labelling that has a clear warning that states that the use of dummies can interfere with breastfeeding.

(2) This requirement is in addition to the general labelling requirements under this Act.

35. GENERAL OFFENCE FOR THIS PART.

For the purpose of this Part, where a manufacturer or a distributor does not comply with a prohibition, the manufacturer or the distributor commits an offence.

Penalty: (*a*) In the case of a first offence, a fine not exceeding K50,000.00; or
(*b*) For a second and subsequent offence, a fine not exceeding K100,000.00, or imprisonment for a term not exceeding five years.

PART V. - ADVERTISEMENT AND PROMOTION.

36. ADVERTISEMENT.

For purposes of this Part, advertisement is publication made in Papua New Guinea (whether or not accompanied by or in association with spoken or written words or sound and whether or not contained or issued in a publication) for the purpose of promoting the sale or use of a feeding product by -

(*a*) the display of notices, signs or billboards; or
(*b*) means of catalogues, price lists, labels, cards or other documents or material; or
(*c*) the exhibition or distribution of promotional content through analogue or digital media including but not limited to cinematograph films, videotapes, audio tapes, pictures or photograph or digital storage devices such as compact discs or pen drives; or
(*d*) means of radio, television, telephone, internet or other interactive media or social media; or
(*e*) any other way, but does not include -
  (i) an advertisement in a journal, magazine, document; or
  (ii) other form originating outside the country,

intended for the world at large unless the advertisement is -

  (iii) specifically sent to or directed at particular persons other than pharmacists or authorised persons; or
  (iv) extracted and used (wholly or in part) as if it were an original publication of that advertisement.

37. PROHIBITION OF REPRESENTATION IN ADVERTISEMENT.

A person who advertises any feeding products prescribed for the purpose of Section 36 is guilty of an offence except for an advertisement made under Section 36(*e*)(i) and (ii).

Penalty: (*a*) In the case of a first offence, a fine not exceeding K50,000.00; or
(*b*) In the case of a second and subsequent offence, a fine not exceeding K100,000.00, or imprisonment for a term not exceeding five years.

38. PROMOTIONS OF FEEDING PRODUCTS.

(1) A person shall not promote a feeding product under List A and List B of Schedule 1.

(2) A prohibited promotional practice includes but is not limited to -
(*a*) advertising; and
(*b*) sales devices such as special displays, discount coupons, premiums, rebates, special sales, loss leaders, tie-in sales, prizes or gifts; and
(*c*) giving of one or more samples of a feeding product to any person; and

(*d*) donation or distribution of information or education material referring to infant or young child feeding or performance of educational functions related to infant or young child feeding, except as provided in Section 31; and

(*e*) the use of health or nutrition claims on labels of feeding products or in any information and education materials referring to infant and young child feeding, except as provided in Section 11.

39. CROSS-PROMOTION OF A FEEDING PRODUCT.

(1) A person shall not -

(*a*) donate, waive payment through any means or provide at lower than the published wholesale price where a wholesale price exists and in the absence of a wholesale price, lower than 80 per cent of the retail price, any quantity of a feeding product under List A and List B to a health worker or a health care facility; or

(*b*) donate to, or distribute within, a health care facility, equipment, services or materials such as pens, calendars, posters, note pads, growth charts and toys or any other materials which refer to or may promote the use of a feeding product; or

(*c*) offer or give any gift, contribution, sponsorship, benefit, financial or otherwise, of whatever value to a health worker or to an association of health workers engaged in maternal and child health, including but not limited to fellowships, research grants or funding for meetings, seminars, continuing education courses or conferences; or

(*d*) sponsor events, contests, telephone counselling lines, campaigns or programs related to reproductive health, pregnancy, childbirth, infant or young child feeding or related topics; or

(*e*) include the volume of sales of feeding products in the calculation of its employee remuneration or bonuses, nor set quotas for sales of feeding products.

