



The Mizoram Gazette

EXTRA ORDINARY
Published by Authority

Vol. XXI Aizawl, Friday, 14. 8. 1992. Sravana 23, S.E. 1914 Issue No. 148

NOTIFICATION

NO.H. 12018/30/92-LJD, the 11th August, 1992. The following Act of the Mizoram Legislative Assembly, which received the assent of the Governor of Mizoram is hereby published for general information.

The Mizoram Act No. 9 of 1992
The Mizoram Fruit Nurseries Registration Act 1992

(Received the assent of the Governor of Mizoram on 27th July 1992)

AN ACT

to provide for the registration of fruit nurseries in Mizoram and other matters connected therewith.

Be it enacted by the Legislative Assembly of Mizoram in the Forty third year of the Republic of India as follows : —

1. Short title, extent and commencement : —

- (1) This Act may be called the Mizoram Fruit Nurseries Registration Act, 1992.
- (2) It shall extend to whole of the State of Mizoram.
- (3) It shall come into force on such date as the State Government may, by notification in the official Gazette, appoint in this behalf.

2. Definitions : —

In this Act, unless the context otherwise requires : —

- (a) "appropriate Government" means the State Government of Mizoram;
- (b) "competent authority" means a person or authority appointed by the Government by notification to perform such functions under this Act;
- (c) "director" means the Director of Agriculture/Horticulture;
- (d) "fruit plant" means any plant, which can produce edible fruits or nuts, and includes wood, seedlings, grafts, layers, seeds, bulbs, suckers, rhizomes and cutting of any such plant;
- (e) "inspecting officer" means any officer not below the rank of Horticulture Inspector or Plant Protection Inspector authorised by the Director of Agriculture/Horticulture for the purpose of inspection of nurseries;
- (f) "nurseryman", means any person engaged in the production and sale of fruit plants;
- (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 where the said affairs are entrusted to a manager, managing director or managing agent shall be deemed to be the owner of the fruit nursery;
- (h) "Plant Material" means any propagation material used in raising the plant and includes budwood, scion, root-stock, seeds and cuttings;
- (i) "prescribed" means prescribed by rules made under this Act;
- (j) "root-stock" means a fruit plant or part thereof on which any portion of a fruit plant has been grafted or budded;
- (k) "scion" means a portion of a fruit plant which is grafted or budded on to a root-stock.

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 purpose of this Act; and
- (b) define the limits within which the competent authorities 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 to obtain licence.—

The owner of fruit nursery should obtain licence without which the department is not bound to procure fruit plants and plant materials from him. A separate licence will be required for nurseries located at different places.

5. Application for/and grant of licence.—

- (1) Every application for licence shall be made to the competent authority and shall be in the prescribed form subject to such conditions and restrictions as may be prescribed.
- (2) If the competent authority is satisfied that—
 - (a) the fruit nursery is suitable for proper propagation of fruit plant in respect of which licence has been applied for;
 - (b) the application is competent to conduct or establish any such fruit nursery;
 - (c) he fulfils any other conditions notified by the competent authority in this behalf;
 - (d) the applicant has paid the 'fee' prescribed for the licence and has also furnished the prescribed security, if any, he may issue a licence.

6. Period of validity and renewal of licence. —

- (1) Every licence granted under this section shall be valid for a period of three years from the date of issue and it may be renewed from time to time on payment of such fee in such manner and the fulfilment of such conditions as may be prescribed by the competent authority.
- (2) If the competent authority refuses to renew a licence, it shall record the reasons in writing and communicate a copy of it to the applicant.

7. Duties of the holder of a licence —

Every holder of a licence under this Act shall —

- (a) undertake to multiply 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 Competent Authority/State Government,
- (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 layout plan showing the position of every rootstock and scion tree 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 scion of every such fruit plant;
 - (g) 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, budwood and the name and address of the person purchasing it, and shall produce the record for inspection on demand by Director or Inspecting Officer; the register shall be preserved by the licence holder for at least ten years after the date of conclusion of the transaction;
 - (h) undertake to release for sale or distribution only such fruit plants as are completely free from any kind of insect pests or plant disease;
 - (i) keep the plants as well as the progeny trees used for the production of nursery plants free from such insects, pests and diseases as may be prescribed.
8. Plant material to be utilised for propagation. —
- (1) Plant material to be utilised for propagation will be only for which licence has been granted.
 - (2) The scion variety and rootstock to be propagated in the nursery shall be those approved by the Horticulture Department/Agriculture Department of the State Government, from time to time.
 - (3) The vegetatively propagated plant material shall be in direct proportion to the availability of rootstock (vegetatively propagated, if any) and scionwood with the nurseryman.
 - (4) Nurseryman will maintain a map showing the details of the field of beds and the kinds of varieties of plants in each bed. This will apply to the seedlings as well as budded and grafted plant material.
 - (5) The nurseryman will maintain a register in the relevant form wherein the performance of the progeny trees will be recorded.
 - (6) The competent authority may declare mother trees as unfit for use, if it is satisfied that use of such a plant material will not be in the interest of fruit industry on account of the following reasons:—

- (a) poor quality of fruit;
- (b) poor bearing capacity;
- (c) infested with insects, pests and disease which cannot be cured;
- (d) any other reason which may be considered fit by the competent authority in the interest of the fruit industry.

