

# **The Maharashtra (Fruit Nurseries and Sale of Fruit Plants) (Regulation) Act, 1969**

MAHARASHTRA

India

## **The Maharashtra (Fruit Nurseries and Sale of Fruit Plants) (Regulation) Act, 1969**

### **Act 45 of 1969**

- Published on 12 September 1969
- Commenced on 12 September 1969
- [This is the version of this document from 12 September 1969.]
- [Note: The original publication document is not available and this content could not be verified.]

The Maharashtra (Fruit Nurseries and Sale of Fruit Plants) (Regulation) Act, 1969(Maharashtra Act No. 45 of 1969)Statement of Objects & Reasons. - There are about 200 fruit nurseries in the State of Maharashtra, where fruit plants are in the regular course of business propagated and sold for transplantation. It was noticed that some of the private nurseries used to prepare fruit plants for sale indiscriminately, without taking into consideration the necessity of selection of proper root stocks and scions. The needs of growers of genuine pedigreed plants were not met. This led to a great disappointment amongst the growers, who after spending a lot of money, time and labour sometimes found that the plants obtained were of entirely different varieties or of poor quality. To check such malpractices and raise the standard of fruit plants in the State, it was proposed to undertake legislation, to provide that all fruit nurseries should take out a licence and to empower Government to prohibit or regulate import export and transport of fruit plants of unknown pedigree or affected by infectious or contagious pests or diseases.Statement of Objects and Reasons - Maharashtra Act No. 18 of 1995. - The Maharashtra Fruit Nurseries (Regulation) Act, 1969 has been enacted by the Government of Maharashtra to provide for licensing and regulation of fruit nurseries in the State so as to ensure the supply of genuine pedigree plants to the growers.It has been brought to the notice of the Government that besides the fruit nurseries some persons are engaged in the business of only sale of fruit plants. They are selling fruit plants prepared indiscriminately, without taking into consideration the necessity of selection of proper rootstock and scions, thereby practically defeating the very purpose of this Act. This is also resulting in a great disappointment amongst the growers, who after spending a lot of money, time and labour many a times find that the plants obtained by them are of entirely different varieties or of poor quality. To check such malpractices and to ensure the standard of the fruit plants in the State, it is felt necessary to regulate not only the sales of the fruit plants by the owners of the fruit owners but also the sales of fruit plants by any persons other than the owners of fruit nurseries, by providing that in future, every person engaged in the business of sale of fruit plants shall also have to possess a licence, under this

Act. For that purpose Government considers it expedient to suitably amend the Maharashtra Fruit Nurseries (Regulation) Act, 1969.[Dated 12th September, 1969]For Statement of Objects and Reasons, see Maharashtra Government Gazette, 1969, Part V, Extraordinary, page 212.An Act to provide for the licensing and regulation of [fruit nurseries and sale of fruit plants] [These words were substituted for the words 'fruit nurseries' by Maharashtra 18 of 1995, Section 3.] in the State of Maharashtra.Whereas, it is expedient to provide for the licensing and regulation of [fruit nurseries and sale of fruit plants] [These words were substituted for the words 'fruit nurseries' by Maharashtra 18 of 1995, Section 3.] in the State of Maharashtra and for matters connected therewith; It is hereby enacted in the Twentieth Year of the Republic of India as follows :-

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

(1)This Act may be called the Maharashtra [Fruit Nurseries and Sale of Fruit Plants] [These words were substituted, for the words 'fruit nurseries' by Maharashtra 18 of 1995, Section 4.] (Regulation) Act, 1969.(2)It extends to the whole of the State of Maharashtra.(3)It shall come into force on such date as the State Government may, by notification in the official Gazette, appoint.

