

THE HIMACHAL PRADESH FRUIT NURSERIES REGISTRATION AND REGULATION ACT, 2015

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**THE HIMACHAL PRADESH FRUIT NURSERIES REGISTRATION
AND REGULATION ACT, 2015****(ACT NO. 29 OF 2015)¹**

(Received the assent of the Governor on the 6th November, 2015 and was published both in Hindi and English in the Rajpatra, Himachal Pradesh, dated 10th November, 2015, pp. 5255-5271).

An Act to consolidate and re-enact a law providing for the registration and regulation of fruit nurseries (including bud wood bank and tissue culture lab) in Himachal Pradesh and for matters connected therewith or incidental thereto.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Sixty-sixth Year of the Republic of India as follows:-

1. Short title and commencement.- (1) This Act may be called the Himachal Pradesh Fruit Nurseries Registration and Regulation Act, 2015.

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

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

- (a) “Appellate Authority” means the Director of Horticulture, Himachal Pradesh, appointed by the State Government;
- (b) “bud wood bank” means earmarked progeny trees and fruit trees maintained for taking scion wood or any other propagule for further multiplication in the nursery;
- (c) “competent authority” means an authority appointed by the State Government, by notification, to perform the functions under this Act;
- (d) “designated agency” for the purpose of sections 10, 13 and 16 means Dr. Y.S.Parmar University of Horticulture and Forestry, Nauni, Solan;
- (e) “Director” means the Director of Horticulture, Himachal Pradesh;
- (f) “hardened” means tissue culture raised plants adapted to outdoor conditions;
- (g) “farmer’s variety” means a variety which has been cultivated and evolved by the farmer in his field;

1. Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see the Rajpatra, Himachal Pradesh, dated 4th September, 2015, pp. 3465-3466 and 3474.

2. Act came into force from 1st January, 2020, vide Notification No. HTC-E(4)1/95-Vol.-I-Loose, dated 31st December, 2019, published in the Rajpatra, Himachal Pradesh, dated 3rd January, 2020, pp. 9062-9063.

- (h) “fruit nursery” means bud wood bank or propagation unit or tissue culture unit where plants are regularly propagated and sold for transplantation;
- (i) “inspecting officer” means any officer authorized by the Director of Horticulture, Himachal Pradesh for the purpose of inspection of fruit nurseries;
- (j) “notification” means a notification issued by the State Government and published in the Official Gazette;
- (k) “nurseryman” means any individual or agency engaged in the production and sale of plant material from the fruit nursery;
- (l) “Official Gazette” means the Rajpatra, Himachal Pradesh;
- (m) “plant material” or “propagule” means any propagation material used in raising the plant and includes bud wood or scions, rootstocks, cuttings and seed etc.;
- (n) “prescribed” means prescribed by rules made under this Act;
- (o) “rootstock” means the horticulture plant or part thereof on which any horticulture plant has been budded or grafted;
- (p) “scion” or “bud wood” means the part of the plant which is used for grafting or budding a rootstock or a tree;
- (q) “State Government” means the Government of Himachal Pradesh; and
- (r) “tissue culture” means propagation of identical clones from plant parts under aseptic conditions on culture medium in the laboratory.

3. Registration and licence.- (1) No person who possesses a fruit 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 prescribed form.

(2) Where a person has more than one bud wood bank or fruit nursery in different towns or villages within the State, he shall have to obtain a separate licence in respect of such bud wood bank or fruit nursery.

(3) Bud wood bank and fruit nurseries either conventional or tissue culture raised shall have to be registered with the competent authority and a licence shall have to be obtained in the prescribed form.

(4) No registered and licensed fruit nursery shall engage in the propagation of fruit crops except by using the plant material from the registered and licensed bud wood banks.

