

# The U.P. Fruit Nurseries (Regulation) Act, 1976

UTTAR PRADESH

India

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### Act 21 of 1976

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The U.P. Fruit Nurseries (Regulation) Act, 1976(U.P. Act No. 21 of 1976)[Dated 17th May, 1976]Received the assent of the Governor on May 17, 1976, published in U.P. Gazette (Extraordinary), dated 20th May, 1976.An Act to provide for the licensing and regulation of fruit nurseries in the State of Uttar PradeshIt is hereby enacted in the Twenty-seventh Year of the Republic of India as follows :

### 1. Short title, extent and commencement.

(1)This Act may be called the Uttar Pradesh Fruit Nurseries (Regulation) Act, 1976.(2)It extends to the whole of Uttar Pradesh.(3)It shall come into force on such date as the State Government may, by notification, appoint in this behalf, and different dates may be appointed for different areas of Uttar Pradesh.

### 2. Definitions.

- In this Act-(a)"Appellate Authority" means the authority appointed by the State Government by notification to hear appeals under this Act;(b)"fruit nursery" means any place where fruit plants are, in the regular course of business, propagated and sold for transplantation, but does not include-(i)a fruit nursery having an area less than 0.2 hectare,(ii)fruit nursery belonging to or managed by the Government;(c)"fruit plant" means any plant, which can produce edible fruits or nuts, and includes budwood, seedlings, grafts, layers, gootee, seeds, bulbs, suckers, rhizomes and cuttings of any such plant;(d)"licence" means a licence granted under this Act;(e)"licensee" means any person holding a licence for the time being in force;(f)"Licensing Authority" means the Director of Horticulture and Fruit Utilization, Uttar Pradesh and includes another Officer not below the rank of a District Horticulture Officer empowered by the Director in this behalf, to exercise some or all of the powers of the Licensing Authority under this Act;(g)"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 includes a Manager, Managing Director, Managing Agent, or any other person incharge of such fruit

nursery;(h)"root-stock" means a fruit plant or part thereof on which any portion of a fruit plant has been grafted or budded;(i)"scion" means a portion of a fruit plant which is grafted or budded on to a root-stock.

### **3. Restrictions on carrying on the business of fruit nursery.**

(1)No person shall after the expiry of three months from the date of commencement of this Act or from the date on which he first becomes owner of a fruit nursery, whichever is later conduct or carry on the business of fruit nursery, except under and in accordance with the terms and conditions of a licence granted under this Act.(2)Where more than one fruit nursery is owned by one person, whether in the same town or village or in different towns or villages, separate licences shall be granted in respect of each such fruit nursery.

### **4. Application for licence.**

(1)Every application for a licence under this Act shall be made in the prescribed form to the Licensing Authority and shall be accompanied by the prescribed fee.(2)No licence under this Act shall be granted, if it appears to the Licensing Authority that-(a)the fruit nursery is not suitable for the proper propagation of the fruit plants, in respect of which licence has been applied for;(b)the applicant is not competent to conduct such a fruit nursery;(c)the application is not accompanied by the prescribed fee;(d)the applicant has been convicted of any offence under this Act, or the rules made thereunder.

### **5. Terms and renewal of licence.**

(1)A licence granted under Section 4 shall be valid for such period, as may be prescribed, and on application made in that behalf and upon payment of the prescribed fees, be renewed, from time to time, by the Licensing Authority for such further period as may be prescribed.(2)No licence granted under this Act shall be renewed if it appears to the Licensing Authority that-(a)any of the grounds mentioned in sub-section (2) of Section 4 exists;(b)the licensee has wilfully committed a breach of the provisions of this Act or the rules made thereunder or any of the terms and conditions of the licence.

### **6. Suspension and cancellation of a licence.**

(1)A licence granted under this Act may be suspended or cancelled, if it appears to the Licensing Authority that-(a)any of the grounds mentioned in sub-section (2) of Section 5 exists; or(b)the licensee has parted wholly or partly with the possession or control of the fruit nursery or that he has ceased to run it.(2)Where any licence is suspended or cancelled, the licensee shall not be entitled to any compensation therefor nor he shall be entitled to any refund of any fee paid by him for the licence.

## **7. Orders to contain reasons.**

(1) Every order refusing to grant the licence under Section 4, or refusing to renew the licence under Section 5, or suspending or cancelling the licence under Section 6 shall be in writing and shall contain the reasons in support thereof and every such order shall be communicated to the applicant or the licensee, concerned. (2) Before making an order referred to in sub-section (1) the Licensing Authority shall give to the applicant or the licensee, as the case may be, a reasonable opportunity of being heard.

