

Andhra Pradesh Registration of Horticulture Nurseries (Regulation) Act, 2010

ANDHRA PRADESH

India

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Act 13 of 2010

- Published on 10 August 2010
- Commenced on 10 August 2010
- [This is the version of this document from 10 August 2010.]
- [Note: The original publication document is not available and this content could not be verified.]

Andhra Pradesh Registration of Horticulture Nurseries (Regulation) Act, 2010(Act No. 13 of 2010)Last Updated 19th August, 2019[Dated 10.8.2010.]An Act to Provide for the Registration of Horticulture Nurseries in the State of Andhra Pradesh and for the Matters Connected Therewith and incidental there toBe it enacted by the Legislature of the State of Andhra Pradesh in the Sixty-First Year of the Republic of India as follows:-

1. Short title, extent and commencement.

(1)This Act may be called the Andhra Pradesh Registration of Horticulture Nurseries (Regulation) Act, 2010.(2)It extends to the whole of the state of Andhra Pradesh.(3)It shall come into force on such date as the Government may, by notification in the Andhra Pradesh Gazette, appoint.

2. Definitions.

- In this Act, unless the context otherwise requires:-(a)"Competent Authority" means a competent authority appointed under section 3;(b)"Director" means the Commissioner and Director of Horticulture, Andhra Pradesh, Hyderabad;(c)"Export" means taking out the plant material out of the State or out of India by land, sea or air;(d)"Government" means the State Government of Andhra Pradesh;(e)"Horticulture" includes fruits, vegetables, tubers, spices, condiments, flowers ornamental, medicinal and aromatic crops and plantation crops;(f)"Horticulture nursery" means any place where horticulture plants, fruits, vegetables and flowers are in the regular course of business, propagated and sold for transplantation;(g)"Horticulture Plant" means a plant belonging to any of the categories of aromatic plant, flower plant, fruit plant, plantation crops, vegetable plant or such other plant as the Government may by notification declare to be a horticulture plant;(h)"Import" means bringing the plant material from outside the State or from other countries

for further propagation.(i)"Inspecting Officer" means any officer not below the rank of Horticulture officer authorised by the Director of Horticulture for the purpose of Inspection of Nurseries;(j)"Kind" means one or more related species or subspecies of crop plants each individually or collectively known by one common name such as mango, tomato, rose, coconut etc.(k)"Notification" means a notification published in the Andhra Pradesh Gazette and the word "notified" shall be construed accordingly;(1)"Nurseryman" means any person engaged in the production, display or sale of Horticulture plants;(m)"Owner" means any person who has the ultimate control over the affairs of a Horticulture Nursery, and includes a manager, managing director, managing partner, or managing agent of a society, association or company, to whom the said affairs are entrusted;(n)"Plantation crops" means crops that are grown extensively like cashew, coconut, cocoa, coffee and includes nuts seeds/ seedlings, grafts, cuttings;(o)"Plant material" means any propagation material used in raising the plants and includes bud wood, scion, root-stock, seeds, cuttings, rhizomes, bulbs, suckers, runners etc.,(p)"Prescribed" means, prescribed by rules made by the Government under this Act; (q) "Root stock" means, a Horticulture plant or part thereof on which any portion of a horticulture plant is to be grafted or budded;(r)"Sale" means, a sale of Plant made within the State or outside the State for cash or other valuable consideration;(s)"Scion" means a portion of a Horticulture plant which is to be grafted or budded on to a root-stock;(t)"Variety" means a taxonomic sub-division of a species consisting of naturally occurring or selectively bred populations or individuals that differ from the remainder of the species in certain minor but heritable characteristics.

3. Appointment of competent authorities.

(1)The-Government, may, by notification, -(a)appoint such persons, being gazetted officers of Government, as it thinks fit, to be competent authorities for the purpose of this Act;(b)specify the limits within which the competent authority shall exercise the powers conferred and perform the functions imposed on such authority by or under this Act;(2)subject to the provisions of this Act and the rules made thereunder the competent authority may issue such instruction may be necessary to the licensed owners for creation of basic infrastructure facilities required such as mother block of required variety, root stock, green house, poly house, net house, provision for solarization of media for the proper propagation of Horticulture plants and for ensuring their quality.

