ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

PART II

INFANT AND YOUNG CHILDREN NUTRITION COMMITTEE

PART III

EDUCATION AND INFORMATION CONCERNING INFANT AND YOUNG CHILD NUTRITION

PART IV

LABELLING OF DESIGNATED PRODUCTS

Section

Section

IT is hereby notified that the Minister of Health and Child Care, in terms of section 95 of the Public Health Act [*Chapter 15:17*], has made the following regulations:—

PART I

PRELIMINARY

Title and date of commencement

1. (1) These regulations may be cited as the Public Health (Breast-milk Substitutes, Infant and Young Child Nutrition) Regulations, 2024.

(2) The labelling provisions of these regulations shall come into force one year after they are proclaimed.

(3) All other provisions of these regulations shall come into effect on the 1st of January, 2025.

Interpretation

2. In these regulations:—

"advertising" means the making of any representation whatsoever, whether for the purpose of promoting,

directly, or indirectly including the exhibition of pictures, or models, inclusion of baby cues, the use, sale or disposal of a designated product;

"baby" refers to infant and young children between the age 0-36 months;

"breast milk" means a white liquid produced by the mammary glands of a human female for feeding infants and young children;

"breast-milk substitute" means any milk, food or drink designed for infants and young children to age 36 months and is marketed or otherwise represented as a partial or total replacement for breast-milk, whether or not it is suitable for that purpose;

"committee" means the Infants and Young Children Nutrition Committee appointed in terms of section 3;

"complementary food" means any food, whether manufactured or otherwise produced, that is marketed or otherwise represented as a complement to breast-milk or breast-milk substitutes of an infant and young child from 6 to 36 months;

"conflict of interest" arises where there is potential for a secondary interest in the outcome of the official or agency's work to unduly influence, or be reasonably perceived to unduly influence, the independence or objectivity of that official or agency's decisions or actions in relation to a primary interest of the official or agency's work, or is involved in the policy-making or policy-implementation process and seeks outcomes that are inconsistent with the demonstrable public interest;

"container" means any form of packaging in or by which any designated product is covered, enclosed or packaged for end use, including wrappers;

"cross-promotion" also called brand crossover promotion or brand stretching or brand extension, is a form of marketing where customers of one product or service are targeted with promotion of a related product, this can include packaging, branding and labelling of a product to closely resemble that of another;

"designated product" means any—

(a) infant formula (0-6 months); or

(b) follow-up formula (6-36months); or

(c) complementary foods; or

(d) beverage, milk and other food for consumption by infants and young children whether industrially formulated or otherwise, including, but not limited to breast milk fortifiers and foods for special medical purposes; or

(e) any other product marketed or otherwise represented as being suitable for feeding infants and young children including but not limited to any milk (or products that could be used to replace milk, such as fortified soy milk), in either liquid or powdered form, which are specifically marketed for feeding infants and young children; or

(f) feeding items; or

(g) items generally known as pacifiers; or

(h) other product which the Minister may, from time to time, declare to be a designated product;

"distributor" means any person engaged in the business of marketing, importing, retail selling or providing informational or public relations services in relation to any designated product;

"digital environments" refers to the operational or information technology systems, networks, internet-enabled applications, devices or data contained within such systems and networks and any other related digital system, these include, but are not limited to, social media, websites, email services, text or voice or image or video messaging services, streaming services, search engines, eCommerce platforms, peer commerce and smartphone applications;

"exclusive breast-feeding" means the giving of only breast-milk to an infant from birth to age 6 months;

"feeding bottle" means any bottle or items which are used for the feeding of infants and young children artificially and "bottle feeding" shall be construed accordingly;

"feeding item" means a bottle, teat, measuring device or other utensil or article designed to be used in preparing infant and young children's food or feeding infant and young children's food to infants;

"follow-up formula" means any industrially formulated milk or milk-like product intended for infants over the age of 6 months and young children up to the age of 36 months;

"health-care facility" means any public or private institution or organisation engaged directly or indirectly in the provision of healthcare or health-care education including pharmacies, day-care centres, nurseries or other facilities for the care of infants and young children;

"health care system" means Governmental and non-governmental or private institutions or organisations engaged, directly or indirectly, in providing social services for mothers, infants, pregnant women and nurseries and child care-care institutions;

"health worker' means a person who—

(a) is employed in a hospital, nursing-home, clinic, surgery, crèche, nursery or other institution wherein health care, treatment, prevention or attention is provided for pregnant women, mothers or infants and young children; or

(b) is a medical practitioner or is employed by a medical practitioner in connection with his or her practice as such; or

(c) performs any work, whether as a professional or non-professional and whether paid or not, in connection with the health of pregnant women, mothers or infants;

"health practitioner" means any person in respect of whose profession or calling a register is kept in terms of the Health Professions Act [*Chapter 27:19*];

"inducement" means a thing or action that persuades or leads someone to do something;

"infant" means a child under the age of 12 months;

"infant formula" means any milk or milk-like product, industrially formulated for consumption by infants under the age of 6 months;

"informational or educational material on babies and young child nutrition" means any document, film, recording, article or any other material which contains or provides instruction or purported instruction on the feeding of infants and young children;

"inspector" means—

(a) a person appointed as an inspector by the Minister in terms of section 20(1) of the Food and Foods Standards Act [*Chapter 15:04*];

