



The Punjab Fruit Nurseries Act, 1961

Act 13 of 1961

Keyword(s):

Competent Authority, Fruit Nursery, Fruit Plant, Owner, Scion, Rootstock

Amendment appended: 7 of 2022

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THE PUNJAB FRUIT NURSERIES ACT, 1961

(PUNJAB ACT No. 13 OF 1961)

Arrangement of sections

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THE PUNJAB FRUIT NURSERIES ACT, 1961.

(PUNJAB ACT No. 13 OF 1961).

[Received the assent of the Governor of Punjab on the 28th March, 1961, and first published for general information in the Punjab Government Gazette (Extraordinary), Legislative Supplement, of the 1st April, 1961.]

1	2	3	4
Year	No.	Short title	Whether affected by Legislation
1961	13	The Punjab Fruit Nurseries Act, 1961	Amended by Punjab Act 25 of 1964*

AN ACT

to provide for the regulation and licensing of Fruit Nurseries in the State of Punjab.

BE it enacted by the Legislature of the State of Punjab in the Twelfth Year of the Republic of India as follows :—

1. (1) This Act may be called the Punjab Fruit Nurseries Act, 1961. Short title, extent and commencement.

(2) It extends to the whole of the State of Punjab.

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires— Definitions.

(a) "competent authority" means a person or authority appointed by the State Government, by notification in the Official Gazette, to perform the functions of the competent authority under this Act for such area as may be specified in the notification;

*For Statement of Objects and Reasons, see Punjab Government Gazette (Extraordinary), 1960, page 1955.

**For Statement of Objects and Reasons, see Punjab Government Gazette (Extraordinary), 1964, pages 935—37.

- (b) "fruit nursery" means any place where fruit plants are in the regular course of business propagated and sold for transplantation ;
- (c) "fruit plant" means any plant which can produce edible fruits or nuts, and includes budwood, seedlings, grafts, seeds and cuttings of 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 ;
- (e) "prescribed" means prescribed by rules made under this Act ;
- (f) "rootstock" means a fruit plant or part thereof on which any fruit plant has been grafted or budded ; and
- (g) "scion" means a fruit plant which is grafted or budded on to a rootstock.

Owner to obtain licence.

3. No owner shall, after the expiry of six months from the date appointed under sub-section (3) of section 1, conduct or establish a fruit nursery unless he has obtained a licence under this Act.

Explanation.—Where an owner has more than one fruit nursery in different towns and villages, he shall obtain a separate licence in respect of each such fruit nursery.

Application for, and grant and refusal of licence.

4. (1) Every application for a licence under section 3 shall be made to the competent authority and shall be in the prescribed form.

(2) Subject to such conditions and restrictions as may be prescribed, if the competent authority is satisfied that—

- (a) the fruit nursery is suitable for the proper propagation of the fruit plant or fruit plants

in respect of which the licence has been applied for;

- (b) the applicant is competent to conduct or establish such a fruit nursery ;
- (c) he fulfils any other conditions notified by the competent authority in this behalf; and
- (d) the applicant has paid the fee prescribed for the licence and has also furnished the prescribed security, if any,

such authority may grant a licence to the applicant for conducting or establishing a fruit nursery in accordance with the terms of the licence and the provisions of this Act and the rules thereunder.

(3) Every licence granted under this section shall be valid for the prescribed period and may, on application and payment of the prescribed fee, be renewed from time to time, by the competent authority and for the prescribed period, provided the other conditions in sub-section (2) continue to be fulfilled.

(4) If the competent authority refuses to grant or renew a licence under this section, it shall record its reasons for such refusal in writing and communicate a copy of its order to the applicant.

5. (1) The competent authority may suspend or cancel any licence granted or renewed under section 4— Or Suspension or cancellation of licence.

- (a) if the licensee has applied to be adjudicated, or been adjudicated an insolvent, or
- (b) if he has parted, in whole or in part, with his control over the fruit nursery, or
- (c) if he has ceased to conduct or possess such fruit nursery, or
- (d) if in the opinion of such authority he has become incompetent to conduct or possess such fruit nursery, or

(e) if he has contravened, or failed to comply with any of the terms of the licence or any of the provisions of this Act or the rules thereunder, or

(f) on any other prescribed ground.

(2) Before passing an order under sub-section (1), the competent authority shall intimate to the licensee the grounds on which it is proposed to take action and give him a reasonable opportunity of showing cause against it.

(3) The competent authority may suspend the licence pending the passing of a cancellation order in respect thereof under sub-section (1).

