

**THE HIMACHAL PRADESH FRUIT NURSERIES
REGISTRATION ACT, 1973**

(Act No. 15 of 1973)¹

ARRANGEMENT OF SECTIONS

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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Amended, Repealed or otherwise affected by,-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 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. 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. Short title, extent and commencement.-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. 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;

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

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.

- (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 root-stock 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.]

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

¹ Subs. vide Act No. 11 of 1980.

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;

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

- (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.

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.

NOTIFICATIONS AND RULES

UNDER

**THE HIMACHAL PRADESH FRUIT NURSERIES
REGISTRATION
ACT, 1973**

DATE OF COMMENCEMENT OF THE ACT

HORTICULTURE DEPARTMENT

NOTIFICATIONS

Shimla-2, the 30th July, 1973

No. 6-6/70-Agr. Sectt.-In exercise of the powers conferred by sub-section (3) of section 1 of the Himachal Pradesh Fruit Nurseries Registration Act, 1973 (Act No. 15 of 1973), the State Government hereby appoints the first day of August, 1973 as the date on which the Act shall come into force throughout Himachal Pradesh.

(R.H.P. dated the 4th August, 1973. p. 1134);

**COMPETENT AUTHORITY UNDER SECTION 2 (A) OF THE
ACT**

Shimla-171002, the 13th October, 1977

No. HTC-A (3) 2/75.-In supersession of this department notification No. 6-6/70-Agr. Sectt., dated the 11th July, 1975, and in exercise of the powers conferred by section 2 (a) of the Himachal Pradesh Fruit Nurseries Registration Act, 1973 (Act No. 15 of 1973) upon him the Governor of Himachal Pradesh is pleased to appoint Shri K. C. Azad, Joint Director of Horticulture in the Directorate of Horticulture Naubahar, Shimla-171002, as `Competent Authority, to perform the functions under the aforesaid Act.

(R. H. P. dated 22-10-1977, P. 1632).

Shimla-2, the 29th December, 1986

No. NIC-10/76.-In exercise of the powers conferred upon me vide Himachal Pradesh Government notification No. HTC-A (3)2/75-V, dated the 5th November, 1986 as Competent Authority to perform the functions under the Himachal Pradesh Fruit Nurseries Registration Act, 1973 (Act No. 15 of 1973), I, M.R. Kondal, Senior Plant Protection Officer, Naubahar Shimla-2 further authorise all the District Horticulture Officers Plant Protection Officers, Assistant Virus Pathologist and Nursery Inspection and Certification Officers, in the

Department of Horticulture, Himachal Pradesh to perform the functions under section 19 (cognizance of offences, etc), under the aforesaid Act in their respective Districts.

(R. H. P. dated 25-6-1988, p. 518).

Shimla-2, the 20th July, 2000.

No. HTC-E(4)1/95.- In supersession of this Department Notification of even number dated 2nd July, 1997 and in exercise of the powers conferred under section 2 (a) of the Himachal Pradesh Fruit Nurseries Registration Act, 1973 (Act No. 15 of 1973), the Governor, Himachal Pradesh is pleased to appoint Sh. B.R. Kaushal, Senior Plant Protection Officer, Shimla-2 as “Competent Authority” to perform the function under the said Act and the rules framed thereunder with immediate effect.

(R. H. P. dated 2-9-2000, p. 1643).

BAN ON THE IMPORT OF PLANT MATERIAL

DIRECTORATE OF HORTICULTURE, HIMACHAL PRADESH

NOTIFICATION

Shimla-2, the 3rd January, 1989

No. NIC (2)/76-2013.-Codling moth (*Cydia pomonella* L.) is one of the most serious pest of apples in addition to apple, it also attacks apricots and walnuts.

Keeping in view the occurrence of codling moth in Ladakh Region (Leh and Kargil Districts of J&K) and its absence in Himachal Pradesh and opening of Leh-Manali Road to traffic and as such realising the chances of entry of codling moth pest in Himachal Pradesh from Ladakh Region, there is urgent need to prevent the fresh entry of this notorious pest into the State of Himachal Pradesh by imposing ban on entry of any fresh plant material of apple, apricot and walnut including fruits since codling mothlar vae feed inside the fruits.