(b) a person appointed as an inspector by a local authority to which the power of appointment has been delegated in terms section 21(1) of the Food and Foods Standards Act [*Chapter 15:04*]; and includes a person exercising the powers of an inspector conferred upon him or her in terms of section 20(3);

"label"—

(a) when used as a verb–label means, to brand, mark or otherwise designate or describe any article;

(b) when used as a noun–means any tag, brand, mark, pictorial or other descriptive matter, written, printed, stencilled, marked, embossed or impressed on, or attached or inserted to, a container of a product;

"labelling" includes any written, printed or graphic matter that is present on the label, accompanies the product, or is displayed near the product including that for the purpose of promoting its sale or disposal;

"manufacturer" means a person, corporation or other entity engaged in the business of manufacturing a designated product whether directly or through an agent;

"marketing" in relation to a designated product, means any method of introducing or selling the designated product, including any form of promoting, distributing, advertising, cross-promotion, brand promotion, distribution of samples or providing public relations and informational services through mass communication channels or digital environments whether directed at the general public, parents, child caregivers, healthcare workers;

"monitor" means conduct or carry out any exercise necessary to reveal any fact or situation pertaining to any designated product;

"pacifier" means any artificial teat also known as a dummy designed for sucking by infants and young children;

"publish" includes to publicly distribute, display, exhibit, broadcast, televise or post on print and digital environments;

"promotion" means to employ any method of directly or indirectly encouraging a person, a health care system, professional and social institutions or any other entity to purchase or use a designated product whether or not there is reference to a brand name;

"sample" means any quantity representative of a designated product provided at a cost or free of charge;

"seamless cup" means a cup without any folding at the edge;

"sell" includes—

(a) offer, keep, possess, expose, display, transmit, consign, convey or deliver for sale;

(b) authorise, direct or allow a sale;

(c) barter exchange, supply or dispose of for any consideration, whether direct or indirect;

"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;

"social service" means the provision of services to promote the welfare of the community including education, medical care, or health services offered by churches, companies, individuals and well-wishers;

"young child" means a child between the ages of 12 and 36 months.

PART II

Infant and Young Children Nutrition Committee

Appointment and membership of committee

3. (1) There shall be a committee, to be known as the Infant and Young Children Nutrition Committee, consisting of nineteen members appointed by the Minister of whom—

(a) subject to subsection (2), nine members shall be appointed to represent health workers employed by the State, mission and local authorities' health facilities;

(b) one member shall be appointed to represent health workers in private health practice engaged in activities associated with the nutrition, health or welfare of infants and young children; and

(c) two members shall be appointed to represent voluntary associations engaged in activities associated with the nutrition, health or welfare of infants provided they are not funded or otherwise governed by companies involved in the sale of designated products; and

(d) one member shall be appointed to represent the Ministry responsible for Industry and Trade;

(e) one member shall be appointed to represent the Zimbabwe Revenue Authority;

(f) one member shall be appointed to represent small and medium enterprises;

(g) one member shall be appointed to represent the Ministry responsible for Information; and

(h) one member shall be appointed to represent the Standards Association of Zimbabwe;

(i) one member shall be appointed to represent the Consumer Protection Commission; and

(j) one member shall be appointed from the ministry responsible for social welfare;

(k) one member shall be a registered legal practitioner in terms of the Legal Practitioners Act [*Chapter 27:07*].

(2) Among the members appointed in terms of subsection (1)(a), two shall be environmental health practitioners, one shall be a health promotion officer, one shall be a government analyst, one shall be a nutritionist, one shall be a dietician, one shall be a pharmacist, one shall be a paediatrician and one shall be a nurse.

(3) No person shall be appointed as a member of the committee for a term longer than four years, and the appointment may be renewed for only one further such term.

(4) A member of the Committee shall cease to be a member—

(a) after giving the Minister such notice of his or her intention to resign as may be fixed in his or her conditions of appointment or after giving such other period of notice, and the Minister may jointly agree; or

(b) upon consultation with the committee, the Minister may dismiss him or her to vacate his or her office on the grounds that he or she has—

(i) conducted himself or herself in a manner that renders him or her unsuitable as a member; or

(ii) failed to comply with any condition of his or her appointment as a member; or

(iii) ceased to represent the interests he or she was appointed to represent; or

(iv) become physically or mentally incapable of efficiently performing his or her functions as a member.

Functions of committee

4. The functions of the Committee shall be—

(a) to monitor the enforcement of these regulations; and

(b) to approve informational and educational materials and labels; and

(c) to review reports of contraventions or other matters concerning these regulations and to report to the Minister; and

(d) to advise the Minister on action to be taken in terms of these regulations against any person found to be contravening these regulations; and

(e) to cause the conducting of any research on matters relating to infants and young children's nutrition; and

(f) to address conflicts of interests in relation to concerns that hinder or affect the best interests of infants and young children and report to the Minister; and

(g) to perform any other function in relation to infant nutrition and healthcare imposed on the Committee by the Minister.

Chairperson, vice-chairperson and secretariat

5. (1) The Minister shall designate environmental health practitioner to be the chairperson and another member to be the vice-chairperson provided that the vice chairperson shall be of a different gender from the chairperson.

(2) Subject to subsections (3) and (4), the chairperson shall preside at all meetings of the committee.

(3) The National Nutrition Unit in the Ministry of Health shall provide secretariat services to the committee.