(4) A copy of every order passed under sub-section (1) or sub-section (3) shall be communicated to the licensee.

Return of
licence.

6. On the expiry of his licence or on the receipt of an order suspending or cancelling it, 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.

Duplicates.

7. 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.

Duties of
licensee.

8. Every licensee under this Act shall—

- (1) undertake to employ only such varieties of the fruit plant as may be specified in the licence in respect of scion and rootstock, for propagation and sale ;
- (2) keep a complete record of the origin or source of every rootstock and every scion showing

the local name or botanical name or both, of the rootstock and the scion used ;

- (3) keep layout plan showing the position of every rootstock and scion tree employed in raising fruit plants ;
- (4) keep the nursery plants as well as the parent trees used for the propagation of fruit plants free from insect, pests and diseases;
- (5) specify in a conspicuous manner on a label the name of every kind and variety of fruit plant enclosed in any package intended for sale and the name of the rootstock together with that of the scion of every such fruit plant ;
- (6) undertake to release for sale or distribution only such fruit plants as are completely free from any kind of insect, pest or disease; and
- (7) maintain a register in the form specified by the competent authority showing the name of the fruit plant sold to any person, the name of the rootstock and the name and address of the person purchasing it.

9. (1) Any person aggrieved by an order of a competent authority refusing to grant or renew a licence under this Act may appeal in such form and manner, within such period and to such authority as may be prescribed : Appeals.

Provided that the appellate authority may admit an appeal after the prescribed period, if sufficient cause is shown.

(2) The appellate authority may, after hearing the appellant, pass such orders on the appeal as it thinks fit.

(3) An order passed under this section shall, subject to the provisions of section 10, be final.

Revision.

10. (1) The State Government may, on the application of any person aggrieved by an order passed under this Act, at any time, for the purpose of satisfying itself as to the legality or propriety of such order, call for and examine the record of the case and may pass such orders thereon as it thinks fit :

Provided that the State Government shall not exercise the power under this section, in respect of an order against which an appeal preferred under section 9 is pending or in case an appeal has not been preferred, before the expiry of the time limit therefor.

(2) An order passed under this section shall be final.

Powers of inspection.

11. (1) The competent authority or any person not below the rank of an Agriculture Inspector, authorised by it in this behalf may, at all reasonable hours and with or without assistants, enter any fruit nursery and inspect or examine the fruit plants therein, and the registers, books of accounts and records relating thereto, for the purpose of satisfying itself or himself that the requirements of this Act and the rules thereunder are being complied with.

(2) The licensee shall afford the competent authority or the person authorised by it all reasonable access and facilities for such inspection and examination as may be required for the purpose aforesaid and shall be bound to furnish such information relating to the fruit nursery as may be required by such authority or person.

Power of State Government to prohibit or regulate the bringing into or taking out of the State fruit plants.

12. The State Government may, by notification in the Official Gazette, prohibit or regulate, subject to such restrictions and conditions as it may impose, the bringing into, or taking out of the State, otherwise than across a customs frontier as defined by the Central Government, or the transport within the State, of any fruit plant of unknown pedigree or affected by any infectious or contagious disease or pest.

13. (1) If any person contravenes any of the provisions of this Act or any rule made thereunder contravention of which is made punishable under this section or attempts to contravene or abets the contravention of any such provision, rule, he shall be punishable with fine which may extend to one thousand rupees. Penalty.

(2) If the person committing an offence under this Act is a company, the company as well as every person in charge of, and responsible to the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence, and shall be liable to be proceeded against and punished accordingly :

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

(3) Notwithstanding anything contained in sub-section (2), 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 that the commission of the offence 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; and

(b) “director”, in relation to a firm, is a partner in the firm.

14. (1) No court shall take cognizance of an offence punishable under this Act except upon complaint in writing made by the competent authority or any officer Cognizance of offences, etc.

authorised in this behalf by the competent authority by general or special order.

(2) No court inferior to that of a '[Judicial Magistrate] of first class shall try any offence punishable under this Act.

Persons exercising powers under this Act to be public servants.

15. All persons exercising powers under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

No compensation for suspension or cancellation of licences.

16. Where any licence is suspended or cancelled under this Act, the licensee shall not be entitled to any compensation therefor, nor shall he be entitled to the refund of any fee paid by him for the licence.

Protection of persons acting in good faith.

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

Delegation of powers.

18. The State Government may, by notification in the Official Gazette, delegate to any officer or authority subordinate to it all or any of its powers under this Act except the power to make rules.

Power to make rules.