(2) A health worker or an association of health workers engaged in maternal and child health shall not -

(*a*) accept any gift, contribution, sponsorship, benefit, financial or otherwise, of whatever value, from a manufacturer or distributor of a feeding product under List A and List B of Schedule 1; or

(*b*) accept or give samples of a feeding product under List A and List B of Schedule 1 to any person; or

(*c*) demonstrate the use of infant formula, except to individual mothers or members of their families in very special cases of need, and in such cases, shall give a clear explanation of the risks of the use of infant formula as well as the other information required by Part V.

(3) In relation to a feeding product under List C of Schedule 1, a person shall not carry out any promotion -

(*a*) in a health care facility; or

(*b*) through a health worker or an association of health workers engaged in maternal and child health; or

(*c*) by establishing relationships with parents and other caregivers through baby clubs, social media groups, child care classes, contests and any other means; or

(*d*) through the use of messages in any form or media that includes -

(i) any text, image or other representation that suggests the suitability of the product for infants under six months, including but not limited to references to development milestones clearly reached before six months, the use of pictures of infants appearing to be younger than six months; or

(ii) any text, image or representation that undermines or discourages appropriate complementary feeding; or

(iii) any recommendation to feed the product in a bottle or otherwise promote the use of bottle feeding; or

(iv) any endorsement, or anything that may be conveyed or construed as an endorsement by a health professional or an association of health professionals; or

(v) health or nutrition claims unless such claims are in accordance with national level standards for complementary food products.

(4) Subject to Subsection (3), a feeding product under List C of Schedule 1 shall be promoted only if the feeding product meets all the relevant national standards for composition, safety, quality and nutrient levels and is in line with national dietary guidelines.

(5) Any messages used to promote any such feeding product must include a statement in characters no less than one-third the size of the characters in the product name, and in no case less than 2mm in height on -

(*a*) the importance of exclusive breastfeeding for the first six months and of continued breastfeeding up to two years or less than four years of age; and

(*b*) the recommended age of introduction which is not less than six months; and

(*c*) and a statement that early introduction of complementary foods negatively affects breastfeeding.

(6) A person commits an offence if that person does not comply with this section.

Penalty: (*a*) In the case of a first offence, a fine not exceeding K50,000.00; and

(*b*) In the case of a second and subsequent offence, a fine not exceeding K100,000.00, or imprisonment for a term not exceeding five years.

40. EMERGENCY DONATIONS MADE BY DEALERS.

In the event of an emergency, donations made by Dealers shall only be made through the National Department of Health.

PART VI. - ENFORCEMENT.

41. APPOINTMENT OF AUTHORISED OFFICERS.

(1) In this Part, an authorised officer refers to an inspector appointed under -

(*a*) the ***Public Health Act* 1973** (Chapter 226); or

(*b*) the ***Food Sanitation Act* 1991**; or

(*c*) the ***Medicines and Cosmetics Act* 1999**; or

(*d*) any other officer appointed by the Minister for purposes of this Act.

(2) The Minister may, upon the recommendation of the Departmental Head, by notice in the National Gazette, appoint any person or class of persons as officers authorised to -

(*a*) carry out inspections and investigations as are necessary or appropriate under this Act; and

(*b*) take enforcement actions against persons found to have violated any provision of this Act.

(3) An authorised officer exercising powers under this Act must identify himself as an authorised officer to the person who appears to be in charge of any premises where the officer intends to exercise his powers.

(4) An authorised officer who holds a warrant issued under this section shall, on the termination of his appointment, tender the warrant to the Secretary.

(5) The Minister shall publish in the National Gazette -
- (*a*) names of inspectors; and
- (*b*) powers and functions of inspectors; and
- (*c*) duration of the exercise of such powers and functions.

42. MONITORING, INSPECTION AND INVESTIGATIVE FUNCTIONS AND POWERS.

(1) An inspector shall have the following powers:
- (*a*) to enter premises of any place where feeding products are manufactured or distributed or otherwise or are likely to be found; and
- (*b*) to conduct monitoring of the premises and examining any operations carried out on the premises; and
- (*c*) to conduct interview of licensees or other persons involved in the sale, advertising or promotion of feeding products; and
- (*d*) to seize any books, documents, notes, files including electronic files or other records that the inspector reasonably believes contain information relevant to determine compliance with the Act; and
- (*e*) to seize, detain or order the storage of any feeding products wherever they may be found where the inspector reasonably believes does not comply with the requirements of the Act; and
- (*f*) where the product is subsequently determined to meet the requirements of the Act, the product shall be returned to the place where the product was seized; and
- (*g*) where the product does not meet requirements of the Act, but may be consistent with Paragraph (*f*), confiscated and destroyed for non-compliance with this Act and penalty imposed accordingly; and
- (*h*) any other related investigation and inspections directed by the Minister for the enforcement of this Act.

