
Himachal Pradesh Fruit Nurseries Registration Act, 1973

15 of 1973

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(Received the assent of the Governor on the 9th June, 1973, and was published in R.H.P. Extra., dated 4th July, 1973 at p. 1145-1152).

An Act to provide for the registration of fruit nurseries in Himachal Pradesh.

Amended, Repealed or otherwise affected by,-

1. H.P. Act No. 11 of 1980¹ assented to by the Governor on 11-12-

1980 and published in R.H.P. Extra., dated 19-12-1980 page 1902. BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-fourth Year of the Republic of India as follows:-

1 For Statement of Objects and Reasons see R. H. P. Extra., dated 3-5-1973 p. 661. and for its authoritative Hindi text see R.H.P. dated 19-9-91, P. 2011.

1 For Statement of Objects and Reasons see R. H. P. Extra., dated 11-10-1980 p. 912.

1. Short title, extent and commencement :-

(1) This Act may be called the Himachal Pradesh Fruit Nurseries Registration Act, 1973.

(2) It extends to the whole of Himachal Pradesh.

(3) It shall come into force on such date² as the State Government may, by notification, appoint in this behalf.

2 Enforced w.e.f. 1-8-1973, vide Not. No. 6-6/70-Agr., sectt. dated the 30th July, 1973 reproduced at the end of this Act.

2. Definitions :-

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

(a) "competent authority" means a person or authority appointed by the State Government, by notifications, to perform the functions under this Act;

(b) "Director" means the Director of Horticulture, Himachal Pradesh;

(c) "Inspecting officer" means any officer not below the rank of Horticultural Inspector or Plant Protection Inspector authorised by the Director of Horticulture, for the purpose of inspection of nurseries;

(d) "notification" means a notification published in the Official Gazette;

(e) "nurseryman" means any person engaged in the production and sale of fruit plants;

(f) "Official Gazette" means Rajpatra, Himachal Pradesh;

(g) "plant material" means any propagation material used in raising the plant and includes budwood, scion, root-stock, seeds and cuttings;

(h) "prescribed" means prescribed by rules made under this Act;

(i) "root-stock" means the fruit plant or part thereof on which any fruit plant has been grafted or budded;

(j) "scion" or "budwood" means the part of the plant which is used for grafting or budding a root-stock or tree;

(k) "State Government" means the Government of Himachal Pradesh.

3. Registration and Licence :-

No nurseryman who owns and possesses a nursery shall engage in the production and sale of nursery plants or plant material without getting himself or his firm registered with the competent authority and without obtaining a licence, in the form prescribed. Note.- Where the nurseryman has more than one fruit nursery in different towns and villages, he shall have to obtain a separate licence in respect of each such fruit nursery.

4. Application for, and grant and refusal of licence :-

(1) Every application for a licence under section 3 shall be made to the competent authority and shall be in the prescribed form.

(2) Subject to such conditions and restrictions as may be prescribed, if the competent authority is satisfied that-

(a) the fruit nursery is suitable for the proper propagation of the fruit plants in respect of which licence has been applied for;

(b) the applicant is competent to conduct or establish any such fruit nursery;

(c) he fulfills any other conditions notified by the competent authority in this behalf; and

(d) the applicant has paid the fee prescribed for the licence and has also furnished the prescribed security, if any; such authority may grant a licence to the applicant for conducting or establishing a fruit nursery in accordance with the terms of the licence and the provisions of this Act and the rules made thereunder.

(3) Every licence granted under this section shall be valid for a period of 3 years from the date of its issue and it may be renewed from time to time on payment of such fee, in such manner and the fulfilment of such conditions as may be prescribed.

(4) If the competent authority refuses to grant or renew a licence under this section, it shall record its reasons for such refusal in writing and communicate a copy of its order to the applicant.

5. Suspension or cancellation of licence :-

(1) The competent authority may suspend or cancel any licence

granted or renewed under section 4-

(a) if the licensee has applied to be adjudicated, or been adjudicated an insolvent, or

(b) if he has parted, in whole or in part, with his control over the fruit nursery, or

(c) if he has ceased to conduct or possess such fruit nursery, or

(d) if in the opinion of such authority he has become incompetent to conduct or possess such fruit nursery, or

(e) if he has contravened, or failed to comply with any of the terms of the licence or any of the provisions of this Act or the rules thereunder, or

(f) if he has refused to surrender or produce his licence or the registers and other record required to be maintained under this Act or the rules thereunder to the competent authority or any person authorised by it, or

(g) on any other prescribed ground.