19. (1) The State Government may, by notification in the Official Gazette, 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—

(a) all matters expressly required or allowed by this Act to be prescribed ;

(b) the conditions to be inserted in licences to be granted to owners and the form of such licences ;

- (c) the procedure to be followed by competent authorities in the exercise of their functions under this Act ;
- (d) the registers, books of accounts and records to be maintained by licensees and the manner in which and the period for which they shall be maintained ;
- (e) the circumstances in which security may be required from licensees and the security furnished by them may be forfeited and the manner in which any sum falling due as a result of such forfeiture may be recovered ;
- (f) the efficient conduct, improvement and development of fruit nurseries;
- (g) the detection, inspection, certification, method of transport or destruction of fruit plants in respect of which a notification has been issued under section 12 or of any articles which may have been in contact or proximity thereto and the regulation of the powers and duties of the officers who may be appointed in this behalf.

(3) Any rule made under this section may provide that a contravention thereof shall be punishable under section 13.

(4) Every rule made under this Act shall be laid as soon as may be after it is made before the State Legislature for a period of ten days.

PART I

GOVERNMENT OF PUNJAB

DEPARTMENT OF LEGAL AND LEGISLATIVE AFFAIRS, PUNJAB

NOTIFICATION

The 18th January, 2022

No.7-Leg./2022.-The following Act of the Legislature of the State of Punjab received the assent of the Governor of Punjab on the 28th day of December, 2021, is hereby published for general information:-

THE PUNJAB FRUIT NURSERIES (AMENDMENT) ACT, 2021
(Punjab Act No. 7 of 2022)

AN

ACT

further to amend the Punjab Fruit Nurseries Act, 1961.

BE it enacted by the Legislature of the State of Punjab in the Seventy-second Year of the Republic of India as follows:-

1. (1) This Act may be called the Punjab Fruit Nurseries (Amendment) Act, 2021. Short title and commencement.
(2) It shall come into force on and with effect from the date of its publication in the Official Gazette.
2. In the Punjab Fruit Nurseries Act, 1961 (hereinafter referred to as the principal Act), in the long title, for the word "FRUIT", the word "HORTICULTURE" shall be substituted. Amendment in long title of Punjab Act No. 13 of 1961.
3. In the principal Act, in the preamble, for the word "Fruit", the word "Horticulture" shall be substituted. Amendment in preamble of Punjab Act No. 13 of 1961.
4. In the principal Act, in section 2,- Amendment in section 2 of Punjab Act No. 13 of 1961.
 - (i) for clauses (b) and (c), the following clauses shall be substituted, namely:-
 - "(b) export" means taking the plant material out of the State or out of India by land, sea or air;
 - (c) "horticulture crops" means the crops (as specified in the list provided in the rules) which are in the regular course of business are vegetatively propagated and sold for transplantation;
 - (ca) "horticulture nursery" means any place, where horticulture crops are in the regular course of business are vegetatively propagated and sold for transplantation. Any person who is not an owner of

land, may establish horticulture nursery, if he takes land on lease for a minimum period of ten years;

- (cb) "horticulture plant" means the plant belonging to any of the categories as per list provided in the rules and as the Government may, by notification, declare to be a such plant;
- (cc) "import" means bringing the plant material from outside the State or from other countries for further propagation;
- (cd) "Inspecting Officer" means any officer not below the rank of Horticulture Development Officer;
- (ce) "kind" means one or more related species or sub-species of crop plants each individually or collectively known by one common name such as mango, tomato, etc;
- (cf) "notification" means a notification published in the Official Gazette of the Punjab and the word 'notified' shall be construed accordingly;
- (cg) "nursery person" means any person engaged in the production or sale of horticulture plants;";
- (ii) after clause (d), the following clause shall be inserted, namely:-
- (da) "plant material" means any propagation material used in raising the plants and includes bud wood, scion, root-stock, vegetatively propagated (cuttings, suckers, runners etc.);
- (iii) for clause (f), the following clauses shall be substituted, namely:-
 - (f) "rootstock" means a horticulture plant or part or tissue culture based plant (e.g. Papaya, Strawberry and Banana) thereof, on which any horticulture plant has been grafted or budded;
 - (fa) "sale" means a sale of plant made within the State or outside the State for cash or other valuable consideration; and"; and
- (iv) in clause (g), for the word "fruit", the word "horticulture" shall be substituted.