Therefore, in exercise of the powers vested in me under section 17 of the Himachal Pradesh Fruit Nurseries Registration Act, 1973, powers delegated vide Himachal Pradesh Government Notification No. 6-6/70-Agr. Sectt., dated 19th February, 1974, hereby ban the import of any plant material of apple, apricot and walnut including fruits from Ladakh Region. These orders will become effective

from the date of issue.

(R. H. P., dated 14-1-1989, p. 39).

Shimla-2, the 21st August, 1990

No. NIC 20/89-1605 to 2522.-It has come to the notice of the undersigned that some unscrupulous nurserymen/persons are indulging in the import of the rainy season fruit plants of unknown `pedigree/variety from outside the state selling these in Himachal Pradesh especially Kangra district without getting permission from the undersigned. There is likelihood of introduction of new pests and diseases with the unauthorised plant material, in the State, I, therefore, in exercise of the powers vested in me vide section 17 of Himachal Pradesh Fruit Nurseries Registration Act, 1973 (Act No. 15 of 1973), as delegated to me vide Himachal Pradesh Government Notification No. 6-6/70 Agr. Sectt., dated 19th February, 1974, hereby completely ban the import and export of all types of nursery fruit plant material (see-lings, budwood as well as grafted plants) of all kinds and varieties in the State of Himachal Pradesh without obtaining prior permission of the undersigned in writing after completing all the codal formalities like submission of phytosanitary certificate and inspection note etc. is issued by the Nursery Inspection and Certification Officer(s)/Plant Protection Officers and subject matter specialist(s) (Plant Protection Officer(s) and subject matter specialist (s) (Plant Protection) in the Department of Horticulture, Himachal Pradesh).

All the persons, whosoever, may indulge in violation of these orders are liable to be prosecuted. These orders will become effective from the date of issue.

(R. H. P., dated 15-9-1990. p- 1049).

**DELEGATION OF POWERS OF STATE GOVERNMENT
UNDER
SECTION 23 OF THE ACT**

Shimla-2, the 19th February, 1974

No.6-6/70-Agr.Sectt.-In exercise of the powers conferred by section 23 of the Himachal Pradesh Fruit Nurseries Registration Act, 1973 (Act No 15 of 1973), the Governor, Himachal Pradesh, is pleased to delegate the powers of State Government specified under sections 10 and 17 of the said Act, to the Director of Horticulture, Himachal Pradesh.

(R. H. P., dated the 2nd March, 1974, p. 283).

**THE HIMACHAL PRADESH FRUIT NURSERIES
REGISTRATION RULES, 1973**

ARRANGEMENT OF RULES

Rules:

1. Short title.
2. Definitions.
3. Procedure for grant of licence.
4. Period of validity of renewal of additions and alterations in licence.
5. Additional grounds for suspension or cancellation of licence.
6. Issue of a duplicate licence.
7. Appeal against orders for refusal to grant or renewal or cancellation of a licence.
8. Plant material to be utilised for propagation.
9. Record and Inspection.
10. Plots, plants and trees to be kept free from insects, pests and diseases.
11. Inspection of Nursery.
12. Package and their labelling.
13. Penalty.
14. Security.
15. Repeal and Savings.

Form-I

Form-II

Form-III

Form-IV

Form-V

Form-VI

Form-VII

Form-VIII

Form-IX

Form-X

Form-XI

Form-XII

Form-XIII

HORTICULTURE DEPARTMENT

NOTIFICATION

Shimla-2, the 13th December, 1973

No.6-1/73-Hort. (Sectt.).-In exercise of the powers vested in him under section 22 of the Himachal Pradesh Fruit Nurseries Registration Act, 1973 (Act No. 15 of 1973), the Governor, Himachal Pradesh, is pleased to frame the following rules which shall come into force from the date of their publication in Official Gazette;-

1. Short title.-These rules may be called the Himachal Pradesh Fruit Nurseries Registration Rules, 1973.

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

- (a) `Act' means Himachal Pradesh Fruit Nurseries Registration Act, 1973 (Act No. 15 of 1973);
- (b) `Appellate authority' means the Director of Horticulture, Himachal Pradesh;
- (c) `form' means a form appended to these rules;
- ¹[(d) `licensee' means a person who has been issued a licence under the Act;]
- (e) `mother tree' means the progeny tree from which budwood or scionwood is taken for budding/grafting the root stocks,

¹ The definition of "licensee" Subs. for the original one by Not. No. 6-11/73-Hort. (Sectt.), dated 5-8-1975, published in R.H.P. Extra., dated 8-8-1975, p. 963-964.