(4) Whenever the chairperson is for any reason unable to perform any of his or her functions as chairperson, the vice-chairperson shall perform such functions in his or her place.

(5) If at any meeting of the committee the chairperson and vice-chairperson are both absent, the members present shall elect one of their members to preside at that meeting.

Meetings and procedures of committee

6. (1) The Committee shall hold its first meeting on such date and at such place as the Minister shall fix, and thereafter, subject to this section, the Committee shall meet for the dispatch of its business and adjourn, close and otherwise regulate its meetings and procedures as it thinks fit.

(2) The Committee shall meet at least once every quarter.

(3) The chairperson of the Committee may at any time and shall, at the request in writing of no fewer than three members of the Committee, convene a special meeting, which meeting he or she shall convene for a date not sooner than seven working days nor later than thirty working days after receipt of the request.

(4) A majority two thirds (minimum eleven members) of the members of the Committee shall constitute a quorum for a meeting.

(5) All things authorised or required to be done by the Committee may be decided by a majority vote at a meeting of the Committee at which a quorum is present.

(6) At all meetings of the Committee every member present shall have one vote on each question before the Committee and, in the event of an equality of votes, the chairperson shall have a casting vote in addition to a deliberative vote.

(7) Any proposal circulated among all members of the Committee and agreed to by a majority of all members shall be of the same effect as a resolution passed at a duly constituted meeting of the Committee and shall be incorporated into the minutes of the next succeeding meeting of the Committee:

Provided that, if any member requires that the proposal be placed before a meeting of the Committee, this subsection shall not apply to the proposal.

(8) The committee shall cause minutes of all proceedings of, and decisions taken at all meetings of the committee and of its subcommittees to be recorded for the purpose.

(9) Any minutes referred to in subsection (7) which purport to be signed by the person presiding at the meeting to which the minutes relate, or by the person presiding at the next following meeting of the committee or subcommittee concerned, as the case may be, shall be accepted for all purposes as *prima facie* evidence of the proceedings of, and decisions taken at the meeting concerned.

(10) The minutes of any meeting of a committee shall be restricted to the committee members, permanent secretary and Minister.

Subcommittees of committee

7. (1) For the better exercise of its functions, the Committee may establish one or more subcommittees to which it may delegate such of its functions as the Committee may think fit and may at any time amend or revoke any such delegation.

(2) The subcommittees are Packaging and Labelling subcommittee, the Education, advocacy and communication subcommittee and marketing and advertising subcommittee and any other that the Committee may deem necessary.

(3) The subcommittee shall meet when the need arises or at the request of the Committee in writing.

Packaging and labelling subcommittee

8. (1) The subcommittee shall consist of—

(a) chairperson of the subcommittee; and

(b) one registered legal practitioner; and

(c) two members from the Ministry responsible for Health; and

(d) one member from the Ministry responsible for Industry; and

(e) any other additional members may be optionally appointed by the committee.

(2) Subject to any general directions given to it by the committee concerned, the functions of the packaging and labelling subcommittee shall be—

(a) to advise the Committee on the general labelling and packaging standards of the designated products according to the Food and Food Standards (Food Labelling) Regulations, 2002, and any subsequent amendments; and

(b) to assess and approve labels and packaging materials of any designated products according to the terms stated in Part IV of Labelling of designated products; and

(c) report to the committee on all matters addressed by the subcommittee relating to labelling and packaging; and

(d) and any other functions given by the Committee.

Education, advocacy and communication subcommittee

9. (1) The subcommittee shall consist of—

(a) a chairperson of the subcommittee; and

(b) one shall be from the Ministry responsible for Higher and Tertiary Education; and

(c) two shall be from the Ministry responsible for Health; and

(d) one shall be from the Ministry responsible for Industry; and

(e) any other additional members may be optionally appointed by the committee.

(2) Subject to any general directions given to it by the committee concerned, the functions of the Education, advocacy and communication subcommittee shall be—

(a) to supervise the provision of scientific information to health workers conducted by the manufacturers and distributors of designated products as the committee may specify; and

(b) to assess informational and educational materials according to the terms stated in Part III of education and information concerning infant nutrition; and

(c) to advise the committee on any matter concerning the provision of scientific information to health practitioners referred to in paragraph (a); and

(d) to research and evaluate on the policies related to the promotion, protection and support of breast-feeding; and

(e) report to the committee on all matters addressed by the subcommittee relating to education, advocacy and communication; and

(f) any other functions given by the committee.

Marketing and advertising subcommittee

10. (1) The subcommittee shall consist of—

(a) chairperson of the subcommittee; and

(b) one shall be a registered legal practitioner; and

(c) two shall be from the Ministry responsible for Health; and

(d) one shall be from the Ministry responsible for Information; and

(e) one shall be from the Ministry responsible for Industry; and

(f) any other additional members may be optionally appointed by the committee.

(2) The functions of the marketing and advertising subcommittee shall be—

(a) monitoring of marketing, advertisements, informational and educational material including electronic online and offline on infant and young child nutrition and any designated products according to the terms stated in Part V of advertising, Part VI of donations, samples and special offers, Part VII of marketing of designated products; and

(b) reporting of contraventions related to marketing, advertisements, informational and educational materials including electronic online and offline on infant and young child nutrition to the committee; and

(c) any other functions given by the committee.

