

No. 32/XXXVI(3)/2020/63(1)/2019
 Dated Dehradun, January 20, 2020

NOTIFICATION

Miscellaneous

In pursuance of the provisions of Clause (3) of Article 348 of the Constitution of India, the Governor is pleased to order the publication of the following English translation of '**The Uttarakhand Fruit Nurseries (Regulation) Act, 2019**' (Act No. 11 of 2020).

As passed by the Uttarakhand Legislative Assembly and assented to by the Governor on 16 January, 2020.

THE UTTARAKHAND FRUIT NURSERIES (REGULATION) ACT, 2019
 (Uttarakhand Act No. 11 of 2020)

AN

ACT

to make provision for the licenses and regulation of fruit nurseries in the State of
 Uttarakhand

Be it enacted by the Uttarakhand State Legislative Assembly in the seventieth year of
 Republic of India as follows:-

**Short title, extent &
 Commencement**

1. (1) This Act may be called the Uttarakhand Fruit Nurseries (Regulation) Act, 2019.
- (2) It extends to the whole State of Uttarakhand.
- (3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint

Definitions

2. In this Act, unless the context otherwise requires: -
 - (a) "Appellate Authority" means Secretary, Horticulture Uttarakhand authorized by the State Government or any officer nominated by him, who is not below the rank of additional secretary to hear Appeals under this Act;

- (b) "Competent Authority" means an officer appointed/nominated by the State Government under this Act to perform the desired works, by notification in the Official Gazette;
- (c) "Director" means the Director, Horticulture & Food Processing, Uttarakhand;
- (d) "Fruit Nursery" means a place where propagation, management and sale of fruit plant are done in the regular course of business and It also includes Commercial Tissue Culture unit/lab. and nurseries managed by the Government;
- (e) "Fruit plant" means any plant, which can produce edible fruits or nuts and includes gootee, seedlings, grafts, suckers, layers, bulbs, rhizomes and scion of any such plant;
- (f) "Inspection Officer" means Technical officer of the department, who is not below the rank of Group-I officer;
- (g) "Licence" means licence granted by licensing authority under this Act;
- (h) "Licence holder" means any person holding a licence for the time being;
- (i) "Licensing Authority" means the Director of horticulture and food processing, Chaubattia, Ranikhet;
- (j) "Nursery 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 it also includes a manager, managing director, managing agent, any other person incharge of such fruit nursery or the controlling authority(A.D.O./ Superintendent/Nursery Development Officer/ District/ Chief Horticulture Officer/ or Nursery incharge) of a Government nursery;
- (k) "Prescribed" means prescribed by the rules framed under this Act;
- (l) "Root stock" means a fruit plants or part thereof on which any portion of a high quality fruit plant has been grafted or budded;
- (m) "Scion"/"bud wood" means a portion of a fruit plant which is grafted or budded on to a rootstock;
- (n) "State Government" means the Government of the State of Uttarakhand;

Licence of Fruit Nursery

3. (1) No person/Authority shall, after the expiry of three months from the date of commencement of this Act or from the date on which he becomes first time owner of a fruit nursery, whichever is later, conduct or carry on the business of fruit nursery without licence. It is necessary for all existing fruit nurseries to obtain licence within three months from the commencement of the Act.
- (2) Where more than one fruit nursery is owned by one person/organisation whether in the same town or village or in different towns or villages, separate licence shall have to obtained in respect of each such fruit nursery.

Application for Licence

4. (1) Every application for the licence under Section 3 of this Act, shall be made in the prescribed form to the Licensing Authority and shall be accompanied by the prescribed fee.
- (2) The inspection of the fruit nursery shall be done by the departmental committee constituted for the verification of testimonials submitted with the application for licence.
- (3) No licence, shall be granted under this Act, if it appears to the Licensing Authority that-
- (a) the fruit nursery is not suitable for the improved propagation of the fruit plants, in respect of which licence has been applied for; or
- (b) the applicant is not competent to operate such fruit nursery; or
- (c) the prescribed fee is not submitted with the application; or
- (d) the applicant has been convicted of any offence under this Act, or the rules made there under.
- (4) The applicant must be Udhyan Card and Aadhar Card holder.
- (5) The licence holder shall maintain various records of prescribed forms under the provision of this Act or the rules made there under or any of term and conditions of the licence, in the fruit nursery.
- (6) The licence holder, shall have to get Accreditation Certificate from the National Horticulture Board, Government of India, after obtaining licence.