- (f) 'security' means cash security furnished by the ¹licensee] for proper conduct of the business; and
- (g) all other terms and expressions used herein, but not defined in these rules, shall have the meanings respectively assigned to them in the Act.

3. Procedure for grant of licence.-(1) An application for a licence to conduct or establish a fruit nursery shall be addressed to the competent authority in Form-¹ along with a treasury challan in original of Rs. 100 deposited in favour of Director of Horticulture, Himachal Pradesh, under head "XXV--Agriculture (Horticulture)" in any Government Treasury/State Bank of India.

(2) The fee deposited under sub-rule (1) shall be refunded in full if the licence is refused.

(3) The competent authority shall on receipt of application, inspect or cause to be inspected, by any person(s) not below the rank of Horticultural Inspector/Plant Protection Inspector, the fruit nursery for which the licence has been applied for. The Inspecting Officer shall record his other observations in Form-².

(4) On receipt of the report of the Inspecting Officer (s) competent authority may, if satisfied that the applicant fulfils the conditions notified under section 4 of the Act, may grant the licence in Form-III. If not satisfied ²[it] may refuse the issue of licence and shall in its order give reasons for such refusal:

Provided that every order granting or refusing a licence shall be made within a period of 90 days of the date of receipt of the application for licence ³[and communicated within 10 days by a registered letter to the applicant].

(5) The competent authority shall maintain the register in Form-IV in which the names of the persons to whom the licences are granted from time to time shall be entered.

(6) The competent authority, if he is not satisfied with the report of the Inspecting Officer(s) may also conduct inspection himself or may order for re-inspection of the nursery through some other Inspecting Officer(s) as the case may be.

4. Period of validity of renewal of additions and alterations in licence.-(1) Every licence granted under these rules shall be valid for a period of

1 Subs. for "Nursery men" vide ibid.

2 Subs. for the word "He" by Not. No. 6-11/73-Hort. (Sectt.) dated 5-8-1975, published in R.H.P. Extra., dated 8-8-1975, p. 963-964.

3 Ins. by ibid.

three years from the date of its issue.

(2) Any person desiring to get his licence renewed shall make an application to the competent authority in Form- 'V' not less than 90 days (ninety) before the date of expiry of the licence. Such application shall be accompanied by a treasury challan in proof of the deposit of the renewal fee as prescribed under sub-rule (4). On the receipt of the application the competent authority will get the nursery inspected in the same manner as if the application has been received by him under rule 3 (1). The Inspecting authority will give his report in the Form- 'VI'.

(3) On receipt of the report of the Inspecting Officer the competent authority may, if satisfied that the applicant has not contravened any of the conditions of the licence or any provision of the Act or these rules, renew the licence for a maximum period of three years. If it is not so satisfied it may refuse the renewal and shall in its order give reasons for such a refusal:

Provided that every order renewing or refusing to renew licence shall be made within a period of 90 days from the date of receipt of the application for renewal ¹[and communicated within 10 days by a registered letter to the applicant].

(4) The renewal fee shall be Rs.100 for 3 years and shall be deposited under the Head referred to in rule 3(1). The renewal fee shall be refunded if the renewal of the licence is refused.

(5) If at any time during the currency of the licence the licensee desires to undertake propagation of fruit plants other than those mentioned in the licence, he shall make an application to the competent authority specifying therein the fruit plants sought to be propagated. The competent authority may, after satisfying it that the applicant is competent to undertake the propagation of fruit plants specified in the application, make the necessary additions and alterations in the licence.

5. Additional grounds for suspension or cancellation of licence.-The competent authority may, in addition to the grounds mentioned in sub-section (1) of section 5 of the Act, suspend or cancel any licence, granted or renewed on any one or more of the following grounds:-

(a) the licensee has not been conducting his business honestly or in a fair manner;

(b) ²[X X X X X X X X X X X]

¹ Ins. by Not. No. 6-1/73-Hort (Sectt.), dated 5-8-1975, Published in R.H.P. Extra, dated 8-9-1975, p. 963-964.