PART III

Education and Information Concerning Infant and Young Child Nutrition

Education and instruction regarding infant and young child nutrition

11. (1) Subject to section 12, no manufacturer or distributor of a designated product shall employ any person, or use any means

including digital environments to provide pregnant women or mothers of infants and young children or any other member of the public with education or instruction regarding—

(a) the use of a designated product; or

(b) the nutrition of infants and young children generally.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable—

(a) on a first conviction to a penalty not exceeding level 7 or to imprisonment for a period not exceeding six months, or to both such fine and such imprisonment; or

(b) on a second or subsequent conviction, to a fine not exceeding level 8 or to imprisonment for a period not exceeding one year or both such fine and imprisonment.

Restriction on publication of informational or educational material on infant and young child nutrition

12. (1) No manufacturer or distributor of a designated product shall publish or cause or permit to be published any print or electronic informational or educational material on infant and young child nutrition—

(a) unless it is for the ethical interaction between the manufacturer or distributors and health workers for purposes of creating awareness about the scientific and factual matters of designated products as approved by the Committee; and

(b) where the material has been so approved, except in accordance with any conditions imposed by the Committee.

(2) No health worker shall publish to any pregnant woman or mother of an infant or young child and any other member of the public any informational or educational material on any designated product.

(3) Any person who contravenes subsection (1) shall be guilty of an offence and liable—

(a) on a first conviction to a penalty not exceeding level 5; or

(b) on a second or subsequent conviction, to a fine not exceeding level 7 or to imprisonment for a period not exceeding six months or both such fine and imprisonment.

Screening of informational or educational material on infant and young child nutrition

13. (1) Any person who wishes the Committee to approve any informational or educational material on infant and young child nutrition on or related to designated products shall apply in writing for such approval to the Committee at the offices of the National Nutrition Unit of the Ministry of Health and Child Care and shall submit with their application the sample, copy or material concerned in the form in which it shall be presented to the end user or customer.

(2) No person shall do mass production of unapproved informational or educational material on infant and young child nutrition for screening as no waiver will be granted.

(3) Within thirty working days after receiving an application in terms of subsection (1), the Committee shall examine the material concerned and may—

(a) approve it, either absolutely or subject to conditions; or

(b) refuse to approve it; and

(c) shall notify the applicant in writing of its decision and, where it has refused to approve the material give reasons thereof.

(4) The Committee shall not approve any informational or educational material on maternal, infant and young child nutrition in terms of subsection (2) unless it is satisfied—

(a) that it includes clear and accurate information on the following matters—

(i) the importance, benefits, and superiority of breast-feeding;

(ii) the value of exclusive breastfeeding for 6 months and the importance of introducing adequate and safe complementary foods at the age of 6 months while continuing to breastfeed until 2 years of age or more;

(iii) how to prepare for, initiate and maintain exclusive and sustained breastfeeding;

(iv) the proper use of designated products; and

(v) the adverse effects of the use of pacifiers on breast-feeding;

(vi) the adverse effects on breast-feeding of introducing bottle-feeding;

(vii) the adverse effects on breast-feeding of early introduction of solids and liquids;

(viii) the advantages of preparing complementary foods at home using local ingredients;

(ix) and may include maternal nutrition;

(x) the difficulty of reversing the decision not to breast-feed even for a short period; and

(b) that it does not use any pictures of infants, baby cues or sounds; and

(c) that it does not use any pictures of infants and women nor any other picture or text which idealise or normalise the use of a designated product or discourage breastfeeding, or make, references to growth milestones or stages;

(d) that it does not contain the name or logo of any designated product or of any manufacturer or distributor of a designated product provided that this clause shall not be applicable to information about designated products intended for health practitioners as authorised by the Committee;

(e) if the material referred to in subsection (1) deals with the use of infant formula or any other food or drink which requires a feeding item, that it includes clear and accurate information on—

(i) the instructions for the proper preparation and use of the product including the cleaning and sterilisation of feeding utensils; and

(ii) the health hazards and other hazards of bottle-feeding; and

(iii) the health and other hazards of improper preparation of the product; and

(iv) manufacturers and distributors of feeding bottles, teats and pacifiers shall include information on how to feed infants from seamless cups and that seamless cups are easier to clean than bottles with teats and cups with seams.

(5) Where the Committee does not approve any informational or educational material on infant and young child nutrition in terms of subsection (2), the applicant may at any time resubmit the material to the Committee, having made such alterations to the material as they consider necessary to secure the Committee's approval.

PART IV

Labelling of Designated Products

Labels of designated products to be approved

14. (1) No person shall market any designated product unless the label thereof has been approved by the committee in terms of section 13.

(2) No person shall alter, deface, cover, remove or obscure a trade description or trademark to any approved label for any other purpose.

(3) Any person who contravenes this section shall be guilty of an offence and liable—

(a) on a first conviction to a penalty not exceeding level 7; or

(b) on a second or subsequent conviction, to a fine not exceeding level 8 or to imprisonment for a period not exceeding one year or both such fine and imprisonment.

Screening of labels by committee

15. (1) Any person who wishes the committee to approve any label shall apply in writing for such approval to the committee at the offices of the National Nutrition Unit of the Ministry of Health and

Child Care and shall submit with their application a specimen of the label concerned.