Essential conditions of Licence

5. (1) The nursery owner must have general educational knowledge regarding nurseries.
- (2) Nursery owner/ licence holder of 1.0 hectare or more than 1.0 hectare shall be required to submit a certificate of training received from the Department of horticulture, any institute of Indian Council of Agricultural Research or State Agriculture/Horticulture Universities and it shall be recommended by the Department in respect of nursery management.
- (3) The nursery owner must have minimum 0.20 hectare land or registered leased land for 30 years and licence shall not be granted for more than one crop for the fruit nursery of land of 0.20 hectare:
- Provided that in hilly area the nursery owner must have minimum 0.10 hectare land.
- (4) A mother block is must for establishment of fruit nursery.
- (5) The licence shall be granted for the establishment of fruit nursery by keeping in the view the conditions for the soil, climate and fruit plant propagation.

Duration of Licence & its Renewal

6. (1) A licence under Section 4 shall be valid for three calendar years. On application made in this behalf on prescribed form and upon payment of the prescribed fee, licence may be renewed, by the Licensing Authority for next two years.
- (2) Renewal of the licence may be done by the Licensing Authority for two years after submission of application and prescribed fees in prescribed form and providing the certificate of the fifteen days training regarding the fruit nursery before the period of cessation of licence.
- (3) No licence shall be renewed under this Act if the Licensing Authority is satisfied that:-
- (a) The licence holder has wilfully committed a breach of the provision of subsection (1) of Section 4 of this Act or the rules made under this Act or any provision of the terms and conditions of the licence; or
- (b) any of the grounds mentioned in the sub section (3) of Section 4 exists.

Suspension or Cancellation of Licence

7. (1) A licence made under this Act may be suspended or cancelled by the Licensing Authority if he is satisfied that -
- (a) any of the ground mentioned in the subsection (3) of Section 4 exists; or
- (b) the license holder has wholly or partly left the possession or control of the fruit nursery or that he has ceased to run it; or
- (c) the licence holder/ the nursery owner has not compliance with the conditions of licence or the provisions of the Act ; or
- (d) if the licence holder did not provide or express his incapability to provide the necessary records and registers required by the Licensing Authority under the Act ; or
- (e) the licence is not being renewed within the prescribed period; or
- (f) any other relevant legal reasons exists; or
- (2) The licence holder shall surrender the licence certificate to the concerned authority after the order of cancellation or suspension of licence is issued.
- (3) Where any licence is suspended or cancelled, the licence holder shall not be entitled to any compensation nor he shall be entitled to any refund of any fee paid by him for the licence.
- (4) No action under subsection (1) shall be taken by Licensing Authority until the reasonable opportunity of being heard is given to the license holder.
- (5) A copy of every order issued under subsection(1) shall be forwarded to the licence holder.

Issuing the order

8. (1) Every order for refusal of licence under subsection (3) of Section 4 or refusal of renewal of licence under subsection (3) of Section 6, or suspension or cancellation of licence under Section 7 of the Act shall be in writing and reasons in support of it shall be given. Before issuing every such order the Licensing Authority shall give a opportunity of being heard to the applicant or license holder as the case may be, within 30 working days.
- (2) Before issuing any order under subsection (1) the Licensing Authority shall give a reasonable opportunity of being heard the applicant or the nursery owner, as the case may be.

Duplicate Copy of licence

9. if a licence issued under Section 4 has lost, destroyed, torn or deformed or gets unreadable by other means, the Licensing Authority shall issue a duplicate copy of the licence on submission of the application and prescribed fees by the nursery owner.