4. Owner of a Horticulture Nursery to obtain licence.

- No owner of a Horticulture nursery shall, after the expiry of six months from the date of commencement of this Act or from the date on which he becomes owner of such nursery; whichever is later, conduct or carry on the business of Horticulture nursery, except under and in accordance with a license obtained by him from the competent authority under the provisions of this Act and the rules made thereunder:Provided that, where an owner has more than one nursery whether in the same town or village or in different towns or villages in the same name and style or otherwise, he shall obtain a separate license in respect of each such nursery.

5. Application for grant and renewal of licence.

(1) Any owner who desires to obtain a licence shall apply to the competent Authority in such form and accompanied by such fee and in such manner as may be prescribed from time to time: Provided that where the nurseries owned by State Government or the Central Government or Corporate Bodies of the State and Central Government are exempted from payment of registration or renewal fee, they all shall be registered under this Act. (2) On receipt of such application, the Competent Authority empowered to issue licence shall direct the Inspecting Officer to inspect the nursery and submit a report in such form as may be prescribed. (3) If the Competent Authority is not satisfied, it may, after giving a reasonable opportunity to the applicant of being heard and after recording the reasons refuse to grant the licence and furnish a copy of its order to the applicant. (4) Every Licence granted under this section shall be in such form as may be prescribed and shall be valid for a period of three years from the date of issue of the licence and be renewed from time to time by the Competent Authority for such period in such form on payment of such fee and on such conditions as may be prescribed. (5) The Competent Authority after giving reasonable opportunity to the applicant may refuse to renew the licence for reasons to be recorded in writing and communicate the same to the applicant.

6. Duties of holder of licence.

- Every holder of a licence under this Act shall, - (a) undertake to multiply only such varieties of the horticulture plants specified in the licence in respect of scion or root stock, for propagation and sale as may be directed by the competent authority; (b) keep a complete record of the origin or source of every root- stock and every scion in such form as may be prescribed 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 Horticulture plants; (iii) display a board in local language showing the plant stock position and price structure at the entrance of the nursery; (iv) display the board with green colour back ground and white labelling. (c) keep a lay out plan showing the variety of root stock and scion trees raised in the nursery; (d) keep the nursery plants as well as the parent trees used for the propagation of Horticulture plants free from pests and diseases and maintain the quality standards as prescribed by National Horticulture Board, Government of India or State Horticulture Board; (e) undertake to grow the Horticulture plants in such manner as may be directed by the competent authority; (f) all Horticulture plants intended for sale shall have a conspicuous label shall specifying the name of the variety of Horticulture plant, its age and the name of the root stock; (g) maintain a register in such form as may be prescribed, showing the name of the Horticulture plant sold to any person, its age, the name of the root stock and scion, bud wood and the name and the address of the person purchasing it, and shall produce the record for inspection on demand by the Director or Inspecting officer; (h) exhibit the rates charged by him for each of the nursery plants sold by him at a conspicuous place in the nursery; (i) maintain a Bill Book and issue sale bill containing Book number, machine numbered bill, showing species, variety name, quantity and sale rate in the nursery or by the trader; (j) the nursery register shall be preserved by the nurseryman for at least five years after the date of conclusion of the transaction; (k) undertake to release for sale or distribution only such Horticulture plants as are completely free from any kind of pests or disease; (l) keep the plants as well as the progeny trees used

for the production of nursery plants free from any kind of pests and disease;(m)maintain a register in such form as may be prescribed, giving the details of the plant protection measures undertaken; (n) submit annual statement for each financial year in such form as may be prescribed by the Commissioner and Director of Horticulture by 15th April of every year;(o)the price structure and quality standards as prescribed by the Commissioner and Director of Horticulture from time to time shall be followed by the licensee for producing and sale of the plant material; and(p)the Nursery man or trader has to give intimation to the Committee to be constituted by the Commissioner and Director of Horticulture from time to time, having jurisdiction over the nursery to certify the quality of plant material, if any plant material is procured from out side the State. The certificate from the committee of the district has to be obtained for every consignment to the effect that plant material procured from the nurseries out side the State is free from pests and diseases.