4. Application for grant or renewal of licence.- (1) Every application for a licence under section 3 shall be made to the competent authority 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 fruit plants in respect of which the licence has been applied for;
- (b) the applicant has necessary infrastructure and facilities to conduct or establish any such fruit nursery or any tissue culture raised hardened plant material;
- (c) the applicant fulfils 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,

it shall grant a licence to the applicant for conducting or establishing a bud wood bank and or fruit nursery in accordance with the terms and conditions 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 five years from the date of its issue and it may be renewed from time to time on payment of such fee and in such manner and on fulfillment of such conditions as may be prescribed.

(4) If the competent authority refuses to grant or renew a licence under this section, it shall give a reasonable opportunity of being heard and record its reasons for such refusal in writing and communicate a copy of the 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 if, the licensee-

- (a) has been adjudicated an insolvent; or
- (b) has parted, in whole or in part, with his control over the bud wood bank or fruit nursery; or
- (c) has ceased to conduct or possess such bud wood bank or fruit nursery; or
- (d) in the opinion of such authority is not able to conduct or possess such bud wood bank or fruit nursery; or
- (e) 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 made thereunder; or
- (f) has refused to surrender or produce his licence or the registers and other record required to be maintained under this Act or the rules made thereunder to the competent authority or any person authorized by it.

(2) Before passing an order under sub-section (1), the competent authority shall intimate to the licensee the grounds on which it proposes to take action and give him a reasonable opportunity of being heard.

(3) The competent authority may suspend the licence during pendency of action to be taken under sub-section (1).

(4) A copy of every order passed under this section shall be communicated to the licensee.

6. Return of licence.- (1) 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 nurseryman to enable him to wind up his fruit nursery.

(2) If the nurseryman does not stop nursery production work within the stipulated period, the plant material produced in the fruit nursery or any hardened tissue culture raised plant material shall be destroyed by the inspecting officer at the cost of nurseryman and the expenditure so incurred shall be recovered from him as arrears of land revenue in addition to penalty under section 18 of the Act.

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 prescribed fee, issue a duplicate licence.

8. Appeal.- (1) Any person aggrieved by an order of the competent authority, refusing the grant or renewal of licence under this Act may appeal to the Appellate Authority in such form and in such manner and within such period as may be prescribed:

Provided that the Appellate Authority may, admit an appeal after the expiry of prescribed period, if there are sufficient reasons for not filing the appeal within time.

(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 thereof.

(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 utilize only such plant material in respect of scion and rootstock, as may be recommended from time to time by the designated agency.

(2) A registered nurseryman or firm of nurserymen shall have and maintain bud wood bank of good pedigree fruit trees and their number should justify the plants propagated subject to the minimum limit of twenty-five trees per variety.

(3) Every registered nurseryman or firm of nurserymen shall display a sign board in his nursery showing the following information:-

- (i) Name of the Nursery;
- (ii) License Number; and
- (iii) Validity period.

11. Record and its inspection.- A registered nurseryman shall maintain a complete record of the origin or source of the plant material and shall produce the record for inspection on demand by the Director or an inspecting officer.

12. Plants and trees to be kept free from pests and diseases.- The nursery plot, tissue culture unit or bud wood bank used for the production of nursery plants and trees shall be kept free from such insects 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 the nursery plots, tissue culture unit and bud wood bank used for the production of nursery plants are kept free from insects, pests and diseases. He may direct the nurseryman to send suspected plant samples for identification of pests to a designated agency as well as to remove and destroy infected or infested plant material within the prescribed period.

(2) The nurseryman shall, on receipt of such direction in writing, send the suspected plant material to the designated agency for identification of pests and remove and destroy such plants or trees within the prescribed period, failing which the inspecting officer shall cause the same to be sent for identification of pests and removed and destroyed at the cost of the nurseryman and the expenditure so incurred shall be recovered from the nurseryman as a arrears of land revenue.

(3) If the nurseryman fails to follow the directions given by the inspecting officer under sub-sections (1) and (2), he shall also be liable to be punished under section 18 of the Act.