Appeal

10. (1) Any person aggrieved by any order of the Licensing Authority for refusal of licence under subsection (3) of Section 4 or refusal for renewal of licence under subsection (3) of Section 6, suspension or cancellation of licence under sub-section (1) of Section 7 of the Act, may file an appeal before the Appellate Authority within 30 days from the date of communication of such order;

Provided that the Appellate Authority, if satisfied that the appellant could not file the appeal in specified period due to some reasonable cause, may accept the appeal even after the expiry of period specified in this subsection.

- (2) The Appellate Authority, may after giving an opportunity of being heard to the appellant, pass an order as he may deem fit.
- (3) Subject to the provisions of Section 11, an order passed under this section shall be final.

Power of state Government to call the records

11. The State Government, for the purpose of satisfying itself regarding the justification and validity of any order given under this Act, may suomoto or on application by any aggrieved person may call records of any matter, and examine them and pass such order as he may deem fit:

Provided that the State Government shall not exercise its power during the pendency of appeal under Section 10 of the Act or before the expiry of time prescribed for such appeal:

Provided further that if the State Government suomoto call the records of any matter, shall not give any order under this section that may adversely affect any person, until a reasonable opportunity of being heard is given to him.

Duties of the license holder	12. Every licence holder/ nursery owner have duty to:- (i) propagate only such varieties of fruit plants, specified in the licence in respect of scion or root stocks, for production and sale, as may be directed by the Licensing Authority. (ii) keep complete records of origin or source of every root stock and scions showing, the botanical name together with local name, of the root stock, if any. (iii) keep mother block of the fruit plant and other plants, whose propagation is to be done through vegetative propagation, wherein same kind of varieties of plants shall be maintained under advanced management. (iv) vegetatively propagate only those plants and varieties for which he is having a mother tree and the maximum number of propagated plants in the nursery shall depend on the such variety / plant number in the mother block. (v) use latest approved techniques for plant propagation and follow the direction issued by the competent authority for this purpose. (vi) shall not mix the varieties/plants of propagated fruit plants. Therefore, the techniques are to be carefully followed during the propagation. (vii) keep the nursery site used for production of fruit plants and the mother trees free from insects and diseases. (viii) sale or distribute only those fruit plants which are free from any kind of insects and diseases. (ix) sale their planting materials subject to the contracts mentioned in the Act and prescribed provisions or by self declaration only.
Patent of new discoveries	13. Necessary procedure shall be followed by the nursery owner for the provision of its patent on discovery of new varieties.
To Maintain Account Books & Registers	14. (1) Every license holder/ nursery owner shall maintain related Account Books, Registers and Records in such forms and in such a manner as may be prescribed. These records shall be safely retained for a period of 10 years.
Inspection & Checking of the Nursery	15. (1) The Inspection officer may inspect the nursery to ensure healthy and high quality plant production and may issue written recommendations/directions in this regard. (2) The Inspection officer may during inspection of nursery issue directions to destroy the infested/infected plants and trees by observing the situation of insects and pests within a prescribed time limit.

- (3) If the procedure given in subsection (2) is not followed by the Inspection officer within the prescribed period, then Department may itself take action to destroy the plants and trees and all the expenses incurred so shall be borne by the nursery owner which may be recovered as recovery of the arrear of land revenue through the Revenue Department.
- (4) The proceeding under subsection (2) & (3) shall be done by a Gazetted Officer.
- (5) The licence holder / nursery owner shall in writing, provide the information regarding the availability of rainy season planting material for sale by the month of May and the information regarding the availability of winter season planting material for sale by the month of October to the Chief / District Horticulture Officer of their district.
- (6) The information as age of plants, number of plants, number of mother plants and genetic details, root stock and scion of saleable fruit plants provided by the license holder / nursery owner (if received by other fruit nursery /instructions) shall be verified at nursery level by a committee constituted by department report of which shall be provided by the Committee to the Director, Horticulture.
- (7) The digging out of plants from the nursery shall be done only after the verification of the committee, otherwise the procurement of plants shall not be considered.

**Sale, Packing & Labelling
of plants**

16.