## **8. Duplicate licence.**

- Where a licence is lost, destroyed, torn, defaced, or otherwise becomes illegible, the Licensing Authority shall, in the manner prescribed and on payment of the prescribed fee, issue a duplicate licence.

## **9. Appeals.**

(1) Any person aggrieved by an order of the Licensing Authority refusing to grant a licence under sub-section (2) of Section 4, or refusing to renew it under sub-section (2) of Section 5 or suspending or cancelling it under sub-section (1) of Section 6, may appeal to the Appellate Authority within thirty days from the date of communication of such order : Provided that, the Appellate Authority may entertain the appeal after expiry of the period specified in this sub-section, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time: (2) The appellate authority shall after giving the appellant an opportunity of being heard, pass such order 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. Power of the State Government to call for records.**

(1) The State Government may of its own motion or on an application from an aggrieved person may, at any time, for the purpose of satisfying itself as to the legality or propriety of any order passed under this Act, call for and examine the record of any case and pass such orders thereon as it deems fit : Provided that the State Government shall not exercise power under this section during the pendency of an appeal under Section 9 or before the expiry of the time-limit for such appeal : Provided further that in a case where the State Government calls for the record of any case of its own motion, it shall not pass any order under this section which adversely affects any person, unless such person has been given a reasonable opportunity of being heard. (2) An order passed under this section shall be final.

## **11. Duties of the licensee.**

- Every licensee shall-(a) employ only such varieties of the fruit plants, specified in the licence, in respect of scion or root-stock, for propagation and sale, as may be directed by the Licensing

Authority;(b)keep a complete record of the origin or source of every root-stock and every scion showing-(i)the botanical name, together with local name, if any, of the root-stock used;(ii)the botanical name, together with the local name, if any, of the scion used, in raising the fruit plants;(c)keep the nursery plots as well as the parent trees used for the propagation of fruit plants free from insects, pests and plant diseases;(d)prepare the fruit plants in such manner as may be directed by the Licensing Authority;(e)specify in a conspicuous manner on a label the name of every variety of fruit plant enclosed in any package intended for sale and its age as determined in the prescribed manner;(f)release for sale or distribution only such fruit plants as are completely free from any kind of insects, pests or plant diseases.

## **12. Licensee to maintain account books, registers, etc.**

- Every licensee shall maintain account books, registers and records in such form and manner as may be prescribed.

## **13. Power of the State Government to regulate or prohibit import, export or transport of certain fruit plants.**

- The State Government may, for the purpose of maintaining the quality of any fruit plants grown in any part of the State or to protect them from injurious insects, pests or plant diseases, by notification, regulate or prohibit, subject to such restrictions and conditions as it may specify, the bringing into or taking out of the State or any part thereof, or the transport within the State, of any fruit plants of unknown pedigree or affected by any infectious or contagious pests or diseases.

## **14. Penalty.**

- Whoever contravenes any provisions of this Act or the rules made thereunder shall, on conviction, be punishable with fine which may extend to Rs. 5,000 or imprisonment which may extend to six months or with both.

## **15. Offences by companies.**

(1)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.(2)Notwithstanding anything contained in sub-section (1) where any 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 Managing Agent, Secretary, Treasurer, Director, Manager or other officer of the company, such Managing Agent, Secretary, Treasurer, Director, Manager 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 purpose 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, means a partner in the firm.

## **16. Cognizance of offence.**

- No prosecution for an offence punishable under this Act shall be instituted except on a complaint authorised by the Licensing Authority.

## **17. Power of Licensing Authority.**

- The Licensing Authority may-(a)require any licensee to furnish such information as it may specify in respect of the fruit nursery owned or run by such licensee;(b)enter upon and inspect or cause to be inspected any fruit nursery and fruit plants therein and the account books and records relating thereto for the purpose of satisfying itself that the requirements of this Act and the rules made thereunder are being complied with;(c)collect samples of fruit plants and get them analysed, examined or tested in any laboratory selected for the purpose.

## **18. Protection of Act in good faith.**

(1)No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.(2)No suit or other legal proceeding shall lie against the State Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

## **19. Savings as to orders.**

- No order made in exercise of any power conferred by or under this Act shall be called in question in any Court.

## **20. Directions by State Government.**

- In the discharge of his duties under this Act the Licensing Authority shall carry out such directions of the State Government on matters of policy as may be issued by the State Government from time to time.

## **21. Rules.**

- The State Government may, by notification make rules for carrying out the purpose of this Act, including any rules prescribing fees in respect of any proceedings under this Act.