## **2. Definitions.**

- In this Act, unless the context otherwise requires, -(a)"Competent Authority" means a Competent Authority appointed under section 3;(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 a 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, seeds, bulbs, suckers, rhizomes and cuttings of any 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 of the fruit nursery;(e)"prescribed" means prescribed by rules made under this Act;(f)"rootstock" means a fruit plant or part thereof on which any portion of a fruit plant has been grafted or budded;(fa)[ "sale of fruit plants" means a sale of fruit plants made within the State for cash or deferred payment or other valuable consideration;] [Clause (fa) was inserted by Maharashtra 18 of 1995, Section 5.](g)"scion" means a portion of a fruit plant which is grafted or budded on to a rootstock.

## **3. Appointment of Competent Authorities.**

- The State Government may, by notification in the official Gazette, -(a)appoint such persons, being gazetted officers of Government, as it thinks fit to be Competent Authorities for the purposes of this Act; and(b)define the limits within which a Competent Authority shall exercise the powers conferred and perform the duties imposed on a Competent Authority, by or under this Act.

**4. Owner of every fruit nursery [and every person carrying on business of sale of fruit plants] [These words were inserted by Maharashtra 18 of 1995, Section 6(c).] to obtain licence.**

- [(1)] [Section 4 of the principal Act was re-numbered as sub-section (1) and sub-section (2) was added by Maharashtra 18 of 1995, Section 6 (c).] No owner of a fruit nursery shall, after the expiry of six months from the date of commencement of this Act or from the date on which he first becomes owner of such nursery, whichever is later, conduct or carry on the business of the fruit nursery, except under and in accordance with a licence obtained by him under the provisions of this Act and the rules made thereunder. Explanation. - Where an owner has more than one fruit nursery, whether in the same town or village or in different towns or villages, he shall obtain a separate licence in respect of each such fruit nursery. (2) [No person, who is not the owner of a fruit nursery shall, after the expiry of six months from the date of the commencement of the Maharashtra Fruit Nurseries (Regulation) (Amendment) Act, 1995, conduct or carry on the business of the sale or purchase of fruit plants, except under and in accordance with the licence obtained by him under the provisions of this Act and the rules made thereunder.] [Sub-section (2) was added by Maharashtra 18 of 1995, Section 6(a) and (b).]

**4A. [ Application of provisions of sections 5, 6, 8, 9, 10 and 11 to the licence for sale of fruit plants. [Section 4A was inserted by Maharashtra 18 of 1995, Section 6(a) and (b).]**

- The provisions of sections 5, 6, 8, 9, 10 and 11 shall mutatis mutandis apply to the grant of licence for the sale of fruit plants and the Competent Authority shall have and exercise the same powers as he has and exercises in respect of the licence granted to the owner of a fruit nursery.]

**5. Application for grant and renewal of licence.**

(1) Any owner desiring to obtain a licence referred to in the last preceding section shall make an application in writing to the Competent Authority in such form and manner, and accompanied by such licence fee, not exceeding rupees fifty, as may be prescribed. (1A) [Every application referred to in sub-section (1) shall be disposed of by the Competent Authority within a period of one month from its receipt and in the manner provided in sub-section (2).] [Sub-section (1A) was inserted by Maharashtra 18 of 1995, Section 8.] (2) On the receipt of such application, the Competent Authority shall make such inquiry as it considers necessary. If the Competent Authority is satisfied, -(a) that the fruit nursery is suitable for the proper propagation of the fruit plants in respect of which the licence has been applied for; (b) that the applicant is competent to conduct such a fruit nursery; (c) that the applicant has paid the prescribed licence fee; (d) that the applicant fulfils or undertakes to fulfil such other conditions, as may be prescribed, being conditions for ensuring the quality of plants to be propagated, and their sale at a reasonable price; the Competent Authority shall grant the licence to the applicant. If the Competent Authority is not so satisfied, it may, after giving a reasonable opportunity to the applicant of being heard and after recording a brief statement of the reasons for refusal, refuse to grant the licence, and furnish a copy of such statement to the applicant

and refund to him the licence fee, which may have been paid by him.(3)Every licence granted under this section shall be valid for the period specified therein, and may, on an application made to it, be renewed, from time to time, by the Competent Authority for such period, and on payment of such fee, and on such conditions, as may be prescribed. Where the Competent Authority refuses to renew a licence, it shall record a brief statement of the reasons for such refusal and furnish a copy thereof to the applicant :Provided that, no order refusing to renew a licence shall be made, unless the applicant is given a reasonable opportunity of being heard.