- (1) Each bundle of fruit plants meant for sale of fruits shall be properly packed, labelled with the name of fruit plant and varieties.
- (2) If the bundle contains more than one type of plants and varieties, each plant shall be labelled.
- (3) proper label/board shall also be affixed on Mother block.
- (4) Only one variety of plant shall be planted/propagated in one seed plot and in a small board shall be affixed in this seed plot with the name of that variety.
- (5) If the nursery owner receives any fruit plants from any other nursery of the State other than his fruit nursery for the purpose of sale, he shall be required to obtain a self-declaration from that nursery owner on a Rs. 100/- (One hundred) stamp paper stating the genetic characteristics, techniques followed, and the plants being insect and disease free.
- (6) In respect of plant material, it is mandatory for all the government and non-government nurseries established in the State to see that from whatever source they purchase plant material it should be beneficial, in case it is not beneficial, action shall be taken against them under section 18 of the Act.

Power of State Government to Regulate or Prohibit, Import, Export or Transport of certain fruit plants

17.

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 harmful insects, pests and plant diseases, by notification, regulate or prohibit, subject to such restriction and conditions as it may specify, the bringing in to and taking out of the State and any part thereof, or the transport within the State, or any fruit plants of unknown pedigree of affected by any infectious or contagious pest and disease.

Offence & Penalty

18.

(1) The Nursery owner on contravention of any provision of the Act or rules made thereunder, on first conviction shall be punished with the fine which may extend to Rs.50,000/- (Fifty thousand) and in default of payment of fine with imprisonment which may extend to Six months, and be punished on second or subsequent conviction with imprisonment which may extend to six months and fine which may extend to Rs.50,000/- (Fifty thousand). In addition to this, the nursery owner shall be liable to pay all the compensation under para 6 of Appendix-1 to the farmer. The amount of compensation shall be determined by a committee constituted under the chairmanship of Chief/District Horticulture Officer.

(2) If an offence is made by the company under this Act, the person in-charge of the operations of the company, for the time being, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained this sub-section shall render any person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(3) Notwithstanding anything contained in sub-section (2), if any offence punishable under this Act has being committed by a company and it is proved that the offence has been committed with the consent or connivance or negligence of any Secretary, treasurer, Director, Manager or other officer of the company, such Secretary, Treasurer, Director, Manager or other officer of the company 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 a corporate body and includes a firm or other association of individuals; and
- (b) "Director" in relation to a firm, means the partner of that firm.

Cognizance of Offence

19.

No prosecution shall be initiated except for any complaint authorized by the Licensing Authority for any offence punishable under this Act.

Powers of Licensing Authority	20.	The Licensing Authority may:- (1) require the nursery owner to submit such information regarding the nursery in his ownership or run by him as may be specified. (2) enter in any nursery and inspect or make inspection of it and get inspected the plants in the nursery as also the account books and records related to the plants to ensure that the requirement of the Act and Rules made there under are being complied. (3) take samples of fruit plants and get make its analysis, inspection or testing in a lab assigned for this purpose.
Protection of action taken in good faith	21.	(1) No suit prosecution, or any other legal proceeding shall lie against any person for anything done or intended to be done in good faith under this Act or the rules made thereunder. (2) No suit or legal processing shall lie against the State Government for a injury or possible injury incurred by anything done or intended to be done in good faith under this Act or the rules made thereunder.
Training of Farmers	22.	Farmers of the State shall be taken to an exposure visit to the nearby government nurseries and given training by the Department to make them aware of the horticultural activities according to the climate of a particular region, specially about the advanced techniques, fineness and characteristics to be followed during the preparation of nurseries so that if the farmers themselves wish to purchase any plants from a nursery, they may be able to buy specific and quality planting material along with a bill from the seller.
Power to make Rules	23.	(1) The State government may, by notification, in the Official Gazette make rules to carry out the provisions of this Act and may amend rules from time to time which also includes a rule to prescribe fees for any proceeding under the Act. (2) Every rule made by a State Government under this Act shall be laid, as soon as may be after it is made before the State Legislative Assembly.
Bar on suit in the civil court	24.	No any objection shall be entertained in any civil court on any order given in exercise of any power by or under this Act.
Direction by the State Government	25.	The Licensing Authority shall comply with the instructions of the State Government on the subject of policy related matters in respect of its duties under this Act, which the State Government may issue from time to time.