(2) The inspector shall enter any residential premises for purposes of inspection required under this Act, if the requirements are fulfilled.

43. POWERS TO OBTAIN INFORMATION.

(1) An inspector has the power to obtain information relating to matters under this Act where enforcement is concerned.

(2) The inspector may exercise the power to obtain the information under Subsection (1) through a request to furnish information or records by persons who are believed to be in possession of the information.

44. CONTINUING OFFENCE.

(1) A person who does not comply with an order to produce a certain document or a certain record, whichever the case may be, the person is liable to the prescribed penalties under this Act.

(2) Unless it is specified in the circumstances that compliance by a person was required at a specified time and that time had lapsed, the person is not liable to the prescribed penalties.

(3) A person may be prosecuted from time to time for not complying with provisions of this Act.

(4) Where there is continuing offence, the Minister may order the closure of the feeding product activities.

45. OBSTRUCTION.

(1) For the purposes of this section, obstruction includes -

(*a*) refusing to allow the inspector to exercise the inspector's powers under Section 42; or

(*b*) removing or concealing any information, records or documents in the presence of the inspector or prior to the inspector arriving at the place or the premises.

(2) A person shall be penalised for interfering or obstructing an inspector in the exercise of the inspector's duties and powers under this Act.

(3) The penalty under Subsection (2) shall be in the following:

(*a*) the inspector who is being interfered with or obstructed shall report the matter to the police for prosecution; and

(*b*) the Minister may direct the closure of the feeding product activities associated to the location to which the obstruction is encountered with terms and conditions.

(4) In respect of Subsection (3)(*a*), the Department responsible for health matters or the Department responsible for police matters may institute an urgent court proceeding at the relevant court of competent jurisdiction.

46. DIRECTIONS MAY BE ISSUED TO SECURE COMPLIANCE.

(1) Following inspection, the inspector may issue a compliance notice to a person whom the inspector considers to have contravened provision of the Act by that person's non-compliance.

(2) The notice under Subsection (1) must state the following:

(*a*) information on the person's non-compliance; and

(*b*) the steps to resolve any contravention; and

(*c*) the person to remedy the non-compliance within 14 days; or

(*d*) a date set by the health department on the person's request to whom the notice is served and if the licensing authority sees it proper to extend the 14 days period.

47. CONFISCATION OF FOOD AND FEEDING PRODUCTS.

(1) The inspector may confiscate any food and feeding products that does not meet the required standard prescribed under the Act, after inspection.

(2) The confiscation done under Subsection (1) -

(*a*) shall be consistent with Section 42(*e*), (*f*) and (*g*); and

(*b*) must be done after a notice is served to the person.

PART VII. - OFFENCES.

48. OFFENCES BY MANUFACTURERS AND DISTRIBUTORS.

(1) A manufacturer who does not comply with requirements under this Act commits an offence and shall be liable to a penalty under this Act.

(2) Subsection (1) does not exclude the application of other relevant laws where necessary and appropriate.

(3) For any inconsistency in the fines, a judge of a court of competent jurisdiction may impose a fine accordingly where a matter of non-compliance is instituted by the National Department of Health.

49. IMPOSITION OF ALTERNATIVE PENALTIES.

(1) Where a person (including a corporation) commits an offence under this Act, the National Department of Health may -

(*a*) issue a direction for corrective action; or
(*b*) terminate a licence; or
(*c*) impose all or a combination of these penalties.

(2) Notwithstanding Subsection (1), a person (including a corporation) who commits an offence under this Act may be criminally or otherwise, prosecuted in Court.