² Cl. (b) del by *ibid.*

- (c) he has failed to carry on the orders/instructions of the competent authority issued from time to time in improving the conditions of the nursery/plant material, as the case may be; or
- (d) he is producing plants disproportionate to the availability of the scionwood of the kinds/varieties concerned.

6. Issue of a duplicate licence.-In case the original licence is lost, destroyed; mutilated or damaged the ¹[licensee] may apply to the competent authority for the issue of a duplicate licence. On the receipt of the application and on the payment of a fee of Rs. 10 the competent authority shall issue duplicate licence.

7. Appeal against orders for refusal to grant or renewal or cancellation of a licence.-Any person aggrieved by an order of the competent authority refusing to grant or renew a licence or cancelling a licence may, within a period of thirty days of the receipt of such order appeal to the Director specifying clearly the grounds for appeal.

8. Plant material to be utilised for propagation.-(1) The plant material to be utilised for propagation will be only that for which licence has been granted.

(2) The scion variety and rootstock to be propagated in the nursery shall be those as approved by the Horticulture Department Himachal Pradesh, from time to time.

(3) The vegetatively propagated plant material shall be in direct proportion to the availability of rootstock (vegetatively propagated if any) and scionwood with the ²[licensee].

(4) The ²[licensee] will maintain a map showing the details of the fields or beds and the kinds of varieties of plants in each bed. This will apply to the seedlings as well as buded and grafted plants material.

(5) The ²[licensee] will maintain a register in Form-VII wherein the performance of the progeny trees will be recorded.

(6) The competent authority may declare mother trees as unfit for further use, if it is satisfied that use of such a plant material will not be in the interest of fruit industry, on account of the following reasons:-

1 Subs for "nursaryman" by *ibid*.

2 Subs. for the word "nursery-man" by Not. No. 6-1/73-Hort. (Sectt.), dated 5-8-1975 published in R. H. P. Extra, dated 8-8-1975, p. 963-964.

- (a) poor quality of fruit;
- (b) poor bearing capacity;
- (c) infested with insects, pests and diseases which cannot be cured;
- (d) any other reason which may be considered fit by the competent authority in the interest of the fruit industry.

The ¹[licensee] will quarantine such trees and will not use their budwood for further propagation in any case should there be a danger of the spread of the insect, pest and disease to other trees and the nursery plants, these trees may be ordered to be removed by the competent authority and the ²[licensee] will carry out these orders.

9. Record and Inspection.-(1) (a) The licensee shall maintain a register in Form-`VIII' indicating sources of origin of root-stock and scion used for propagation and number of plants raised.

(b) Maintain a complete record of sale of fruit trees in the sales register in form-`IX' and issue the sale receipt to the buyer in Form-X.

(c) Maintain an inspection register in Form-XI which shall be made available for recording of remarks to the competent authority, Inspecting Officer or any other person duly authorised to conduct an inspection by the competent authority, or the Director.

(d) Maintain a register regarding plant protection operations carried out in the nursery for control of insects, pests and diseases in Form-XII.

(e) Prepare a statement in Form-XIII regarding number of plants raised ²[***] and sold variety-wise, for the period from 1st April to 31st every year and submit a copy of this statement to the competent authority and the Director by the end of April every year; and

(f) Inform the inspecting authority and the competent authority about the compliance of instructions given to him at the time of inspection within the time specified by the said authority.

1 Subs. for the word "nursery-man" by Not. No. 6-1/73-Hort. (Sectt.), dated 5-8-1975 published in R. H. P. Extra, dated 8-8-1975, p. 963-964.

2 The Word "oblique" del. by *ibid.*

(2) All the records enumerated in these rules shall be preserved by the licensee for a period of 10 years after the date of the conclusion of the transaction.

10. Plots, plants and trees to be kept free from insects, pests and diseases.-The schedule of plant protection operations recommended by the Department of Horticulture, Himachal Pradesh, for each category of trees/roots-stock/nursery plants and other material will be followed by the licensee. In addition to this the instructions issued by the competent authority or the Department of Horticulture from time to time in this regard will be carried out properly by the ¹[licensee]. The list of insects, pests and disease to be controlled will be circulated by the competent authority or the department of Horticulture, Himachal Pradesh, from time to time.