5. In the principal Act, in section 3,-

- (i) for the word "fruit" wherever occurred, the word "horticulture" shall be substituted; and
- (ii) for the words and sign "under this Act", the words and signs "under this Act:" shall be substituted and thereafter, the following proviso shall be added, namely:-

"Provided that the Government, may, by notification, appoint such persons, being Gazetted Officers of the Government, as it

Amendment in
section 3 of
Punjab Act No.
13 of 1961.

thinks fit, to be competent officer for the purpose of this Act, specify the limits within which the competent officer shall exercise the powers conferred and perform the functions imposed on such authority by or under this Act. Subject to the provisions of this Act and the rules made thereunder, the competent authority or officer may issue such instructions as may be necessary to the licenced 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.".

6. In the principal Act, in section 4,-

(i) after sub-section (1), the following sub-section shall be inserted, namely:-

Amendment in
section 4 of
Punjab Act No.
13 of 1961.

"(1A) In case of death of the licensee, if there is any nominee, then, the licence may be transferred in his name within a period of six months from the date of death of the licensee, otherwise, the licence will be deemed to be expired: Provided that if the nurseries owned by State Government or the Central Government or corporate bodies of the State and Central Government are exempted from the payment of registration fee or renewal fee, then they shall get registration under this Act. All the nurseries growing horticulture plants should be registered once in a lifetime, but the license of the nursery will be renewed after every three years. However, the licence will be issued only for those plants which are mentioned in the list attached in the rules.";

(ii) in sub-section (2),-

(1) in clause (a), for the word "fruit", wherever occurring, the word "horticulture" shall be substituted and thereafter, the following clause shall be inserted, namely:-

"(aa) the soil should be tested free of soil borne pathogens from a recognized laboratory which means diagnostic laboratory of the Department of Plant Pathology, Punjab Agriculture University, Ludhiana or any other laboratory recognized by the competent authority."; and

(2) in clause (b), for the word "fruit", the word "horticulture", shall be substituted; and thereafter, the following clause shall be inserted, namely:-

"(ba) either owner or his regular employee should be trained in nursery production/management for production of disease-free horticulture plants. The existing horticulture nurseries shall be given one year time to fulfill this condition.";

- (iii) in clause (d), for the word "fruit", the word "horticulture", shall be substituted; and
- (iv) in sub-section (4), for the words and sign "to the applicant.", the words and sign "to the applicant after giving a reasonable opportunity of being heard to the applicant." shall be substituted.

7. In the principal Act, in section 5,-

Amendment in section 5 of Punjab Act No. 13 of 1961.

(i) in sub-section (1), in clauses (b), (c) and (d) for the word "fruit" wherever occurring, the word "horticulture" shall be substituted and thereafter, the following sub-section shall be inserted, namely:-

"(1A) the suspension or cancellation of the licence should be displayed on display board in the horticulture nursery.";

(ii) after sub-section (3), the following sub-section shall be inserted, namely:-

"(3A) The competent authority may suspend or cancel the license of the horticulture nursery, if the owner does not deposit the inspection fee or fails to inform the inspection officer/authority after due compliance within the period of seven working days of the deposit of the fee to conduct inspection. Such officer or authority shall inspect the horticulture nursery within fifteen working days after receiving the information, otherwise, the horticulture nursery will be deemed to be inspected."; and

(iii) after sub-section (4), the following sub-section shall be added, namely:-

"(4A) The competent authority should ensure that the status of the licence is displayed on display board in the horticulture nursery.".

8. In the principal Act, in section 6, in the proviso, for the words and sign "fruit nursery.", the words and sign "horticulture nursery:" shall be substituted and, thereafter, the following proviso shall be added, namely:-

Amendment in section 6 of Punjab Act No. 13 of 1961.

"Provided further that such authority will give winding up period of not exceeding one year to the owner to enable him to wind up the nursery:

Provided further that in case the licence is cancelled or suspended,

the plants shall be destroyed by the competent authority or any other person authorized by him but not below the rank of Horticulture Development Officer. The competent authority shall order the licensee to uproot the rootstock seedlings and the grafted plants or cultivars and on his refusal to do so, shall engage the manual labour or tractor to uproot or plough the field of the licensee."

9. In the principal Act, in section 8,-

Amendment in
section 8 of
Punjab Act No.
13 of 1961.