## **6. Duties of the holder of a licence.**

- Every holder of a licence under this Act shall -(a)undertake to employ only such varieties of the fruit plants specified in the licence in respect of scion or rootstock, for propagation and sale, as may be directed by the Competent Authority;(b)keep a complete record of the origin or source of every rootstock and every scion showing -(i)the botanical name, together with the local name, if any, of the rootstock used;(ii)the botanical name, together with the local name, if any, of the scion used, in raising the fruit plants;(c)keep a lay-out plan showing the position of every rootstock and scion use employed in raising the fruit plants;(d)keep the nursery plots as well as the parent trees used for the propagation of fruit plants free from insect pests and plant diseases;(e)undertake to prepare the fruit plants in such manner as may be directed by the Competent Authority;(f)specify in a conspicuous manner on a label the name of every variety of fruit plant enclosed in any package intended for sale, its age as determined in the prescribed manner and the name of the rootstock together with that of the scion of every such fruit plant;(g)undertake to release for sale or distribution only such fruit plants as are completely free from any kind of insect pest or plant disease;(h)maintain a register in the form specified by the Competent Authority showing the name of the fruit plant sold to any person, its age, the name of the rootstock and scion and the name and address of the person purchasing it.

## **7. Power of 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 insect pests or plant diseases, by notification in the official Gazette, regulate or prohibit, subject to such restrictions and conditions as it may impose, the bringing into, or taking out of, the State or any part thereof, otherwise than across the customs frontiers as defined by the Central Government, or the transport within the State, of any fruit plants of unknown pedigree or affected by any infectious or contagious pests or diseases.

## **8. Power to cancel or suspend licences.**

(1)The Competent Authority may suspend or cancel any licence granted or renewed under this Act on any one or more of the following grounds, namely :-(a)that he has parted, in whole or in part, with his control over the fruit nursery, or has otherwise ceased to conduct or hold such fruit nursery;(b)that, where the maximum rate or price for any variety of any fruit plant has been fixed by

the State Government by notification in the official Gazette, he has sold any such fruit plant at a higher rate or price;(c)that he has, without reasonable cause, failed to comply with any of the terms and conditions of the licence or any directions lawfully given by the Competent Authority or has contravened any of the provisions of this Act or the rules made thereunder;(d)on any other prescribed ground.(2)The Competent Authority may suspend the licence pending the passing of a cancellation order in respect thereof under sub-section (1),(3)Before passing an order under sub-section (1), the Competent Authority shall inform the licensee the grounds on which it is proposed to take action and give him a reasonable opportunity of showing cause against such action.(4)A copy of every order passed under sub-section (1) or (2) shall be communicated to the licensee forthwith.

## **9. Return of licence.**

- On the expiry of the period of validity specified in a licence or on receipt of an order suspending or cancelling a licence, 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.

## **10. Duplicate licence.**

- 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.

## **11. Appeals.**

(1)Any person aggrieved by an order of a Competent Authority refusing to grant or renew a licence, or suspending or cancelling a licence, may appeal in such form and manner, within such period, and to such authority, as may be prescribed :Provided that, the Appellate Authority may entertain the appeal after expiry of the prescribed period, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.(2)On receipt of an appeal under sub-section (1), 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 the next succeeding section, be final.

## **12. Revision.**

(1)The State Government may, suo motu or on an application made to it by an aggrieved person, 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 records of any case and may pass such order thereon as it thinks fit :Provided that, the State Government shall not exercise the power conferred on it by the section, in respect of an order against which an appeal preferred under the last preceding section is pending, or, upon application in case an appeal has not been preferred before the expiry of the time limit therefor:Provided further that, the State Government 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.