11. Inspection of Nursery.-(1) The entire nursery area including progeny trees, registers and other records shall be inspected by the Inspecting Officer from time to time in order to ensure that the provisions of the Act and the rules framed thereunder are strictly adhered to. The licensee will show the Inspecting Officer the entire plant material and records.

(2) The Inspecting Officer may ²[direct the licensee in writing] for carrying out further Horticultural/Plant Protection Operations. The licensee shall carry out these instructions within specified time and report compliance.

(3) In case, some plant material including progeny trees are found badly infested with pests and diseases and require their removal/destruction, orders to this effect shall be issued in writing by the Inspecting Officer. The licensee shall comply with these orders within the time specified therein.

(4) The Inspecting Officer may inspect any plant material while in transit for detecting infestation of pests and diseases or any defect in packaging and labelling. The Inspecting Officer may declare any plant material as unfit for sale and order for its detention. The Inspecting Officer will report the matter to the competent authority within 2 days who will convey his decision for the destruction or otherwise of the plant material within 7 days of the receipt of report or 10 days from the date of detention of the material which ever is earlier.

12. Package and their labelling.-The labels of the plant material would be those which are not spoiled by water and humidity and may preferably be of zinc, tin or aluminium, so that these are not easily torn-out.

13. Penalty.-If any person contravenes any of the provisions of these

1 Sub for the word nursery-man by Not. No. 6-1/73-Hort. (Sectt), dated 5-8-1975 published in R. H. P. Extra., dated 8-8-1975, p. 963-964.

2 Subs for "direct in writing the licensee" by *ibid*.

rules or the Act or attempts to contravene or abets the contravention of any such provision he shall be punishable under section 18 of the Act.

14. Security.-(1) Without prejudice to the provisions of section 5 and 6 of the Act and rule 5 the competent authority may by a notice in writing require a licensee to furnish within such period as may be specified in the notice a cash security of an amount not exceeding one thousand rupees if it is satisfied that the licensee has contravened any condition of his licence or any provisions of the Act or these rules.

(2) The competent authority may forfeit the security deposited under sub-rule (1) or any portion thereof if it is satisfied that the licensee has again contravened any condition of his licence or any provision of the Act or these rules. The licensee shall make good the amount forfeited within a month of the receipt of the order of forfeiture.

15. Repeal and savings.-The Himachal Pradesh Fruit Nurseries Registration Rules, 1957 as in force in the areas which comprised in Himachal Pradesh immediately before 1st November, 1966 and the Punjab Fruit Nurseries Rules, 1961, as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 are hereby repealed:

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

FORM-I

[See rule 3 (1)]

**APPLICATION FOR LICENCE UNDER THE HIMACHAL
PRADESH
FRUIT NURSERIES REGISTRATION ACT, 1973**

To

.....

Sir,

As I wish to establish/conduct a fruit nursery in.....
 Tehsil..... District,.....I may kindly be granted a licence for this
 purpose as required under the Act. The detailed particulars of the nursery are
 given below:-

1. Area of the nursery (in bighas).
2. Distance from motorable road.
3. Whether irrigated or not.
4. Area of the progeny orchard (in bighas).
5. Details of the progeny trees.-

Sl. No.	Kind	Variety	Age	No. of fruit trees
1	2	3	4	5

(Add additional sheet if required).

6. Fruit plants proposed to be propagated-

Sl. No.	Kind	Variety
1	2	3

(Add additional sheet if required).

7. Details of existing plant material, if any-

Sl. No.	Kind	Variety	No. of plants available budded/grafted seedling	Source of stock/scion
1	2	3	4	5

(Add additional sheet if required).

The sketch plan of the area under nursery and progeny trees, tatima, shajra and farad patwar of the area are enclosed.

I undertake to obtain any additional requirements of scion material, if any through the competent authority.

I have read the Act and the rules framed thereunder and shall abide by all the conditions mentioned therein.

Yours faithfully.

