

Law No 8-95, declaring Promotion and Support of Breastfeeding a National Priority

THE NATIONAL CONGRESS

On behalf of the Republic

Law No 8-95

WHEREAS the Constitution of the Republic establishes de State's duty to protect motherhood, so as to achieve the healthy development of Dominican children, taking all necessary steps to promote health and thus contributing to reducing infant mortality;

WHEREAS the Dominican Republic, by signing the Convention on the Rights of the Child and the World Declaration on Child Survival, Protection and Development, has taken on the commitment of protecting children from birth to adulthood;

WHEREAS the Convention on the Elimination of all Forms of Discrimination Against Women establishes the right of mothers to receive education in order to improve their health and to protect the rights of working mothers, particularly those related to maternity and post partum care;

WHEREAS the World Health Organization (WHO) and the United Nations Childrens Fund (UNICEF) have recommended the adoption of standards to protect breastfeeding and regulate the marketing of breastmilk substitutes, feeding bottles, teats and pacifiers (dummies);

WHEREAS Article 240 of the Labour Code of the Dominican Republic recognises a mother's right to breastfeed her child, allowing [for this purpose] a minimum of three 20-minute periods of paid rest during the working day;

WHEREAS each country must adopt measures to protect mothers and children in accordance with its own conditions;

WHEREAS child survival and the superior interests of childhood can only be ensured if the community in general and parents in particular receive the necessary information on child health and nutrition, including, most importantly, breastfeeding, cleanliness and environmental hygiene, and receive the corresponding education for the implementation of the knowledge they have acquired;

CONSIDERING:

- Article 8, para 15, subpara a) of the Constitution of the Republic;
- Article 240 of the Labour Code;
- Mother and child care provisions of the Public Health Code;
- Articles 50 and following on mother and child care of the Law No 1896, of 30 December 1948, establishing the Dominican Social Security Institute;

HEREBY ADOPTS THE FOLLOWING ACT

GOVERNMENT COMMITMENT

Article 1: Promotion and Support of Breastfeeding. The promotion, teaching and dissemination of the practice of breastfeeding shall be declared a national priority, since breastfeeding is indispensable to ensure the healthy development and growth of boys and girls, who receive at their mothers [breasts] not only the necessary nutrients, but also immunological protection and psychological support.

Article 2: Mother and Child Programmes. As part of programmes intended for pregnant women and mothers of newborns, as well as health education programmes for the general public, the Department for Public Health and Social Welfare (SESPAS) and the Dominican Social Security Institute (IDSS), the Military Medical and Health Corps of the Department for Armed Forces, and the State Council for Sugar (CEA) shall develop programmes aimed at promoting:

- (a) exclusive breastfeeding for the first six months after birth;
- (b) breastfeeding up to two years of age, with complementary feeding.

Proviso: Such programmes shall be organised on the basis of a regulation to be issued for this purpose, following a plan of health care services, involving [all establishments from] rural and urban clinics and consultations up to regional and area hospitals in urban areas.

Article 3: Breastfeeding Programmes Coordination. The Department for Public Health and Social Welfare (SESPAS) and above-mentioned State bodies shall, together with the National Breastfeeding Committee, coordinate efforts to implement WHO's and UNICEF's recommendations on protection, promotion and support of breastfeeding:

- (a) with private and public clinics and maternities;
- (b) with community-based non-governmental organisations.

Article 4: Coordination with Educational Institutions. The Department for Public Health and Social Welfare (SESPAS) and the above-mentioned State bodies shall, together with higher educational education and vocational technical training institutions, coordinate specific programmes for [health] education of human resources and health workers.

Article 5: Development of Breastfeeding Programmes by the Department for Education, Arts and Culture. As part of its normal programmes for the teaching of biology, from its basic level of home sciences and population education to programmes for adult education at all levels, the Department for Education, Arts and Culture, shall implement specific modules [for teaching] of nutrition in order to explain the importance and the benefits of breastfeeding for human development. Such programmes shall be implemented in both public and private schools.