(2) Within thirty working days after receiving an application in terms of subsection (1), the Committee shall examine the label concerned and may choose to—

(a) approve it, either absolutely or subject to conditions; or

(b) decline approval; and

(c) shall notify the applicant in writing of its decision and, where it has declined to approve a label give reasons thereof.

(3) In addition to the requirements of the Food and Food Standards (Food Labelling) Regulations, 2002, Statutory Instrument 265 of 2002, and any subsequent amendments, the Committee shall not, in terms of subsection (2), approve the label of a designated product unless—

(a) it is as simple and as clear as possible in English and two other official languages as part of the label of the container or packaging and the remaining official languages on a leaflet; and

(b) the committee is satisfied that it provides sufficient information about the appropriate use of the product and that it does not-discourage breast-feeding; and

(c) the committee is satisfied that the label adequately specifies—

(i) the ingredients, including source of protein used; and

(ii) the composition and nutrient content or analysis of the product; and

(iii) the storage conditions required for the product; and

(iv) the batch number; and

(v) best before date and that, if the designated product is a complementary food, it is supplementary to breast milk; and

(vi) the appropriate age of introduction; and

(vii) prominently and in bold, conspicuous, non-serif characters of not less than ten-point size or in, in black against a white background, that "Breast-milk is the best food for your baby. It protects against diarrhoea, and other illnesses. It is best for the health of your baby to breastfeed exclusively for six months and begin complementary feeding from six months"; and

(viii) the manufacturer's name, telephone number, website address, email address, and physical address and, if applicable, corresponding contact information for the importer in Zimbabwe; and

(d) in the case of a cereal marketed as a complementary food, the label carries an exhortation to continue breastfeeding a child up to two years and beyond; and

(e) the committee is satisfied that—

(i) the label, or the portion thereof that bears the matter specified in subparagraph (ii) will be printed on the container or will not be easily separable therefrom; and

(ii) the following matter is clearly printed in black against a white background on the label and in an understandable form—

A. the words " WARNING" in bold upper-case characters of not less than twelve-point size (3 millimetres) tall based on the lower-case "x" or eighteen-point size (6 millimetres) tall on packages with available label area larger than 300 square centimetres in black against a white background; and

B. a statement on the superiority of breast-feeding; and

C. a statement that the designated product should be used only after seeking the advice of a health professional as to the need for and proper use of the product; and

D. instructions for its proper preparations and

use shall include "unused formula should be discarded after every use"; and

E. a statement concerning health and other hazards of improper preparations, including the risk of pathogens; and

(f) the label shall have no pictures of infants, young children and women nor any other picture, text, or representation that might—

(i) idealise infant formula or follow up formula; and

(ii) recommend or promote bottle feeding; and

(iii) undermine or discourage breastfeeding or that makes a comparison of breast milk or suggests that the product is similar, equivalent to or superior to breast milk; and

(iv) convey an endorsement or anything that may be construed as an endorsement by a professional or any other body unless this has been specifically approved by the relevant committee; and

(v) the terms "humanised", "materialised" and similar terms, are not used; and

(vi) having regard to the designated product concerned, the label bears, as may be appropriate, a prominent notice in bold, conspicuous, non-serif characters of not less than eight-point size (or 2.5 millimetres tall based on the lower case "x") black against a white background stating "To avoid illness of the infant or young child, follow the preparation instructions carefully. Do not use more or less quantities than indicated. Use a seamless cup when feeding as it is safer than bottle feeding. If you use a feeding bottle, your infant and young child may reject the breast."; and

(g) in the case of feeding items and pacifiers, the label bears a notice in bold conspicuous characters of not less than eight-point size in black against a white background stating, as may be appropriate that "The

use of a feeding bottle or ding cup or pacifier interferes with breastfeeding"; and

(h) the packaging design, labelling and materials used for the promotion of complementary foods are sufficiently different from those used for breast milk substitutes so that they cannot be used in a way that also promotes breast-milk substitutes (for example, different colour schemes, designs and names other than company name and logo should be used) to avoid cross-promotion.

Requirements for labels of sweetened condensed milk, and dried skimmed milk, evaporated milk, whole cow's milk, low fat milk, creamers or other milk-like products

16. (1) No person shall market any sweetened condensed milk, dried skimmed milk, evaporated milk, whole cow's milk, low fat milk, creamers or other milk-like products the label of which contains purported instructions on how to modify the milk concerned for use as—

(a) an infant and young child food; or

(b) as an ingredient of infant and young child formula.

(2) The label of every container of—

(a) any sweetened condensed, sweetened milk powder, sweetened evaporated and creamers or other sweetened milk-like products shall bear a notice, in eighteen–point (6 millimetres) bold uppercase non-serif characters in black against a white background and inside borders stating "Unfit for babies" as well as the same statement in vernacular;

(b) any, dried, skimmed, evaporated, low fat milk, or other milk-like products shall bear a notice, in eighteen–point (6 millimetres) bold uppercase non-serif characters in black against a white background and inside borders stating "Unfit for infants" as well as the same statement in vernacular;

(c) any whole mammal's milk shall bear a notice, in eighteen–point (6 millimetres) bold uppercase non-serif characters in black against a white background and inside

borders stating "Unsuitable for infants unless modified in accordance with the advice of a health practitioner or a nutritionist or dietician".

(3) This section shall be additional to, and not in substitution for the requirements of any other enactment relating to the labelling of food and dairy produce.