(Name and address of the owner of the Fruit Nursery)

FORM-II

[(See rule 3 (3))]

REPORT OF THE INSPECTING OFFICER

(Name, designation and address)

Hereby certify that I have inspected the.....) run/owned/managed by Shri/M/s (name of nursery).....on dated (name, ¹[parentage] and address of applicant).....and on my personal observation state that-

¹ Ins. by Not. No. 6-1/73-Hort. (Sectt.) dated 5-8-1975 published in R.H.P. Extra, dated 8-8-1975 p. 963-964.

(i) the applicant has an area of.....under nursery;

(ii)progeny trees of the following varieties have been found to be existing at the time of inspection:

Sl. No.	Kind of fruit trees	Variety	Performance (yield and quality)	No. of trees	Age of trees	Condition of trees
1	2	3	4	5	6	7

(Add additional sheet if required).

(iii) a sketch of the nursery and the progeny orchard being maintained by the owner is enclosed;

(iv) the nursery is/is not being kept free from the insects, pests and diseases;

(v) the progeny trees are/are not being maintained in good condition.

(vi) the soil is/is not suitable for nursery production work.

(vii) the ¹[licensee] is/is not competent to conduct/establish the nursery on approved lines, for reasons given below;

(viii) the information supplied by the applicant is/is not correct.

(xi) additional information (add additional sheet if required);

(x) on the basis of the above observations, I recommend/do not recommend it as a fit case for grant of licence.

Signature of Inspecting Officer

Dated.....

*Designation and Seal
of the officer.*

¹ Subs. for the words "nursery-man" by *ibid.*

FORM-III

[See rule 3 (4)]

**LICENCE FOR ESTABLISHING/CONDUCTING A FRUIT
PLANT
NURSERY UNDER THE HIMACHAL PRADESH FRUIT
NURSERIES REGISTRATION ACT, 1973**

(Act No. 15 of 1973)

Licence No..... Date of issue.....son
of.....of Village.....Post OfficeTehsil
District.....owner ofis hereby authorised to raise, exhibit for
sale and sell for transplantation fruit, plants of the following kinds and varieties:-

Sl. No.	Kind	Variety
1	2	3

This licence is valid from to.....

The licence shall be subject to the following conditions:-

- (1) The licensee shall not contravene any of the provisions of Act, or the rules framed thereunder.
- (2) The licensee shall conduct his business honestly and in a fair manner.
- (3) The licensee shall produce his licence or the register and other records required to be maintained under this Act and the rules framed thereunder on demand by the competent authority or any person authorised by it.
- (4) The licensee shall not permit evasion or infringement of any of the provisions of the Act or rules framed thereunder any shall report in writing to the competent authority any evasion or infringement which comes to his knowledge.
- (5) The licensee shall promptly comply with the instructions issued to him in accordance with the rules by the competent authority or by any person authorised by it.
- (6) If a licensee transfers in whole or in parts his control over the fruit nursery he shall send an intimation of such transfer to the

competent authority within a period of one month of the transfer.

Signature of the Competent Authority with a seal of his office.

This licence is renewed.

Period of renewal	From	To	Signature of the Competent Authority with seal of his office
1	2	3	4

FORM-IV

[See rule 3(5)]

NURSERY LICENCE REGISTER FORM

Sl. No.	Name, ¹ [parentage] and address of the Licensee	Name of the Nursery	Area of the Nursery	Kind of fruit plants and varieties to be propagated
1	2	3	4	5

Name and designation of Inspecting Officer	Date of visit of Inspecting Officer	No. and date of issue of Licence	Date of expiry of Licence
1	2	3	4

¹ Ins. By Not. No. 6-1/73-Hort. (Sectt.), dated 5-8-1975, published in R.H.P. Extra, dated 8-8-1975, p. 963-964.

Date of renewal 10	Period of renewal 11	Remarks 12	Initials of the Competent Authority 13

FORM-V

[See rule 4 (2)]

**APPLICATION FOR RENEWAL OF LICENCE UNDER
THE HIMACHAL PRADESH FRUIT NURSERIES
REGISTRATION
ACT, 1973**

To

.....
.....
.....

Sir,

My Fruit Nursery Licence No.....expire on.....It is requested that this licence may be renewed for a period of.....years. The licence in original alongwith the treasury Challan for Rs.....are enclosed.