### **13. Power of entry and inspection.**

(1)For the purpose of ascertaining the position, or examining the working of any [fruit nursery or place of business where the fruit plants are sold] [These words were substituted for the words 'fruit nursery' by Maharashtra 18 of 1995, Section 9(a)(i).] or for any other purpose mentioned in this Act or the rules made thereunder, the Competent Authority or any person authorised by it or by the State Government in this behalf, shall have the right at all reasonable hours and with or without assistants,-(a)to enter into any [fruit nursery or place of business where the fruit plants are sold] [These words were substituted for the words 'fruit nursery' by Maharashtra 18 of 1995, Section 9(a)(i).] and to inspect or examine the fruit plants therein;(b)to order the production of any account book, register, record or other document relating to [such nursery or such place of business] [These words were substituted for the words 'such nursery' by Maharashtra 18 of 1995, Section 9(a)(ii).] and take or cause to be taken extracts from, or copies of, such document;(c)to ask all necessary questions and examine any person having control of, or employed in connection with, [such nursery, or such place of business.] [These words were substituted for the words 'such nursery' by Maharashtra 18 of 1995, Section 9(a)(ii).](2)The licensee and all persons employed in connection with [such nursery or such place of business] [These words were substituted for the words 'the nursery', by Maharashtra 18 of 1995, Section 9(b)(i).] shall afford the Competent Authority or the authorised person all reasonable access and facilities for such inspection and examination as may be required for the purposes aforesaid and shall be bound to answer all question to the best of their knowledge and belief, to produce documents in their possession and to furnish such other information in relation to the [fruit nursery or place of business where fruit plants are sold] [These words were substituted for the words 'fruit nursery' by Maharashtra 18 of 1995.] as may be required by such authority or person.

### **14. Penalties.**

- If any person -(a)contravenes any of the provisions of this Act, or contravenes the provisions of any rule made thereunder the contravention of which is made punishable under this section, or(b)obstructs any officer or person in the exercise of any powers conferred or in the performance of any duty imposed on him by or under this Act;he shall on conviction, be punished with [imprisonment which may extend to six months or with fine which may extend to five thousand rupees or with both.] [These words were substituted for the words 'fine which may extend to one thousand rupees', by Maharashtra 18 of 1995, Section 10.]

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

(1)Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, 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 provided in this Act 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 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 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;(b)"director", in relation to a firm, means a partner in the firm.

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

- No Court shall take cognizance of any offence punishable under this Act except on the report in writing of the facts constituting such offence made by the Competent Authority or any officer authorised by the State Government in this behalf.

## **17. Jurisdiction of Court.**

- No Court inferior to that of a Presidency Magistrate, or a Magistrate of the First Class, shall try any offence punishable under this Act.

## **18. Officers and persons exercising powers under this Act to be public servants.**

- All officers appointed under this Act and every person authorised to exercise any powers conferred or to perform any duties imposed on him by or under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

## **19. Protection of action taken in good faith.**

- No suit, prosecution or other legal proceeding shall lie against the State Government or any officer or person for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

## **20. Power to delegate.**

- The State Government may, by notification in the official Gazette, direct that any power or duty which by this Act or by any rule made thereunder is conferred or imposed on the State Government (except the power to make rules) shall in such circumstances and subject to such conditions, if any, as may be specified in the notification, be exercised or performed also by any officer or authority subordinate to the State Government.