PROMOTION OF BREASTFEEDING

Article 6: Responsibility of the Government of the Dominican Republic. The government shall promote breastfeeding by coordinating the [actions of] aforementioned bodies and the National Breastfeeding Committee, through:

- (a) Coordination of periodic public education and dissemination campaigns using all the national mass media;
- (b) The establishment of support groups composed of health professionals and other experts, as well as mothers and fathers;
- (c) The establishment of in-house breastfeeding committees in all hospitals of the Department for Public Health and Social Welfare (SESPAS), of the Dominican Social Security Institute (IDSS), the Department for Armed Forces (FFAA), as well as private maternity clinics, so as to meet the needs of hospital users.

Article 7: Information and Education Materials. Information and education materials, whether written, audio or visual, dealing with the feeding of infants and intended for pregnant women and mothers of infants and young children, shall include clear information on each and every one of the following points:

- (a) the benefits and superiority of breastfeeding;

- (b) [maternal] nutrition during pregnancy and lactation, its effects on the production of milk, taboos and prejudices;
- (c) the negative effect on breastfeeding of introducing partial bottle-feeding;
- (d) the [necessary] support for relactation;
- (e) the correct use of complementary foods as of six months of age.

Article 8: Protection of Working Mothers. The Department for Public Health and Social Welfare (SESPAS) and the Department for Labour, together with the Dominican Social Security Institute (IDSS) shall ensure the effective implementation of the provisions of Article 240 of the Labour Code so that, in all industrial establishments, a sufficient physical space is allocated for mothers to be able to exclusively breastfeed their infants up to six months of age.

Proviso: The aforementioned bodies shall coordinate, through the Dominican Social Security Institute (IDSS), with the business sector in order to effectively implement such services.

SUPPORT TO BREASTFEEDING

Article 9: Regulation of Marketing of Breastmilk Substitutes. The Government shall support breastfeeding through the regulation of marketing of breastmilk substitutes, feeding bottles, teats and pacifiers (dummies). To this end, it shall ensure the fulfillment of the following measures:

- (a) The promotion and advertising of breastmilk substitutes, feeding bottles, teats and pacifiers (dummies) shall be prohibited in all public, private or company health centres.
- (b) Promoters [of said products] or persons linked to manufacturers or distributors of said products shall be banned from visiting health centres.

Article 10: The Department for Public Health and Social Welfare (SESPAS) shall be responsible for adopting the measures necessary to protect and promote breastfeeding. It shall further:

- (a) Ensure the correct use of breastmilk substitutes, on the basis of appropriate information, when they are needed.
- (b) Decide on the modalities for marketing and distribution of infant formula, other milk products, therapeutic formulas, such as soya-based, hydrolized and low-lactose formulas, and complementary foods, whether bottle-fed or not, among others.

Article 11: Promotion and Advertising. No physical or corporate person shall, directly or through another person acting on his behalf, promote or advertise any designated product, at a point of sales, in a health service or anywhere else. [For purposes of this law] Promotion and advertising includes the following practices:

- (a) Special displays of or concerning designated products;
- (b) Discount promotions;
- (c) Distribution of free gifts, including items of little or no cost, bearing the brand name, logo or a graphical representation of a designated product, or the name or logo of a manufacturer or distributor;
- (d) Donation to any person of one or more samples of a designated product.
- (e) Direct or indirect contact between personnel hired by or at the service of a manufacturer or distributor and the general public, in the exercise of his commercial functions or in pursuance of same;
- (f) Distribution or display of printed materials bearing the name, logo, graphical representation or brand of a designated product, or the name or logo of a manufacturer or distributor, except if for the purpose of copyright;
- (g) Any other promotion or advertising practice as may be determined by the National Breastfeeding Committee.

Article 12: **Education and Information Activities.** Only staff of the aforementioned health centres shall be authorized to communicate or to inform about or to demonstrate feeding with infant formula and only to mothers who are unable to breastfeed or whose infants are of weaning age.

Article 13: **Special Protection.** Health workers, health institutions and all their units as well as their staff shall encourage and protect breastfeeding and those who are responsible for maternal and child nutrition in particular shall familiarize themselves with their obligations under this Law.