(7) The nurseryman will quarantine such trees and will not use their budwood for further propagation in any case should there be a danger of the spread of the insect, pests and disease to other nurseries and nursery plants, these trees may be ordered to be adjusted by the competent authority and the nurseryman will carry out these orders. Such orders shall also be under the supply and planting material.

9. Power of State Government to regulate or prohibit import, export or transport of certain fruit plant.

The Government may, for the purpose of maintaining the quality of any fruit plant grown in any part of the State or to protect them from injurious insect pest or plant diseases, by notification in the official Gazette, regulate or prohibit the bringing into or taking out of the State or any part thereof, or the transport of them within the State, of any fruit plants of unknown pedigree or affected by any infectious or contagious disease or pests.

10. Powers to cancel or suspend licence.—

(1) The competent authority may suspend or cancel any licence granted or renewed under Sections 5 and 6 on any one or more of the following grounds, namely—

- (a) that he has parted, whole or in part, from 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) that the licensee has applied to be adjudicated or been adjudicated and insolvent;
- (e) that in the opinion of such authority, he has become incompetent to conduct such fruit nursery;

- (f) that he has refused to surrender or produce his licence or registers and other records required to be maintained under the Act or the rules thereunder to the competent authority or any person authorised by it, or
 - (g) on any other grounds as may be prescribed by rules made under this Act.
- (2) The competent authority may suspend the licence pending for order 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 given him a reasonable opportunity of showing cause for such action.
 - (4) A copy of every order passed under sub-section (1) or sub-section (2) shall be communicated to the licensee forthwith.

11. 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.

12. Issue of duplicate licence.—

If a licence granted to an owner is lost, destroyed, mutilated or damaged, the competent authority may, on application and payment of Rs. 50/- or such fee as may be prescribed from time to time, issue a duplicate licence.

13. 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 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 Act, shall, subject to the provisions of section 14 be final.

14. Revision:—

- (1) The appropriate 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 record or any case and may pass such order thereon as it thinks fit:

Provided that the appropriate Government shall not exercise the power conferred on it by this section, in respect of an order against which an appeal preferred under section 13 is pending or upon application in case an appeal has not been preferred before the expiry of the time limit thereof:

Provided further that the appropriate 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) Any order passed under this section shall be final.

15. Powers of entry and inspection of nurseries:—

- (1) With a view to examine the working of any fruit nursery or for any other purposes, the competent authority or any person authorised by it shall have the right at all reasonable hours with or without assistants—

- (a) to enter into any fruit nursery 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 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.

- (2) The licensee and all persons employed in connection with the nursery shall afford the competent authority or the 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 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 fruit nursery as may be required by such authority or person.

16. Penalties:—

If any person—

- (a) contravenes any of the provisions of this Act, or rule made thereunder, or

- (b) obstructs any officers or person or persons in the exercise of any powers conferred or in the performance of any duty imposed upon him under this Act, he shall, on conviction, be punished with imprisonment for a term which may extend to one month or with fine which may extend to one thousand rupees or with both.

17. Offences by Companies : —

- (1) Where an offence under this Act has been committed by a Company; every person who, at the time of offence, 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 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 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 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.

18. 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 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 powers under this Act to be public servants:—

- (1) 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.

- (2) No suit, prosecution or other legal proceeding shall lie against the appropriate 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.

21. Powers to delegate : —

The State Government may, by notification in the official Gazette, direct that any powers or duty which by this Act or by any rule made thereunder is conferred or imposed on the appropriate authority except the powers 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 an officer or authority subordinate to the State Government.

22. Powers to make rules:—

- (1) The Government may, by notification in the official Gazette make rules for carrying out the purpose of this Act.
- (2) Every rules made under this section shall be laid, as soon as may be after it is made before the Legislative Assebley of Mizoram, While it is in session for a total period of seven 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, the Legislative Assembly of Mizoram, makes any modification in the rule or decide that the rule should not be made, the rule shall thereafter 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 under that rule.

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