7. Plant material to be utilized for propagation.

- The plant material for which licence has been granted shall only be utilized for propagation, subject to the following conditions namely, -(a)the varieties of scions and rootstocks produced and used in the nursery shall be approved by the State Horticulture Department or the Andhra Pradesh Horticulture University from time to time;(b)the vegetatively propagated plant material shall be in direct proportion to the availability of roots stock (vegetatively propagated, if any) and scion wood with the nursery-man;(c)the nursery-man shall maintain a map showing the details of the field beds and the kinds of varieties of plants in each bed. This shall apply to the seedlings as well as budded and grafted plant material;(d)the nursery man shall maintain the register in such form as may be prescribed wherein the performance of the progeny trees shall be recorded along with number of plants raised and number of plants ready for sale;(e)the competent authority may declare mother trees as unfit for use, if he is satisfied that use of such plant material shall affect the interest of Horticulture on account of the following reasons,-(i)poor quality of horticulture product;(ii)poor bearing capacity;(iii)infected with insects, pests and disease which cannot be cured;(iv)horticulture plants of unknown pedigree;(v)any other reasons which may be considered fit by the competent authority in the interest of horticulture.(f)the nursery man shall quarantine all trees and shall not use their bud wood for further propagation in any case should there be a danger of the spread of the insects, pests and diseases to other nurseries and nursery plants and such infected trees may be ordered by the competent authority to be destroyed and the nursery shall carry out those orders. Such orders shall also be applicable to the supply of planting material.

8. Power of Government to regulate or prohibit import, export or transport of certain horticulture plants.

- The Government may, for the purpose of maintaining the quality of any horticulture plant grown in any part of the state or to protect them from injurious, insects, pest or plant diseases, by notification, regulate or prohibit such horticulture plants subject to such restrictions and conditions as it may impose, the bringing in to or taking out of the State or any part thereof otherwise than across the customs frontiers as defined by the Central Government under the relevant law for the time being in force or the transport within the State, of any horticulture plants of unknown pedigree or affected by any infectious or contagious pests or diseases.

9. Powers to cancel or suspend Licence.

(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 Horticulture nursery or has otherwise ceased to maintain or hold such horticulture nursery;(b)that he has, without reasonable cause, failed to comply with any of the terms and conditions of the licence or any direction lawfully given by the competent authority or has contravened any of the provisions of this Act or the rules made thereunder;(c)if the licensee applied for adjudication or been adjudicated and declared insolvent;(d)if in the opinion of such competent authority, the licensee has become incompetent to maintain or hold such horticulture nursery;(e)if he has refused to surrender or produce his licence or the registers and other records required to be maintained under this Act or the rules made thereunder to the competent authority or any person authorized by it; and(f)on any other substantial ground as may be prescribed.(2)The competent authority may suspend the licence pending passing of the cancellation order in respect thereof under sub-section (1).(3)Before passing an order under subsection (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)Copy of every order passed under subsection (1) or sub-section (2) shall be communicated to the licensee forthwith.

10. Return of Licence.

- On the expiry of the period of validity specified in a licence or on receipt of an order suspending or cancelling the licence, the licensee shall return the licence to the competent authority:Provided that such authority may, after receipt of such licence, give such reasonable time as it thinks fit to the owner to enable him to wind up his Horticulture nursery or otherwise.

11. Issue of duplicate Licence.

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

12. 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 as may be prescribed within ninety (90) days to the appellate authority:Provided that the appellate authority may entertain an appeal even 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 subsection (1), the appellate authority shall, after giving the appellant an opportunity of being heard, pass such order as it thinks fit.(3)Subject to the provisions of Section 14, an order passed under this section shall be final.

13. Appellate authority.

- Any Appeal against the orders of the Competent Authority shall lie with the Commissioner and Director of Horticulture.

