

THE PUNJAB FRUIT NURSERIES ACT, 1961

(PUNJAB ACT No. 13 OF 1961)

ARRANGEMENT OF SECTIONS

Sections

1. Short title, extent and commencement.
2. Definitions.
3. Owner to obtain licence.
4. Application for, and grant and refusal of, licence.
5. Suspension or cancellation of licence.
6. Return of licence.
7. Duplicates.
8. Duties of licensee.
9. Appeals.
10. Revision.
11. Powers of inspection.
12. Power of State Government to prohibit or regulate the bringing into or taking out of the State fruit plants.
13. Penalty
14. Cognizance of offences, etc.
15. Persons exercising powers under this Act to be public servants.
16. No compensation for suspension or cancellation of licences.
17. Protection of persons acting in good faith.
18. Delegation of powers.
19. Power to make rules.

¹The Punjab Fruit Nurseries Act, 1961

(Punjab Act No. 13 of 1961)

[Received the assent of the Governor of Punjab on the 28th March, 1961, and first published for general information in the Punjab Government Gazette (Extraordinary), Legislative Supplement, of the 1st April, 1961.]

1	2	3	4
Year	No.	Short title	Whether repealed or otherwise affected by Legislation
1961	13	The Punjab Fruit Nurseries Act, 1961	Amended by Punjab Act 25 of 1964 ² Amended by the Haryana Adaptation of Laws (State and Concurrent Subjects) Order, 1968 ³

AN

ACT

to provide for the regulation and licensing of Fruit Nurseries in the State of ⁴[Haryana].

Be it enacted by the Legislature of the State of Punjab in the Twelfth Year of Republic of India as follows :-

1. (1) This Act may be called the Punjab Fruit Nurseries Act, 1961.

Short title, extent and commencement.

(2) It extends to the whole of the State of ⁴[Haryana].

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

-
1. For Statement of Objects and Reasons, see *Punjab Government Gazette* (Extraordinary), 1960, page 1955.
 2. For Statement of Objects and Reasons, see *Punjab Government Gazette* (Extraordinary), 1964, pages 935-937.
 3. See *Haryana Government Gazette* (Extraordinary), dated the 29th October, 1968.
 4. Substituted for the word "Punjab" by the Haryana Adaptation of Laws Order, 1968.

Definitions.

2. In this Act, unless the context otherwise requires :—

- (a) “competent authority” means a person or authority appointed by the State Government, by notification in the Official Gazette, to perform the functions of the competent authority under this Act for such area as may be specified in the notification ;
- (b) “fruit nursery” means any place where fruit plants are in the regular course of business propagated and sold for transplantation ;
- (c) “fruit plant” means any plant which can produce edible fruit or nuts, and includes budwood, seedlings, grafts, seeds and cuttings of such plant ;
- (d) “owner”, in relation to a fruit nursery, means the person who, or the authority which has the ultimate control over the affairs of such fruit nursery, and where the said affairs are entrusted to a manager, managing director or managing agent, such manager, managing director or managing agent, shall be deemed to be the owner ;
- (e) “prescribed” means prescribed by rules made under this Act ;
- (f) “rootstock” means a fruit plant or part there of on which any fruit plant has been grafted or budded ; and
- (g) “scion” means a fruit plant which is grafted or budded on to a root stock.

Owner to obtain licence.

3. No owner shall, after the expiry of six months from the date appointed under sub-section (3) of section 1, conduct or establish a fruit nursery unless he has obtained a licence under this Act.

Explanation.— Where an owner has more than one fruit nursery in different towns and villages he shall obtain a separate licence in respect of each such fruit nursery.

Application for, and grant and refusal of, licence.

4. (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 plant or fruit plants in respect of which the licence has been applied for ;
- (b) the applicant is competent to conduct or establish such a fruit nursery ;
- (c) he 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,

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 thereunder.

(3) Every licence granted under this section shall be valid for the prescribed period and may, on application and payment of the prescribed fee, be renewed, from time to time, by the competent authority and for the prescribed period, provided the other conditions in sub-section (2) continue to be fulfilled.

(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. (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

Suspension or
cancellation of
licence.

(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) 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.

Return of
licence.

6. 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 owner to enable him to wind up his fruit nursery.

Duplicates.

7. If a licence granted to an owner is lost, destroyed, mutilated or damaged, the competent authority shall, on application and payment of the prescribed fee, issue a duplicate licence.

Duties of
licensee.

8. Every licensee under this Act shall—

(1) undertake to employ only such varieties of the fruit plant as may be specified in the licence in respect of scion and rootstock, for propagation and sale ;

(2) keep a complete record of the origin or source of every root stock and every scion showing the local name or botanical name or both, of the rootstock and the scion used ;

(3) keep lay-out plan showing the position of every rootstock and scion tree employed in raising fruit plants ;

- (4) keep the nursery plots as well as the parent trees used for the propagation of fruit plants free from insect pests and diseases ;
- (5) specify in a conspicuous manner on a label the name of every kind variety of fruit plant enclosed in any package intended for sale and the name of the rootstock together with that of the scion of every such fruit plant ;
- (6) undertake to release for sale or distribution only such fruit plants as are completely free from any kind of insect pest or disease ; and
- (7) maintain a register in the form specified by the competent authority showing the name of the fruit plant sold to any person, the name of the rootstock and the name and address of the person purchasing it.

9. (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 : Appeals.

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 10, be final.

10. (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 : Revision.

Provided that the State Government shall not exercise the power under this section, in respect of an order against which an appeal preferred under section 9 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.

Power of inspection.

11. (1) The competent authority or any person not below the rank of an Agriculture Inspector, authorised by it in this behalf may, at all reasonable hours and with or without assistants, enter any fruit nursery and inspect or examine the fruit plants therein, and the registers, books of accounts and records relating thereto, for the purpose of satisfying itself or himself that the requirements of this Act and the rules thereunder are being complied with.

(2) The licensee shall afford the competent authority or the person authorised by it all reasonable access and facilities for such inspection and examination as may be required for the purpose aforesaid and shall be bound to furnish such information relating to the fruit nursery as may be required by such authority or person.

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

12. The State Government may, by notification in the Official Gazette, prohibit or regulate, subject to such restrictions and conditions as it may impose the bringing into, or taking out of the State, other wise than across a customs frontier as defined by the Central Government, or the transport within the State, of any fruit plant of unknown pedigree or affected by any infectious or contagious disease or pest.

Penalty.

13. (1) If any person contravenes any of the provision of this Act or any rule made thereunder contravention of which is made punishable under this section or attempts to contravene or abets the contravene of any such provision, rule, he shall be punishable with fine which may extend to one thousand rupees.

(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 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.

14. (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 officer authorised in this behalf by the competent authority by general or special order. Cognizance of offences, etc.

(2) No court inferior to that of a ¹[Judicial Magistrate] of first class shall try any offence punishable under this Act.

15. 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. Persons exercising powers under this Act to be public servants.

16. 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 refund of any fee paid by him for the licence. No compensation for suspension or cancellation of licences.

17. 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. Protection of persons acting in good faith.

18. 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. Delegation of powers.

1. Substituted for the word "Magistrate" by Punjab Act 25 of 1964.

Power to make rules.

19. (1) The State Government may, by notification in the Official Gazette, 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 conditions to be inserted in licences to be granted to owners and the form of such 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 12 or of any articles 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.

(3) Any rule made under this section may provide that a contravention thereof shall be punishable under section 13.

(4) Every rule made under this Act shall be laid as soon as may be after it is made before the State Legislature for a period of ten days.