## 21. Rules.

(1)The State Government may, by notification in the official Gazette, and subject to the condition of previous publication, 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 all or any of the following matters, namely :-(a)the form of and manner of making an application for a licence, the fees for such licence and renewal thereof, the period for which, the conditions subject to which and the form in which a licence may be granted, under section 5;(b)the other grounds, the contravention of which by the licensee, shall entail suspension or cancellation of the licence under section 8;(c)the fees payable in respect of a duplicate licence under section 10;(d)the form and manner in which, the period within which and the authority to which, an appeal may be made under section 11, and the procedure to be followed by the appellate authority in disposing of the appeal;(e)any other matter which is to be or may be prescribed.(3)Any rule made under this section may provide that a contravention thereof shall be punishable under section 14.(4)Every rule made under this section shall be laid, as soon as may be, after it is made, before each House of the State Legislature while it is in session, for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or, the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall, from the date of publication of a notification in the official Gazette, of such decision 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 or omitted to be done under that rule.

Notifications Amended by G.N.A., A.H., D.D. & F.D., No. Udyan-1691/CR-185/H-3, dated 12th February, 1992 (M.G.G., Part IV-B, page 1358) Amended by Corrigendum No. Udyan-1691/CR-185/H-3, dated 3rd March, 1992 (M.G.G., Part IV-B, page 1401) No. HRT. 24011/82, dated 3rd May, 1983 (M.G.G., Part IV-B, page 465) - In exercise of the powers conferred by section 3 of the Maharashtra Fruit Nurseries (Regulation) Act, 1969 (Maharashtra XLV of 1969) (hereinafter referred to as "the said Act") and in supersession of Government Notification, Agriculture and Co-operation Department, No. HRT. 7269/16008-4-A, dated the 10th November, 1976 the Government of Maharashtra hereby :-(a)appoints each of the officers specified in column 2 of the Schedule appended hereto, to be the Competent Authority, for the purposes of the said Act;(b)defines the limits, respectively, specified against each of them in column 3 of the said Schedule to be the limits within which each of them shall exercise the powers conferred and perform the duties imposed on the Competent Authority, by or under the said Act.

## Schedule

Sr. No.	Designation of the officer	Limits
(1)	(2)	(3)
1.	The Deputy Director of Horticulture of all Districts in the State[* * *] [The words 'except Greater Bombay', were deleted by G. N. of 3.3.1992.].	Limits of each District falling in his respective jurisdiction.



2. [ [Entry (2) All Class I and Class II Technical Officers in Limits of each district falling was substituted District Offices of the Soil Conservation Organisation in their by G. N. of and of the Training and Visit Organisation of all respective jurisdictions.] 12.2.1992.] districts and superintending Agricultural Officer in the State[\* \* \*] [These words 'except Greater Bombay' were deleted by G.N. dated 3.3.1992.] and Class II Officers of Horticulture Organisation in all districts.

No. HRT. 1098/CR-131/H-3, dated 18th November, 1998. - In exercise of the powers conferred by section 3 of the Maharashtra Fruit Nurseries (Regulation) Act, 1969 (Maharashtra XLV of 1969) (hereinafter referred to as "the said Act") and in supersession of Government Notification, Horticulture and Social Forestry Department, No. HRT. 24011/82, dated the 3rd May, 1983, the Government of Maharashtra hereby :- (a) appoint such persons, being Gazetted Officers of Government, specified in column 2 of the Schedule appended hereto, to be the competent authority, for the purpose of the said Act; and (b) define the limits, respectively, specified against each of them in column 3 of the said Schedule to be the limits within which each of them shall exercise the powers conferred and perform the duties imposed on the competent authority, by or under the said Act.

## Schedule 2

Serial No.	Designation of the Officer	Limits
(1)	(2)	(3)
1.	The Sub-divisional Agriculture Officer, Agriculture Service, Class-I of all Agriculture Service, Class-I of all Agricultural Sub-division of all Districts in the State (except Greater Mumbai).	Limits of each districts against sub-division falling in his respective jurisdiction.
2.	The Sub-divisional Agriculture Officer Service, Class-I of Agricultural Sub-division in District Thane.	Limits of Greater Mumbai in addition to the limits of Agricultural Sub-division of District Thane as specified at Serial No. 1 above.