14. Revision.

(1) The Government, may, either suo-moto or on an application made to it by an aggrieved person, at any time, for the purpose of satisfying itself as to the legality, regularity, propriety or correctness of any order passed under this Act, call for and examine the record of any case and may pass such order thereon as it thinks fit within a reasonable time: Provided that the Government shall not exercise the power conferred on it by this section, in respect of an order against which an appeal preferred under Section 12 is pending, or in case the period for preferring an appeal has not expired: Provided further that the Government shall not pass any order under this section which adversely affects any person, unless such person has had a reasonable opportunity of being heard. (2) Any order passed under this section shall be final.

15. Power of entry and inspection of nurseries.

(1) With a view to examine the working of any Horticulture Nursery or for any other purpose mentioned in this Act, and the rules made thereunder, the competent authority or any person authorized by him or by the Government in this behalf, shall have the right at any reasonable time and with or without assistants, - (a) to enter into any Horticulture nursery and to inspect or examine the Horticulture Plants therein; (b) to order the production of any account books, register, record or other documents relating to such nursery and under proper receipt 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. (2) The licensee and all persons employed in connection with the nursery shall afford the competent authority or the authorized person all reasonable access and facilities for such inspection and examination as may be required for the said purpose and shall be bound to answer all questions to the best of their knowledge and belief, to produce documents in their possession and to furnish such other information in relation to the Horticulture Nursery as may be required by such authority or person. (3) An inspection register shall be maintained by the nursery man for giving instructions in such form as may be prescribed. (4) Commissioner and Director of Horticulture may constitute a Committee at District level with three members for the purpose of certifying the quality of the plant material produced by the licensee and also for fixing the sale price of the specie from time to time for supply to government programmes and for private sale by the licensee.

16. Penalties.

- Any person who, - (a) contravenes any of the provisions of this Act, or any rule made thereunder; or (b) obstructs any officer or person in the exercise of any powers conferred or in the performance of any duty imposed upon him by or under this Act, shall on conviction, be punished with fine which

may extend upto Rs. 50,000/- (Rupees Fifty thousand only) or with imprisonment for a term which may extend upto one year or with both.

17. Offences by Horticulture nurseries, companies or firm.

(1) Where an offence under this Act has been committed by a Horticulture Nursery/Company, every person who at the time of offence was committed, was in charge of and was responsible to the Horticulture Nursery/ Firm/Company for the conduct of the business of the said Horticulture Nursery/Firm/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 section shall render any person liable to any punishment provided in this Act, if he proves beyond doubt 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 subsection (1), where an offence under this Act has been committed by a Horticulture Nursery/Firm/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 Nurseryman, Director, Manager, Secretary or any other officer of the Horticulture Nursery/ Firm/Company, such Nurseryman, Director, Manager, Secretary or other officer shall 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 a body corporate, and includes a firm or other association of individuals; (b) "Director" in relation to a firm, means a partner in the firm.

18. Cognizance of Offences.

- No court shall take cognizance of and try 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 authorized by the Government in this behalf.

19. Jurisdiction of Court.

- No court inferior to that of a Magistrate of the first class shall try any offence punishable under this Act or rules made thereunder.

20. Officers and persons, exercising power under this Act to be public servants.

- All officers appointed under this Act and every person authorized 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.

21. Protection of action taken in good faith.

- No suit, prosecution of either legal proceeding shall lie against the 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.

22. Delegation of powers.

- The Government may, by notification, delegate all or any of their powers under this Act except those conferred upon them by this section and section 23, to any person or authority subordinate to them and may, in like manner, withdraw any power so delegated. The exercise of any power delegated under this section shall be subject to such restrictions, limitations and conditions and to such control and revision by the Government.

23. Power to make rules.

(1)The government, may by notification, make rules for carrying out the purpose of this Act.(2)Every rule made under the Act shall immediately after it is made, be laid before the Legislature of the State, if it is in session and if it is not in session, in session immediately following, for a total period of fourteen days which may be comprised in one session or in two successive sessions and if, before the expiration of the session in which it is so laid or the session immediately following the Legislature agrees in making any modification in the rule or in the annulment of the rule, the rule shall, from the date of which modification or annulment is notified, have effect only in such modified form or shall stand annulled, 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.