Article 14: **Ban on Incentives.** Manufacturers or distributors shall, under no circumstances, offer financial or material incentives to health workers, for the purpose of promoting products within the scope of this law. Health workers who violate this provision shall be subject to the penalties established by the regulation for implementation of this law.

Article 15: **Samples.** Manufacturers or distributors shall, under no circumstances, whether directly or through agents or representatives, distribute samples of products or of commercial formulas covered by this law, nor materials or utensils used for the preparation of such products.

Article 16: **Labelling of Designated Products.** Labels of designated products shall be designed so as not to discourage breastfeeding and shall provide the necessary information for the correct use of the product.

Labels shall not have any photographs, pictures or other graphic representations, except graphics used to illustrate the method of preparation.

Labels shall be written in Spanish and shall contain the name and address of the manufacturer and, where appropriate, the name of the distributor.

Article 17: **Container of infant formula, follow-up formula, etc.** Any container of infant formula, follow-up formula or any designated product marketed, presented or commonly used to feed infants, by feeding bottle or otherwise, shall have a label which cannot easily be detached from it, with a clear, conspicuous and easily understood message. Labels

- (a) shall not use the term "maternalized" or any equivalent terms; and
- (b) shall not make any comparison with breastmilk.

Proviso: Nevertheless, the container or the label shall include all the following points:

- (a) the words "Important Notice" or their equivalent;
- (b) a statement that breastmilk is the best for infants;
- (c) a statement that the product should not be used without the advice of a health worker concerning the need and proper method for its use;
- (d) instructions for appropriate preparation, in words and in easily understood graphics;
- (e) a warning about the health hazards of incorrect preparation and of the use of a feeding bottle, particularly when it is not properly sterilized;
- (f) a warning about the negative impact of [partial] bottle-feeding on breastfeeding;
- (g) the approximate cost of feeding an infant with the product for a period of six months.

Article 18: **Labels of complementary foods.** Labels of complementary foods shall clearly explain the following points:

- (a) the health hazards of introducing complementary foods too early;
- (b) that complementary foods can easily be prepared at home with local ingredients.

Article 19: **Warning on modified or non-modified products and on condensed milk.** Any product that does not meet all the nutritional requirements of an infant formula shall contain on its

label a warning that the product alone should not be the sole source of an infant's nourishment and that it should not be used to feed infants except under the guidance of a health worker.

Labels of sweetened condensed milk shall contain a clear and conspicuous warning that it shall not be used for infant feeding.

Article 20: Contents of labels of designated products. Labels of designated products other than bottles, teats and pacifiers (dummies), shall also state the following:

- (a) the age, in months, after which the product may be used; in the case of products other than infant formula, that age shall not be less than four to six months;
- (b) the ingredients used;
- (c) the composition and analysis of the product;
- (d) the required storage conditions; and
- (e) the batch number and date before which the product is to be consumed, taking into account climatic and storage conditions.

Article 21: Labels of feeding bottles, teats and pacifiers (dummies). Labels of feeding bottles, teats and pacifiers (dummies) shall include:

- (a) a statement about the superiority of breastmilk to feed infants;
- (b) a statement that feeding with a cup and spoon is safer than bottle-feeding;
- (c) a warning about the health hazards of bottle-feeding, especially if the bottle is not properly sterilized; and
- (d) a warning about the negative impact of [partial] bottle-feeding on breastfeeding.

DEFINITIONS

Article 22: Definitions.