Power to remove difficulties

26. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Act.

- (2) Every order made under this Section shall, as soon as may be, after it is made, be laid before the State Legislative Assembly.

Repeal and Savings

27. (1) The Uttar Pradesh Fruit Nurseries (Registration) Act, 1976 is hereby repealed.
- (2) Notwithstanding such repeal, anything done or any action taken under the said Act shall be deemed to have been done or taken under the corresponding provisions of this Act.

Appendix-1

SELF-DECLARATION BY NURSERY OWNER

I, Shri/Sushri/Shrimati ----- Son/daughter/wife of -----
resident of ----- declare that I will propagate and
sell the fruit plants grown in my nursery under the following declarations:

1. For propagation and sale of plants, scion and root stocks of fruit plants of only those varieties shall be used by me for which the nursery has been registered and for which instructions shall be given by the Registration Authority.
2. All the records shall be maintained in the proforma provided by the Registration Authority.
3. A lay-out of root stocks and mother plants to be grown in the nursery shall be prepared by me.
4. The nursery premises along with mother plants to be used in the plants propagation shall be kept free from insects and diseases by me.
5. The varieties/plants from packed at the time of sale shall be tagged by me, wherein the root stock and scion used in the propagation of these varieties shall be clearly mentioned.
6. I also declare that the plant sold or distributed by me shall be of the same varieties for which I have made recommendations and the same shall be completely free from any insects or diseases otherwise all the compensations towards the farmer shall be borne by me. The compensation shall be determined by the committee constituted under the chairmanship of Chief/District Horticulture Officer.
7. In the nursery, a register shall be maintained by me and the names of all root stocks and scions used in propagation of fruit plants sold/distributed to any person or institution shall be mentioned in this register. The name and address of the person/institution to which the fruit plant is sold shall also be mentioned. These registers shall be retained by me for minimum 10 years.
8. After inspection by the Registration Officer or his representative, I shall comply with the instructions given to me by him in respect of production and characteristics of healthy and disease insect's free plants.
9. I shall comply with the conditions set by the Government of Uttarakhand in respect of the recommendations for quality propagation of the plants and their sales rates.
10. I shall have no objection to any inspection by the authorities in respect of tasks being performed in my nursery such as development of mother plants, root stocks used in the propagation of plants, incidence of insects and pests, quality and genetic characteristics, growth and development of plants. I shall be ready to remove or destroy any plants affected by insects or disease if so suggested during the inspection and for this no compensation shall be claimed by me.
11. Except for the crop included in the registration of my nursery, no other crop shall be grown by me.

12. I shall comply with all the conditions and provisions given in the Uttarakhand Fruit Nurseries (Regulation) Act, 2019.
13. In case of any violation of the above declaration or of the provisions of the Uttarakhand Fruit Nursery (Regulation) Act, 2019, by me, I shall be liable for punishment as provided in the Act.

Signature of nursery owner.....

Name of nursery owner.....

Father's/husband's name of the nursery owner...

Name & address of the Nursery.....

Dated:.....

By Order,

PREM SINGH KHIMAL,

Secretary.

STATEMENT OF OBJECTS AND REASONS

1. The Uttar Pradesh Fruit Nurseries (Regulation) Act, 1976, for the regulation of Fruit Nurseries, was applicable in the former State Uttar Pradesh. This act is applicable in the State of Uttarakhand at present under section 86/87 of Uttar Pradesh reorganization act, 2000.
2. In perspective of the special circumstances of the State of Uttarakhand, it is inevitable to make provision for the registration of fruit nurseries, fruit plants propagation, patent of new discoveries, sale of fruit plants etc and other provision related thereto in the State of Uttarakhand.
3. The proposed Bill fulfils the aforesaid objective.

Subodh Uniyal
Minister