2. The licence was granted, last renewed on.....and since then.....(Nos.), inspections have been carried out. I have complied with the instructions communicated to me in writing by the Inspecting Authority from time to time except in the following cases for reasons indicated against each:-

Sl. No. 1	Instruction conveyed by the Inspecting Authority 2	Date 3	Reasons for non- compliance 4

Add additional sheet if required.

I have not contravened any of the provisions of the Act or the rules framed thereunder.

The detailed information with regard the nursery and plant material are enclosed in Form `I' (Fill in the Form I).

Yours faithfully,

(Signature of the Owner).

Note.-The tatima shajra and farad patwar be not given if there is no change in the original record.

FORM-VI
[See rule 4(2)]

To

The

.....
.....

Sir,

I have inspected on (date of visit the nursery) of Shri.....
Licence No.....issued on.....

2. The details of the nursery and progeny trees are as given by the applicant have been found to be correct on spot examination.

(In case of any difference please give details in a separate sheet).

3. It is hereby certified that the owner has/has not contravened any of the provisions of the Act and the rules framed thereunder and that he has/has not been following instructions of the authorities.

4. The details of the contraventions are given below:-

Sl. No.	Date and No. of order	Authority by whom issued	Remarks
1	2	3	4

5. Additional information, if any.

6. On the basis of the above observations, I recommend/do not recommend it as a fit case for renewal of the licence.

Date.....

Signature of the Inspecting Officer
Designation and seal of the office.

FORM-VII

[See rule 8(5)]

Form of Register of the progeny trees of.....
Licence No.....

Year	Sl. No. of progeny trees	Kind and variety	Yield in kg.	General health conditions of the progeny tree	General observation about quality and grade of fruits
1	2	3	4	5	6

FORM-VIII

[See rule 9(1)(a)]

Name of nursery.....Licence No.....
Kind of fruit plants....., Variety.....

RECORD OF SOURCE OF PLANT MATERIAL

Date	Source of root-stock	Source of scion variety	No. of plants raised	Remarks
1	2	3	4	5

FORM-IX

[See rule 9 (1)(b)]

Name of Nursery.....Licence No.....

SALE REGISTER OF NURSERY PLANTS

Sl. No. 1	Name, ¹ [parentage] and address of the purchaser 2	Kind and variety of plants sold 3	Root-stock used 4

No. of plants sold 5	Rate per plant 6	Total price charged 7	No. and date of receipt issued 8	Remarks 9

FORM-X

[See rule 9 (1)(b)]

Cash/credit memo.....No.....

Name and address and Licence No.

(To be given at the top).

Shri/M/s.

.....

.....

Sl. No. 1	Kind and variety of plants 2	Rate 3	No. 4	Amount 5

Total

1 Ins. by Not. No. 6-1/73 Hort. (Sectt.) dated 5-8-1975, published in R.H.P. Extra, dated 8-8-1975, p. 963-964.

Received with thanks.....

Signature of the owner.

Note.-(Carbon copy to be retained by the ¹[licensee].

FORM-XI

[See rule 9 (1)(c)]

INSPECTION REGISTER

Sl. No. 1	Date of visit 2	Name of the Inspecting Officer 3	Instructions of the Officer 4	Compliance report by the [Licensee] ² 5

FORM XII

[See rule 9(1)(d)]

REGISTER OF PLANT PROTECTION OPERATIONS

Sl. No. 1	Date 2	Name of the insects, pests or disease 3	Control measures taken (mention pesticides used and their formulation) 4

1. Subs. for the word "nursery-man" by Not. No. 6-1/73-Hort. (Sectt.), dated 5-8-1975, published in R.H.P. Extra., dated 8-8-1975, p. 963-964.

2. Subs. for the word "nurseryman" by *ibid.*

FORM-XIII**[See rule 9 (1)(c)]**

Annual statement of production and sale of fruit plants for the year ending 31st March.....

Sl. No. 1	Kind/Variety 2	No. produced 3	No. fit for sale 4	Last year's balance 5

Total No. sold 6	Balance on 31 st March 7

 (R.H.P., Extra., dated the 23rd January, 1974, p. 61-76).
