

Chapter 365.
BABY FEED SUPPLIES (CONTROL) ACT 1977.

Certified on: / /20 .

INDEPENDENT STATE OF PAPUA NEW GUINEA.

Chapter 365.

BABY FEED SUPPLIES (CONTROL) ACT 1977.

ARRANGEMENT OF SECTIONS.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

AN ACT
entitled

BABY FEED SUPPLIES (CONTROL) ACT 1977,

Being an Act to regulate or restrict the right of freedom of expression conferred by Section 46 (*freedom of expression*) of the *Constitution* so as to protect public health from the bad consequences of the unhygienic, inefficient or wrong use of items connected with baby feeding and for related purposes.

1. INTERPRETATION.

¹In this Act, unless the contrary intention appears—

“**advertisement**” includes every form of advertising (whether or not accompanied by or in association with spoken or written words or writing or sound and whether or not contained or issued in a publication) by—

- (a) the display of notices; or
- (b) means of catalogues, price lists, labels, cards or other documents or material; or
- (c) the exhibition of cinematograph films or of pictures or photographs; or
- (d) means of radio or television,

or in any other way in the country, but does not include an advertisement in a journal, magazine, document or other form originating outside the country and intended for the world at large unless the advertisement is—

¹ Section 1 amended by No. 28 of 1984, s1.

- (e) specifically sent to or directed at particular persons other than pharmacists or authorized persons; or
- (f) extracted and used (wholly or in part) as if it were an original publication of that advertisement;

“authorization” means a written authorization to supply a proscribed article, signed by the authorized person giving it, and containing the following information—

- (a) the name and address of the mother, or other person having the care of the baby or infant to whom the authorization relates; and
- (b) details of the proscribed article; and
- (c) the name, address and qualification of the authorized person giving the authorization; and
- (d) such other matters as may be prescribed;

“authorized person” means—

- (a) a medical practitioner; or
- (b) a medical assistant registered or enrolled as such under the *Medical Registration Act 1980*; or
- (c) a nurse registered as such under the *Medical Registration Act 1980*; or
- (d) such other classes of persons as may be prescribed;

“baby’s feed bottle” means a bottle or other container intended to be used as a substitute for a breast when feeding babies;

“bottle teat” means a teat intended to be used as a nipple on a baby’s feed bottle;

“dummy” means a teat of any shape and substance intended to be used for soothing babies and infants;

“inspector” means a person who is registered as a health inspector under the *Medical Registration Act 1980*;

“nurse” means a nurse or nursing aid registered or enrolled as such

under the *Medical Registration Act 1980*;

“**pharmacist**” means a person registered as a pharmacist under the *Medical Registration Act 1980*;

“**proscribed advertisement**” means an advertisement the intention or likely result of which is to encourage—

- (a) the bottle feeding of babies; or
- (b) the purchase or use of proscribed articles; or
- (c) the purchase or use of milk or other products in connection with proscribed articles;

“**proscribed article**” means—

- (a) a baby’s feed bottle; or
- (b) a bottle teat; or
- (c) a dummy; or
- (d) any other baby or infant feeding aid declared by the Minister under Section 1A to be a proscribed article;

“**publish**” , in relation to an advertisement, means to place the advertisement before the public or a section of the public by any means;

“**supply**” means to provide to another person whether by means of sale or otherwise and whether or not for reward.

1A. DECLARATION OF PROSCRIBED ARTICLES.

²The Minister may, by notice in the National Gazette, declare a baby or infant feeding aid to be a proscribed article for the purposes of this Act.

2. SUPPLY AND USE OF PROSCRIBED ARTICLES.

(1) Subject to Subsections (2), (3) and (4), it is an offence to supply a proscribed article.

² Section 1A added by No. 28 of 1984, s2.

Penalty: For a first offence, a fine not exceeding K200.00.

For a second and subsequent offence, a fine not exceeding K500.00.

(2) A pharmacist may supply a proscribed article if the person to whom the article is to be supplied first produces to the pharmacist an authorization in respect of that article.

(3) A person may, in the course of his business, supply a proscribed article to a pharmacist, authorized person or nurse for use or supply in accordance with this Act.

(4) 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 baby, to use when feeding or soothing that infant or baby a proscribed article obtained for that infant or baby in accordance with this Act; or
- (b)** for an authorized person or nurse to use a proscribed article; or
- (c)** for any person to use a proscribed article to sooth or feed an infant or baby if, in the opinion of that person, there exist at that time circumstances in which the infant or baby would suffer harm if such article was not used.

3. AUTHORIZATION.

(1) No authorization shall be given except—

- (a)** by an authorized person; and
- (b)** in accordance with the provisions of Subsection (2).

(2) An authorized person shall not give an authorization—

- (a)** unless he first satisfies himself that it would be in the interest of the baby or infant to whom the authorization is intended to relate to be fed or soothed by a proscribed article; and
- (b)** unless at the time of giving the authorization the authorized person—
 - (i)** also gives the proscribed instructions to the person who will be feeding or soothing the infant or baby with the proscribed articles; and

- (ii) is satisfied that the person receiving the instructions understands them.

(3) An authorized person must not give an authorization to any person other than the mother or person for the time being having the care of the infant or baby to whom the authorization relates.

Penalty: For a first offence, a fine not exceeding K200.00.

For a second and subsequent offence, a fine not exceeding K500.00.

4. PROSCRIBED ADVERTISEMENTS.

(1) Subject to Subsections (2) and (3) it is an offence to publish a proscribed advertisement.

Penalty: For a first offence, a fine not exceeding K200.00.

For a second and subsequent offence, a fine not exceeding K500.00.

(2) A pharmacist may display within his pharmacy a proscribed advertisement to the extent necessary to enable persons obtaining proscribed articles in accordance with this Act to choose those articles.

(3) A person may, in the course of his business, display to a pharmacist, nurse or authorized person a proscribed advertisement.

5. REGULATIONS.

The Head of State, acting on advice, may make regulations, not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, for prescribing—

- (a) the powers and duties of inspectors and penalties for hindering inspectors; and
- (b) the form, content and wording of authorizations; and
- (c) the records to be kept by pharmacists and authorized persons and the returns to be made by them; and
- (d) the form and content of information required to be given under this Act; and
- (e) the manner in which proscribed articles may be displayed to the public at large, including total prohibition of any such display; and

- (f) penalties of fines not exceeding K200.00 for a first offence and fines not exceeding K500.00 for a second or subsequent offence against the regulations.

Office of Legislative Counsel, PNG