- (a) **Breastmilk substitute:** Any food marketed or represented as a partial or total replacement for breastmilk, whether or not suitable for that purpose.
- (b) **Complementary food:** Any food manufactured or locally prepared as a complement to breastmilk or to infant formula, when either becomes insufficient to satisfy the nutritional requirements of the infant. Such food is also commonly called "weaning food".
- (c) **Marketing:** Any method of introducing or selling a designated product, including but not limited to promotion, distribution, advertising, distribution of samples, product public relations and product information services.
- (d) **Distributor:** Any individual or legal entity engaged, directly or indirectly, in the marketing of any product within the scope of this law, including any person engaged in the business of providing information or public relations services for any designated product.
- (e) **Infant formula:** Any breastmilk substitute formulated industrially, in accordance with the applicable standards, to meet the normal nutritional requirements of infants up to the age of four to six months and adapted to their physiological characteristics.
- (f) **Health worker:** Any person, whether professional or not, including unpaid volunteers, working in the health care system.
- (g) **Advertising:** Any form of presenting a designated product, by any means, with the purpose of promoting, directly or indirectly, its sale or use, including:
 - advertising in a publication, by television, radio, film, mail, video or telephone, or other means

- of communication;
 - by display of signs, billboards, notices or goods;
 - by exhibition of pictures or models; or
 - in any other manner.
- (h) **Promotion:** Any method of presenting or familiarizing a person with a designated product or any method of encouraging a person to purchase a designated product.
- (i) **National Breastfeeding Committee:** The committee established to promote and protect breastfeeding, composed of the following members: the State Secretary for Public Health and Social Welfare or his representative; a representative of the Department for Industry and Trade; a representative of the Department for Education, Arts and Culture; a representative of the Department for Telecommunications; the Director of the National Breastfeeding Programme; a representative of the Dominican Medical Association; the President of the Dominican Paediatric Association; a representative of the Family Integration Centre (CIF); any other person whom the Department for Public Health and Social Welfare appoints as a member of the committee.
- None of the persons appointed [as members of the Committee] shall have any financial interest, whether direct or indirect, in any designated product.
- (j) **Container:** Any form of packaging of a designated product for sale as a retail unit, including wrappers.
- (k) **Designated product:**
- infant formula;
 - follow-up formula;
 - any other product marketed, administered (given), presented or commonly used to feed infants;
 - any other marketed or packaged product;
 - feeding bottles, teats, pacifiers (dummies) and nipple shields;
 - any other product that the State Secretary for Public Health and Social Welfare or the National Breastfeeding Committee shall include in the scope of this law, by publication [of an announcement] in a national circulation newspaper.
- (l) **Follow-up formula or whole milk:** A high-protein content animal or vegetable milk suitable for children over six months old, industrially formulated in accordance with the Codex Alimentarius standards.
- (ll) **Health service:** Any government, semi-government, non-governmental or private institution or organisation or private practitioner engaged, directly or indirectly, in the provision of health care. It also includes nurseries, day-care centres and other similar services.
- (m) **Infant:** A child up to the age of two years (24 months).
- (n) **Infant formula:** Any product industrially formulated in accordance with the Codex Alimentarius standards to meet the normal nutritional requirements of infants up to the age of six months and adapted to their physiological characteristics.

ADOPTED in the Sessions Hall of the Chamber of Deputies (Representatives), National Congress Palace, Santo Domingo de Guzman, National District, Capital of the Dominican Republic, on the fifteenth (15th) of March of the year nineteen hundred ninety four, year 151 of Independence and 131 of Restauration.

Norge Botello Fernández
President

Soila T. de Jesús Navarro
Secretary

Eunice J. Jimeno de Núñez
Secretary

ADOPTED in the Sessions Hall of the Senate, National Congress Palace, Santo Domingo de Guzman, National District, Capital of the Dominican Republic, on the twentythird (23rd) day of June of the year nineteen hundred ninety four, year 151 of Independence and 131 of Restauration.

José Osvaldo Lager Aquino
President

Luis Angel Jazmin
Secretary

Anable Aristy Castro
Secretary

JOAQUIN BALAGUER
President of the Dominican Republic

By virtue of the powers conferred on me by Article 55 of the Constitution of the Republic,

I hereby PROMULGATE the present Law and order it to be published in the Official Journal, for it to be known and fulfilled.

DONE in Santo Domingo de Guzman, National District, Capital of the Dominican Republic, on the nineteenth (19th) day of September of the year nineteen hundred ninety five, year 152 of Independence and 133 of Restauration.

Joaquín Balaguer