(4) Any person who contravenes subsections (1) and (2) shall be guilty of an offence and liable—

(a) on a first conviction to a penalty not exceeding level 7 or to imprisonment for a period not exceeding six months, or to both such fine and such imprisonment; or

(b) on a second or subsequent conviction, to a fine not exceeding level 8 or to imprisonment for a period not exceeding one year or both such fine and imprisonment.

PART V

Advertising and Promotion of Designated Products

Prohibition of general advertising and promotion of designated products

17. (1) No person shall import, publish or cause to be published, including digital environments any advertisement and promotion for any designated product in such a manner that the public or any section is likely to see, read or hear such an advertisement.

(2) Any person who contravenes this section shall be guilty of an offence and liable to a fine not exceeding level 8 or to imprisonment for a period not exceeding one year or both such fine and imprisonment.

Prohibition of sales promotions of designated products

18. (1) No manufacturer or distributor of a designated product shall—

(a) use sales devices such as special displays, discount coupons, premiums, rebates, special sales, loss-leaders, tie-in sales, prizes or gifts; or

(b) give samples to any person; or

(c) sell the designated product to the public at a price that is lower than eighty per centum of the cost to him or her of purchasing or manufacturing the designated product; or

(d) provide any designated product free of charge or at a reduced price to consumer who purchase any other product; or

(e) engage in marketing or other activity designed to increase the sales of the designated product, including cross-promotion.

(2) No person shall distribute for sale, sell, stock or exhibit for sale any designated product—

(a) which is past its best before date; and

(b) in a container other than its original container.

(3) There should be a clear separation of designated and non- designated products when displayed for sale.

(4) Any person who contravenes this subsection (1) shall be guilty of an offence and liable—

(a) on a first conviction to a penalty not exceeding level 7 or to imprisonment for a period not exceeding six months, or to both such fine and such imprisonment; or

(b) on a second or subsequent conviction, to a fine not exceeding level 8 or to imprisonment for a period not exceeding one year or both such fine and imprisonment.

(5) Any person who contravenes subsection (2) shall be guilty of an offence and liable to a fine not exceeding level 8 or to imprisonment not exceeding one year or to both such fine and imprisonment.

Prohibition of promotion of designated products within healthcare system

19. (1) Promotion within a healthcare system or by health workers, Ministries, Departments or Agencies of the government, non-governmental organisations or associations of health professionals should at all times be avoided, hence no person who is a healthcare

worker, non-governmental organisation or association of health professionals shall—

(a) in any situation, seek or obtain access to any pregnant or lactating woman or care giver for the purpose of supplying him or her with or encouraging him or her to use the designated product; or

(b) solicit any pregnant or lactating woman or care giver of an infant or young child anywhere to use the designated product.

(2) In any prosecution for an offence in terms of subsection (1), if it is proved that a health worker, non-governmental organisation or association of health professionals—

(a) in any day—

(i) had access to any women who were either pregnant or are mothers of infants or young children; or

(ii) gave instruction in any matter relating to the nutrition or feeding of infants or young children to two or more women who were either pregnant, or mothers of infants or caregivers;

it shall be presumed until the contrary is shown that his or her duties involved the marketing of the designated product and that he or she obtained the access or gave the instruction, as the case may be, for the purpose of supplying the women with or encouraging them to use the designated product; or

(b) solicited two or more pregnant women, mother, caregiver, of an infant baby or young child to use the designated product, it shall be presumed until the contrary is shown that his or her duties involved marketing the designated product.

(3) No person with any healthcare system shall—

(a) publish any advertisement for a designated product; or

(b) display any placard, poster, sign or communication of any sort depicting or intended to promote a designated product.

(4) No manufacturer or distributor of a designated product shall offer or give to any health worker, or to any gift or benefit, financial or material inducement of any description, including pens, calendars, posters, note pads, growth charts or toys for the purpose of promoting the designated products.

(5) No manufacturer or distributor of a designated product shall donate designated products and other articles, utensils, equipment or services to the healthcare systems under any circumstance including sponsoring meetings of health workers, nor use of health facilities, to host events, contests, campaigns, distribute coupons or information, education and communication materials about designated products.

(6) No person in charge of a health-care facility shall employ any other person or cause or permit any other person to be employed in the health-care facilities on duties which bring such other person into direct contact with babies and young children, pregnant women, mothers of infants or their families, if the salary or wages of such other person are paid, wholly or partly, by a manufacturer or distributor of a designated product.

(7) Any offer of a sample, gift, donation or other benefit made to a health worker or health-care facility in contravention of these regulations shall be reported to the Committee in writing.

(8) Any person who contravenes any provisions of this section shall be guilty of an offence and liable to a fine not exceeding level 8 or to imprisonment for a period not exceeding one year or both such fine and imprisonment.

PART VI

Donations, Samples and Special Offers of Designated Products

Restriction on donations, samples and reduced-price sales of designated products

20. (1) No manufacturer or distributor of a designated product shall supply or cause or permit to be supplied to any person—

(a) any quantity of the designated product; or

(b) any utensil or article which is likely to promote bottle-feeding or the use of the designated product;

free of charge or at a price lower than eighty *per centum* (as inspected) price at which he or she normally sells the designated product, utensil or article.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable—

(a) on a first conviction to a penalty not exceeding level 7 or to imprisonment for a period not exceeding six months, or to both such fine and such imprisonment; or

(b) on a second or subsequent conviction, to a fine not exceeding level 8 or to imprisonment for a period not exceeding one year or both such fine and imprisonment.