(2) Before passing an order under sub-section (1) the competent authority shall intimate to the licensee the grounds on which it is proposed to take action and give him a reasonable opportunity of showing cause against it.

(3) The competent authority may suspend the licence pending the passing of a cancellation order in respect thereof under sub-section (1).

(4) A copy of every order passed under sub-section (1) or sub-

section (3) shall be communicated to the licensee.

6. Returns of licence :-

On the expiry of his licence or on the receipt of an order suspending or cancelling it the licensee shall return the licence to the competent authority:

Provided that such authority may, after such expiration, suspension or cancellation, give such reasonable time as it thinks fit to the nurserymen to enable him to wind up his fruit nursery.

7. Issue of duplicate licence :-

If a licence granted or renewed under section 4 is lost, destroyed, mutilated or damaged, the competent authority shall, on application and payment of the prescribed fee issue a duplicate licence.

8. Appeals :-

(1) Any person aggrieved by an order of a competent authority refusing to grant or renew a licence under this Act may appeal in such form and manner, within such period and to such authority as may be prescribed: Provided that the appellate authority may admit an appeal after the prescribed period, if sufficient cause is shown.

(2) The appellate authority may, after hearing the appellant, pass such orders on the appeal as it thinks fit.

(3) An order passed under this section shall subject to the provisions of section 9 be final.

9. Revision :-

(1) The State Government may, on the application of any person aggrieved by an order passed under this Act, at any time, for the purpose of satisfying itself as to the legality or propriety of such

order, call for and examine the record of the case and may pass such orders thereon as it thinks fit: Provided that the State Government shall not exercise the powers under this section, in respect of an order against which an appeal preferred under section 8 is pending or in case an appeal has not been preferred, before the expiry of the time limit therefor.

(2) An order passed under this section shall be final.

10. Plant material to be utilized for propagation :-

(1) A registered nurseryman or firm of nurserymen shall utilise only such plant material in respect of scion and root stock for propagation as may be recommended from time to time, by the State Government.

(2) A registered nurseryman or firm of nurserymen shall have progeny, trees of the good pedigree and their number should justify the plants propagated subject to the minimum limit of twenty five trees.

11. Record and its inspection :-

A registered nurseryman or firm of nurserymen shall maintain a complete record of the origin or source of the rootstock scion budwood and shall produce the record for inspection on demand by the Director or an inspecting officer.

12. Plots and trees to be kept free from insects, pests and diseases :-

The nursery plots as well as the plants and trees used for production of nursery plants and trees shall be kept free from such insects, pests and diseases. as may be prescribed.

13. Inspection of nurseries :-

(1) The inspecting Officer may inspect the nurseries from time to

time to ensure that nursery plots, plants and trees used for the production of nursery plants and trees are kept free from insects, pests and diseases, and may direct the nurseryman to remove and destroy infected or infested plants or trees within the prescribed period.

¹[(2) "The nurseryman shall, on receipt of such directions in writing, remove or destroy such plants or trees within the prescribed period, failing which the inspecting officer shall cause the same removed and destroyed at the cost of the nurseryman and the expenditure so incurred by him shall be recovered from the nurseryman as an arrear of land revenue.]

1 Subs. vide Act No. 11 of 1980.

14. Packages and their labelling :-

(1) A package or container containing the plant or plants shall be distinctly labelled to designate the kind and variety sold.

(2) In case the package or container contains plants of more than one kind and variety, each individual plant shall be labelled.

(3) The name of root-stock and the scion shall be, mentioned on label.

15. Maintenance of register :-

(1) Each nurseryman shall maintain a register in the prescribed form containing complete information regarding the plant material sold as well as the name and complete address of the purchaser.

(2) The register shall be preserved by the nurseryman for at least ten years after the date of conclusion of the transaction.

16. Varieties to be propagated for sale :-

(1) The varieties propagated for sale shall be those recommended or approved by the Department of Horticulture, Himachal Pradesh.