14. Packages and their labelling.- (1) The package or container containing the plant material shall bear the name and registration number of

the nurseryman alongwith his seal and shall be distinctly labeled to designate the kind and variety sold.

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

(3) The name of rootstock and scion shall be mentioned on the label.

15. Maintenance of register.- (1) Each nurseryman shall maintain a register in the prescribed form containing complete information regarding the plant material sold, name and complete address of the purchaser that may be verified by the inspecting officer.

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

16. Varieties to be propagated for sale.- (1) The varieties propagated for sale must be true to type and shall be those recommended or approved by the Department of Horticulture, Himachal Pradesh or designated agency.

(2) If a certain variety or varieties imported or intended for propagation, the full particulars of such varieties shall be shown to and approved by the Director or an officer authorized by him in this behalf before sale of the variety in question.

(3) No registered nurseryman or farmer shall utilize the propagating material of the farmer's variety, evolved by the farmer at his own estate, if it has not been recommended by the designated agency and duly registered with the Registrar General under the Protection of Plant Variety and Farmers' Rights Act, 2001.

(4) If the nurseryman does not follow the directions given under sub-sections(1), (2) or (3), he shall be liable to be punished under section 18 of the Act.

(5) The seller shall produce original copy of nursery licence as and when asked by the inspecting officer. In case of suspicion, the inspecting officer may confiscate the plant material.

17. Power of State Government to prohibit or regulate the bringing into and taking out of the State fruit plants.- (1) The State Government may, by notification, prohibit or regulate, subject to such restrictions and conditions as it may impose, the bringing into, or and taking out of the State, otherwise than across a customs frontier as defined by the Central Government, or transport within the State any plant material of unknown pedigree or affected by any infectious or contagious disease or pest as declared by the competent authority.

(2) Whoever contravenes the provisions of sub-section (1), shall be liable to be punished under section 18 of the Act, and the inspecting officer may confiscate and destroy suspected plant material. For this purpose the inspecting officer may seek police assistance.

18. Penalties.- (1) Whoever contravenes any of the provisions of this Act or any rules made thereunder, or attempts to contravene or abets the contravention of any such provision or rule, he shall, on conviction, be punished with imprisonment for a term which may extend to one year or with fine which may extend to fifty thousand rupees or with both.

(2) If the person committing an offence under this Act is a company, the company as well as every person in charge 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 shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(4) The State Government may authorise the competent authority to compound certain offences under the Act which may be notified by the State Government, subject to condition that compounding fee shall not be less than thirty thousand rupees.

Explanation— for the purposes of this section-

- (a) “company” means anybody 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 offences.- (1) No court shall take cognizance of an offence punishable under this Act, except upon complaint in writing, made by the competent authority or any other officer authorized in this behalf by the competent authority, by general or special order or by a Police Officer not below the rank of Assistant-Sub-Inspector.

(2) No Court subordinate to that of the Magistrate of 1st Class shall try any offence punishable under this Act.

20. Person exercising powers under this Act to be public servant.- 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 rules or orders made thereunder.

22. Power to make rules.- (1) The State Government may, by notification, make rules 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 condition 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 authority in the exercise of its functions under this Act;
- (d) the register, 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 for maintenance and development of the bud wood bank and/or the fruit nurseries;
- (g) the detection, inspection, certification, method of transport or destruction of horticulture plant material in respect of which a notification has been issued under section 17 or 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 this 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 plant materials are required to be kept free; and
- (j) the procedure to be followed in conducting inspections of the nurseries and bud wood banks.

(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 to be laid or the sessions aforesaid, the Assembly makes any modification in the rule or decides that the rule should not be made, the rule 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.

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 licence.- Where any licence is suspended or cancelled under this Act, the licensee shall not be entitled to any compensation thereof, 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, 1973 is 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 the Act so repealed shall be deemed to have been issued, done or taken under the corresponding provisions of this Act.