Powers of Minister to permit donation and supply of designated products

21. (1) The Minister—

(a) has power to direct health care facilities to procure designated products for children that require them though the normal procurement system; or

(b) may receive donations of designated products for children on behalf of health care system.

(2) Subject to this section, the Minister may authorise in writing a request from a provincial medical officer and chief medical officer of central hospitals for the supply of any designated product, the supply of which would otherwise be prohibited.

(3) The Minister shall not grant permission in terms of subsection (1) for the supply of donations or distribution of a breast-milk substitute or complementary food unless he or she is satisfied that—

(a) the supply of the breast-milk substitute is necessitated by a medical condition of the infant or mother; or

(b) the breast-milk substitute or complementary food is to be fed to orphaned infants, abandoned infants, during a disaster or other relief operations.

(4) Where permission has been granted for the donation of any breast-milk substitute or complementary food in respect of an infant or young child, the health practitioner shall ensure that—

(a) the supplies shall be for so long as the infant requires them; and

(b) the care providers of the infants shall receive appropriate training from a health care provider to prevent the health hazards from improper use of the products; and

(c) such donations or low-price sales shall not be used by manufacturers or distributors as sales inducement; and

(d) products distributed in subsection (2) shall not display company brands or logos.

(5) The Minister may impose such written conditions on any permission granted in terms of subsection (1).

(6) The Minister may at any time for good cause, after giving any person concerned an opportunity to make representations thereon—

(a) amend any term or condition of any permission granted in terms of subsection (1); or

(b) revoke any permission granted in terms of subsection (1).

(7) The Minister shall inform the Committee before granting or, revoking any permission or imposing or amending any condition in terms of this section.

Prohibition of sponsorship from manufacturer or distributor of designated product

22. (1) No health worker, Ministry, Department or Agency of the Government directly or indirectly involved in infant and young child nutrition, non-governmental organisation, association of health professionals or healthcare systems shall be allowed to seek or receive sponsorship from a manufacturer or distributor of designated products.

(2) The kind of sponsorship prohibited shall include, but not limited to—

(a) gifts, incentives or coupons; and

(b) fellowships, sponsorships, study tours, research grants, attendance at professional conferences and meetings, or the like; and

(c) the use of health facilities to host events, contests or campaigns; and

(d) acceptance of any financial or material inducements to promote products within the scope of these regulations offered by manufacturers or distributors to health workers or members of their families.

PART VII

Marketing Personnel

Restriction on access to pregnant women and mothers of infants and young children

23. (1) No person who is an employee, contractor or partner of a manufacturer or distributor of a designated product shall—

(a) in any health-care facility, seek or obtain physical, digital or electronic access to any pregnant woman, mother or caregiver of an infant or young child; or

(b) instruct any pregnant woman, mother or caregiver of an infant or young child in any matter relating to the nutrition or feeding of infants; or

(c) solicit any pregnant woman, mother or caregiver of an infant or young child anywhere to use the designated product.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level 8 or to imprisonment for a period not exceeding one year or both such fine and imprisonment.

PART VIII

Food Safety and Quality Standards

Food safety and quality standards of designated products

24. (1) No person shall manufacture, import or market any breast-milk substitute or complementary food that does not comply with the applicable—

(a) Zimbabwe national standards; or

(b) in the absence of the Zimbabwe national standards, no person shall manufacture or market any designated products that do not comply with the applicable standards recommended by the Codex Alimentarius Commission.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level 8 or to imprisonment for a period not exceeding one year or both such fine and imprisonment.

PART IX

Investigatory Powers

Powers of entry, search, seizure and prohibition

25. (1) Whenever there are reasonable grounds for believing that such action is necessary for the prevention, detection or investigation of an offence in terms of these regulations, a medical officer, or environmental health practitioner of the Ministry, or any other person specially authorised by the Minister, and any Director health services, environmental health practitioner or any other person specially authorised by the local authority may—

(a) enter upon, inspect or search any premises or place; or

(b) open and examine any package or receptacle in or upon any premises or place; or

(c) inspect and make copies from any store, record, book, document or account in or upon any premises or place; or

(d) require the owner or occupier of any premises or place to produce or make available to him or her for inspection any store, record, book, document or account in or upon the premises or place; or

(e) take from any premises or place, a representative sample of any designated product as he or she considers necessary for the purposes of testing, examination or analysis.

(2) Whenever there are reasonable grounds for believing that such action is necessary for the seizure of property which is the subject-matter of or evidence relating to such an offence in terms of these

regulations, a medical officer, or environmental health practitioner of the Ministry, or any person specially authorised by the Minister, in the presence of a police officer, or any Director health services, environmental health practitioner, or any person specially authorised by the local authority, in the presence of a police officer, may—

(a) remove any designated product from any premises or place to some other place and detain it there under due and proper care; or

(b) issue and deliver to any person who has custody of any designated product or, if such person is for any reason not available, place on or by the designated product in a conspicuous place a notice prohibiting the manufacturer, distributor, marketing or disposal of the designated product or its removal from any premises.