(2) If a certain variety or varieties imported or evolved by the nurseryman at his own estate or intended for propagation, the full particulars of such varieties shall be shown to and approved by the Director or a Gazetted Officer authorised by the Director in this behalf before sale of the variety in question under a distinct or a separate name.

17. Power of State Government to prohibit or regulate the bringing into or taking out of the State fruit plants :-

The State Government may, by notification, prohibit or regulate, subject to such restriction and conditions as it may impose, the bringing into, or taking out of Himachal Pradesh, otherwise than across a customs frontier as defined by the Central Government or the transport within the Himachal Pradesh of any fruit plant of unknown pedigree or affected by any infectious or contagious disease or pest as declared by the competent authority.

18. Penalties :-

(1) If any person contravenes any of the provisions of this Act or any rule made thereunder, contravention of which is made punishable under this section or attempts to contravene or abets the contravention of any such provision or rule, he shall be punishable with imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees or with both.

(2) If the person committing an offence under this Act is a company, the company as well as every person incharge of and responsible to the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(3) Notwithstanding anything contained in sub-section (2), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of any Director, Manager, Secretary or other officer of the company, such Director, Manager, Secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. Explanation.-For the purposes of this section-

(a) company means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, is a partner in the firm.

19. Cognizance of offence, etc :-

No court shall take cognizance of an offence punishable under this Act except upon complaint in writing made, by the competent authority or any officer authorised in this behalf by the competent authority by general or special order.

20. Persons exercising powers under this Act to be public servants :-

All persons exercising powers under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

21. Protection of persons acting in good faith :-

No suit, prosecution or other legal proceeding shall lie against the State Government or against any person for anything which is in

good faith done or intended to be done in pursuance of this Act or rule or order made thereunder.

22. Power to make rules :-

(1) The State Government may, by notification, make rules¹ to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for-

(a) all matters expressly required or allowed by this Act to be prescribed;

(b) the conditions to be inserted in licences to be granted to nurseryman and the form of such applications and licences;

(c) the procedure to be followed by competent authorities in the exercise of their functions under this Act;

(d) the registers, books of accounts and records to be maintained by licensees and the manner in which and the period for which they shall be maintained;

(e) the circumstances in which security may be required from licensees and the security furnished by them may be forfeited and the manner in which any sum falling due as a result of such forfeiture may be recovered;

(f) the efficient conduct, improvement and development of fruit nurseries;

(g) the detection, inspection, certification, method of transport or destruction of fruit plants in respect of which a notification has been issued under section 17 or of any article which may have been

in contact or proximity thereto and the regulation of the powers and duties of the officers who may be appointed in the behalf;

(h) the procedure to be followed in appeals/revisions under sections 8 and 9 and limitation thereof;

(i) to prescribe pests, diseases and insects of which the nursery plants are required to be kept free;

(j) the procedure to be followed in conducting inspections of the nurseries.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session, for a total period of not less than fourteen days which may be comprised in one session or in two or more successive sessions and if before the expiry of the session in which it is so laid or the sessions aforesaid, the Assembly makes any modification in the rule or decides that the rule should not be made the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

1 The rules framed vide Not. No. 6-1/73-Hort., (Sectt.) dated the 13th December, 1973 (Appended).

23. Delegation of powers :-

The State Government may, by notification in the Official Gazette, delegate to any officer or authority subordinate to it all or any of its powers under this Act except the power to make rules.

24. No compensation for suspension or cancellation of licences :-

Where any licence is suspended or cancelled under this Act, the licensee shall not be entitled to any compensation therefor, nor shall he be entitled to the refund of any fee paid by him for the

licence.

25. Repeal and savings :-

The Himachal Pradesh Fruit Nurseries Registration Act, 1956 (11 of 1956), as in force in the areas which comprised in Himachal Pradesh immediately before the 1st November, 1966, and the Punjab Fruit Nurseries Act, 1961 (13 of 1961), as in force in the area added to Himachal Pradesh under section 5 of the Punjab Reorganisation Act, 1966 (31 of 1966), are hereby repealed:

Provided that anything done or any action taken (including any licence issued, nursery registered, notification, order or direction issued, any rules made, proceedings commenced or continued) under any of the Acts hereby repealed shall be deemed to have been issued, done or taken under the corresponding provisions of this Act.