(i) in clause (1), for the words, "fruit plant as may be specified in the licence", the words, "planting material as per list provided in the rules" shall be substituted, and thereafter, the following clause shall be inserted, namely:-

"(1A) the licensee should have rootstock and scion mother block of his own or acquire it from Department of Horticulture, or Punjab Agriculture University, Ludhiana, on payment basis subject to availability. The mother block for bud wood (scion) should be maintained in screen house, the specifications for which may be provided by the competent authority. If the licensee wants to operate a second unit, he can use mother plants of rootstock as well as scion shown in the existing licence;"

(ii) after clause (2), the following clause shall be inserted, namely:-

"(2A) "get the certification and traceability from Horticulture Certification Agency (as per provision in section 8 of The Seeds Act, 1966). If any nursery person wants to export the planting material, he has to follow the instructions issued by Horticulture Certification Agency from time to time;"

(iii) in clauses (3) and (4), for the word, "fruit" wherever occurring, the word "horticulture" shall be substituted;

(iv) after clause (4), the following clause shall be inserted, namely:-

"(4A) maintain the quality standards as prescribed by Department of Horticulture, National Horticulture Board or Government of India and should be tested negative for transmissible diseases after every year from the laboratories designated by the competent authority. In case the plant material found infected, it should be destroyed;"

(v) in clause (5), for the word, "fruit" wherever occurring, the word "horticulture", shall be substituted and thereafter, the following clause shall be inserted, namely:-

"(5A) the licensee shall provide specified number of tags prescribed by competent authority for stamp and signature of competent authority or person authorized by him and no horticulture plant shall be sold without such tag. The tag should carry the names of rootstock and scion variety of the horticulture plant;"

(vi) in clause (6), for the word, "fruit", the word "horticulture" shall be substituted and at the end, for the sign and word "; and", the word and sign "as per traceability norms;" shall be substituted; and

(vii) in clause (7), for the words and sign "purchasing it.", the words and sign "purchasing it;" shall be substituted and thereafter; the following clauses shall be added, namely:-

"(8) shall produce the record for inspection on demand by the director or inspecting officer, every licensee should have rootstock and scion mother block of known pedigree of his own or acquire it from Department of Horticulture or Punjab Agriculture University or State Agriculture University of any other state or any Indian Council of Agricultural Research Institutions on payment basis subject to availability and the mother block for bud wood (scion) should be maintained in screen house as per the specifications provided by the competent authority. All rootstock scion shall be taken from accredited nursery, Department of Horticulture and Punjab Agricultural University only. Every licensee, to meet the provisions of sub-section (6) of this section, shall deposit the prescribed fee fixed by competent authority and shall inform the inspection officer or authority within the period of seven working days of depositing the fee for getting the quarterly as well as final inspection done.

(9) In every horticulture nursery, the owner should have a display board of prescribed size, colour and location as decided by competent authority displaying the following information with the paint on left half side of the display board:-

- (i). Name of nursery;
- (ii). License number;
- (iii). Validity period;
- (iv). Source of plant material; and
- (v). Kind of plant material.

(10) The lower right half part of the display board shall be used for giving any important information to the farmers provided by the Department of Horticulture regarding the nursery plants.”.

10. In the principal Act, in section 11,-
(i) in sub-section (1), for the words, "Agriculture Inspector", the words "Horticulture Development Officer" shall be substituted; and
(ii) in sub-section (2), for the word, "fruit", the word "horticulture" shall be substituted. Amendment in section 11 of Punjab Act No. 13 of 1961.
11. In the principal Act, in section 12, the after words and sign "contagious disease or pest.", the following shall be added, namely:-
"Nobody can bring horticulture plants from outside the state without obtaining the Phytosanitary Certificate issued by the designated authority of the State of Punjab as notified by the Plant Protection Adviser to Government of India, Directorate of Plant Protection Quarantine and Storage, Faridabad." Amendment in section 12 of Punjab Act No. 13 of 1961.
12. In the principal Act, in section 13, -
(i) in sub-section (1), for the words and sign "one thousand rupees.", the words and signs "fifty thousand rupees in the form of damage report.
This amount shall be submitted to the Horticulture Certification Agency." shall be substituted; and
(ii) in sub-section (2), for the word and sign "accordingly:" the word and sign "accordingly." shall be substituted and thereto the proviso shall be omitted. Amendment in section 13 of Punjab Act No. 13 of 1961.
13. In the principal Act, in section 16, after the words and sign "for the licence.", the words and sign "The new nursery licence shall not be issued for the period of next ten years." Amendment in section 16 of Punjab Act No. 13 of 1961.
14. In the principal Act, in section 19, in sub-section (2), for the word, "fruit" wherever occurring, the word "horticulture" shall be substituted. Amendment in section 19 of Punjab Act No. 13 of 1961.

S.K. AGGARWAL,

Principal Secretary to Government of Punjab,
Department of Legal and Legislative Affairs.