Recall and stop sale order

26. When the Minister decides that there are reasonable grounds to believe that any designated product—

(a) poses an immediate risk to the health of infants or young children; or

(b) is advertised or promoted contrary to these regulations by a manufacturer or distributor that has been found by an inspector to have marketed products contrary to these regulations two or more times in any three-year period; or

(c) does not comply with the provisions of the Food and Food Standards Act [*Chapter 15:04*];

shall order the responsible manufacturer, distributor or retailer to execute a mandatory product recall and stop sale order.

Return of detained products, withdrawal of prohibition against manufacturer, distributor, retailer or marketing and destruction of condemned designated products

27. (1) An authorised person who has detained any designated product in terms of section 25(2) or any person acting on his or her behalf, may at any time—

(a) return the designated products if there were no violations observed; or

(b) the designated product must be returned to the premises or place from which it was removed or, if that is impracticable, to such other convenient place after consulting the person from whom he took the designated product; or

(c) withdraw the notice by giving notice in writing to the owner of the designated product concerned or to the person in whose custody it was found.

(2) If within thirty working days from the date on which—

(a) any designated product was detained in terms of section 25(2)(a); or

(b) a notice was issued in terms of section 26(2)(b);

a summons in respect of a prosecution for an offence in terms of these regulations has not been issued—

(i) the designated product shall be returned to the premises or place from which it was removed or, if that is impracticable, to such other convenient place as the inspector or police officer concerned, or any other person acting on his behalf, may fix after consulting the person from whom he took the designated product; or

(ii) the notice be deemed to have been withdrawn as the case may be.

(3) All condemned designated products shall be destroyed according to the Food and Food Standards Act [*Chapter 15:04*].

Minister to obtain particulars of designated products

28. (1) The Minister, in consultation with the Committee, may order any manufacturer, distributor or retailer of a designated product to provide the Minister, within such period as may be specified in the order, with such particulars as he or she may so specify relating to the composition, use and marketing of the designated product.

(2) Without prejudice to the generality of subsection (1), an order made in terms of that subsection may require particulars to be furnished relating to—

(a) the composition of the designated product or any ingredient thereof; and

(b) the manner in which the designated product is used or is intended to be used; and

(c) the labelling of the designated product; and

(d) the volume of sales within Zimbabwe of the designated product; and

(e) any investigation or inquiries carried out by or to the knowledge of the person to whom the order is given to determine whether and to what extent the designated product affects health.

(3) Neither the Minister nor any person employed in the Ministry of Health and Child Care shall disclose to any person who is not employed in the Ministry any particulars furnished in terms of an order made in terms of subsection (1), or any information relating to an individual person or business obtained by means of such particulars without the consent of the person who supplied the particulars, except in the course of publicly reporting monitoring and enforcement actions.

Minister to require analysis of samples

29. (1) The Minister may order any manufacturer or distributor of a designated product to submit, at such intervals as the Minster may specify, samples of the designated product to an analyst named by the Minister in the order.

(2) The cost of analysing any sample submitted to an analyst in terms of subsection (1) shall be met by the Government of Zimbabwe.

Inspectors and monitors

30. (1) Every health worker and the Committee shall be monitors for the purposes of these regulations.

(2) The Minister may appoint as inspectors such other persons in the *Gazette*, as he or she deems necessary for the proper enforcement of these regulations.

(3) Every inspector appointed in subsection (2) shall, when exercising any function in terms of these regulations and on demand

any person affected by such exercise, exhibit his or her identification as an inspector.

PART X

General

Promotion of infant and young child nutrition

31. The owner or manager of a healthcare facility shall—

(a) take measures to protect, promote and support infant and young child nutrition and shall ensure that all health workers employed at the healthcare facility are familiar with these regulations; and

(b) eliminate any practice, including pre-lacteal feeding, which directly or indirectly retards the initiation and continuation of breast-feeding.

Presumptions

32. In any prosecution for an offence in terms of these regulations—

(a) if it is proved that any designated product was found in or upon any premises or place used for the manufacture or sale of goods, it shall be presumed, until the contrary is proved, that the designated product was there in order to be marketed; or

(b) if it is proved that any designated product was found in a sealed container, the person who appears, from any label appearing on or attached to or packed with the container, to have manufactured or distributed the designated product shall be presumed, until the contrary is proved, to have manufactured or distributed the designated product, as the case may be.

Conflict of interest

33. (1) A member of the Committee or subcommittees shall not in any way participate in nor be present at any proceedings before the committee or subcommittee in which the member is aware that he or she has a direct or indirect interest that may be in conflict with his or her functions as a member of the committee or subcommittee.

(2) No health practitioner or health worker shall apply judgement or act in the context of delivering health care services that could be, impaired or influenced by another interest they hold.

(3) No manufacturer or distributor shall apply judgement or act in the context of delivering health care services that could be, impaired or influenced by another interest they hold.

(4) The interests are not restricted to financial benefits but also include professional, personal, and other indirect interests.

(5) All persons including committee or subcommittee members, health practitioners, health workers, non-governmental organisations or associations of health professionals, Ministries, Departments or Agencies of the Government, manufactures, distributors should be free of conflicts of interest within a healthcare system.

(6) Any person who contravenes this section shall be guilty of an offence and liable to a fine not exceeding level 7 or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

Repeal

34. The Public Health (Breast-milk Substitutes and Infant Nutrition) Regulations, 1998 published in Statutory Instrument 46 of 1998, are hereby repealed.