50. MISCONDUCT.

An inspector or public officer who -

(*a*) is dishonest; or
(*b*) intentionally and without reasonable justification causes a delay in carrying out any functions under this Act; or
(*c*) colludes with a person to commit an offence; or
(*d*) accepts a bribe or reward in the discharge of the functions and powers under this Act, commits an offence.

Penalty: A fine not exceeding K20,000.00 or imprisonment for a term not exceeding five years.

PART VIII. - SAVINGS AND TRANSITIONAL.

51. TRANSITIONAL PROVISIONS.

(1) A regulation, order or document under the ***Baby Feeds Supplies (Control) Act* 1977** (Chapter 365) that are in force at the date of the commencement of the Act shall continue to exist until the Minister deems necessary for the regulation, order or document to cease.

(2) Any office, committee, sub-committee, or position created under the ***Baby Feeds Supplies (Control) Act* 1977** (Chapter 365) and in existence on the date of commencement of this Act, shall continue to exist until such time the office, committee, sub-committee or position shall cease upon advise of the departmental head.

PART IX. - MISCELLANEOUS.

52. REGULATIONS.

The Head of State, acting on advice, may make regulations not inconsistent with this Act, prescribing all matters that by this Act are permitted or required to be prescribed, or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act and generally for achieving the purposes of this Act, and specifically on the following matters:

(*a*) fees and forms of a licence; and
(*b*) penalties.

SCHEDULE 1.

Act, Sec. 4

MARKETING OF FEEDING PRODUCTS FOR INFANTS AND YOUNG CHILDREN.

FEEDING PRODUCTS.

List A -

(*a*) a feeding bottle; or
(*b*) a teat; or
(*c*) a dummy; or
(*d*) any other apparatus declared by the Minister under Section 4 to be a feeding product under this list.

List B -

(*a*) infant formula; and
(*b*) any other product marketed or otherwise represented as suitable for feeding infants up to the age of six months; and
(*c*) follow-up formula; and
(*d*) young child formula; and
(*e*) any other product declared by the Minister under Section 4 to be a feeding product under this list.

List C -

(*a*) complementary food product; and
(*b*) ready-to-use therapeutic food; and
(*c*) other product declared by the Minister under Section 4 to be a feeding product under this list.

SCHEDULE 2.

Act, Sec. 17, 18, 19.

MARKETING OF FEEDING PRODUCTS FOR INFANTS AND YOUNG CHILDREN.

AUTHORISATION.

Authorisation to supply to (name of mother or person having care of infant/young child of (address) for use by (name of infant or young child)

Number or being supplied.	**Item.**
1 2 3	(*a*) a feeding bottle; or (*b*) a teat; or (*c*) a dummy; or

Date

Name of authorised person (in block letters)

(Signature or person giving authorisation)
Designation:
Address:

Strike out whichever is inapplicable.

SCHEDULE 3.

Act, Sec. 19.

MARKETING OF FEEDING PRODUCTS FOR INFANTS AND YOUNG CHILDREN.

INSTRUCTIONS.

Feeding bottles, teats, dummies and cups fitted with spouts.

Instructions for cleaning prior to each use -

1. Clean with bottle brush to remove any foreign matter that may be adhering to the apparatus.
2. Place in clean water and boil for five minutes or soak in sterilising solution.
3. If a sterilising solution is used, it must be manufactured especially for the purpose of sterilising apparatus used for feeding infants and young children and must be used at the strength and for the time specified in the manufacturer's instructions.
4. Any unused milk must be discarded immediately after every feed.
5. Any other liquid for use in a feeding bottle must be kept under refrigeration if not used.

I hereby certify that the above is a fair print of the ***Infants and Young Children's Food Supply (Control) Act* 2023**, which has been made by the National Parliament.

Acting Clerk of the National Parliament.

21 DEC 2023

I hereby certify that the ***Infants and Young Children's Food Supply (Control) Act* 2023**, was made by the National Parliament on 9 August 2023, by an absolute majority in accordance with the ***Constitution***.

Acting Speaker of the National Parliament.

21 DEC 2023