

## **THE TRIPURA HORTICULTURAL NURSERIES (REGULATION) ACT, 2013**

**AN**

**ACT**

*to provide for the licensing and regulation of Nursery produces and sell of planting materials for different horticultural crops within and outside the state of Tripura.*

### **WHEREAS**

like many other states, there is no legislation in existence in Tripura, to regulate the licensing and activities of Nursery producing and selling planting materials of different horticultural crops within and outside the state;

### **AND WHEREAS**

it is expedient to provide for the purpose of assuring supply and transplantation of true to the type, healthy and quality planting materials to the customers and for the licensing and regulating the activities of the Nursery producing and selling planting materials of different horticultural crops within and outside the state and for matters connected therewith and incidental thereto, it is essential that the nurseries where the planting materials of horticultural plants are produced, be regulated through legislation;

BE it enacted by the Tripura Legislative Assembly in the Sixty-fourth year of the Republic of India, as follows:

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

- i. This Act may be called the "Tripura Horticultural Nurseries (Regulation) Act, 2013";
- ii. It extends to the whole of the State of Tripura;
- iii. It shall come into force on the date of its publication in the Official Gazette.

### **2. Definitions**

In this Act, unless the context otherwise requires,

- i. "Competent authority" means a competent authority appointed by the State Government under section 3(1) of the Act;
- ii. "Container" means a box, bottle, basket, tin, barrel, case, receptacle, rack, bag, wrapper or any other things in which planting materials is placed or packed;
- iii. "Customer" means any person visiting the nursery, with the intention to, and or purchase the plants produced in the nursery which is to be later planted in a house, office or farm;
- iv. "Director" means the Director of Horticulture and Soil Conservation, Government of Tripura;

- v. "Export" means taking out any horticulture nursery item or planting materials out of the State or out of India by land, Sea or Air or any other means;
- vi. "Form" means a form devised by the State Government for specific purpose under this Act;
- vii. "Government" means the Government of Tripura;
- viii. "Horticulture" includes Fruits, Plantation crops, Vegetables, Spices & Condiments, Ornamental foliage or plants, Flowers, Medicinal and Aromatic crops & plantations;
- ix. "Horticulture nursery" includes any place where fruit plantation crops and or other notified plants are propagated and sold;
- x. "Import" means bringing any horticulture nursery item or planting materials into the State by land, Sea, Air or any other means;
- xi. "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;
- xii. "License" means the license issued under this act by the competent authority to conduct or carry on the business for the purpose of production or sale of plants;
- xiii. "Notification" means a notification published in the official Gazette of Tripura and the word 'notified' shall be construed accordingly;
- xiv. "Nursery" means any place, where horticultural plants are in the regular course of business, propagated or sold for transplantation;
- xv. "Owner" in relation to a nursery means the person, association or group of persons, organization, firm, agency, company, local body, Government etc., who or the authority which, has the ultimate control over the affairs of such horticultural nursery and includes a manager, managing director or managing agent, by whatever name or designation they called, where the said affairs are entrusted to such manager, managing director or managing agent, as the case may be;
- xvi. "Planting material" means any planting material which is used for propagation and raising of horticulture plants and includes bud-wood, seedlings, grafts, layers, bulbs, suckers, in complete scion, root stock, roots, seeds, rhizomes, cutting and tissue culture plants; xvii. "Prescribed" means prescribed by Rules made under this Act;
- xviii. "Producer" means a person, group of persons, firm, agency, company or organization, who grows or organizes the production of horticultural plants;
- xix. "Root stock" means the fruit plant or part thereof on which any portion of plant has been grafted or budded;
- xx. "Sale" means sale of plants made within the State for cash or deferred payment or other valuable consideration;

xxi. "Scion" means a portion of a plant, which is grafted or budded on to the rootstock;

xxii. "Variety" means a plant grouping except microorganism within a single botanical taxonomy of the lowest known rank, which can be

i. defined by the expression of the characteristics resulting from a given genotype of that plant grouping;

ii. distinguished from any other plant grouping by expression of at least one of the said characteristics; and

iii. considered as a unit with regard to its suitability for being propagated, which remains unchanged after such propagation and includes propagating material of such variety, extant variety, transgenic variety, farmers' variety and essentially derived variety;

xxiii. "Nurseryman" means any person engaged in production and sale of any horticulture plants;

xxiv. "Inspecting Officer" means any authorized person who can inspect the nursery records, registers and health of plant or planting materials;

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

The State Government may be by notification in the Official Gazette,

i. appoint such person(s), being gazetted officer(s) of the Government, as it thinks fit, to be the Competent Authority for the purposes of this Act; and

ii. define the limits within which a Competent Authority shall exercise the powers conferred and perform the duties under this Act.

### **4. Owner of every horticultural nursery and every person carrying on business of sale of horticultural plants to obtain license**

i. No owner of a horticultural nursery shall after the expiry of three months from the date of commencement of this Act or from the date on which he first becomes owner of such nursery, whichever is later, conduct or carry on the business of the nursery except under and in accordance with a license obtained by him under the provisions of this Act and the rules made there under;

ii. No person, who is not the owner of a horticultural nursery shall, after the expiry of three months from the date of the commencement of this Act, conduct or carry on the business of sale of horticultural plants, except under and in accordance with the license obtained under the provision of this Act and the rules made there under;

iii. Where an owner has more than one nursery, whether in the same town or village or in different towns or villages, he shall obtain a separate license in respect of each such nursery;

iv. The license, so obtained, shall be displayed at a conspicuous place in the nursery and be shown to the inspecting officers or customer, on demand.

## **5. Application of provisions of sections 6,7,9,10,11 and 12 to the licensee for sale of nursery plants**

The Provision of sections 6, 7, 9, 10, 11 and 12 of this Act shall mutatis mutandis, or, apply to the grant of license for the sale of horticultural plants and the Competent Authority shall have and exercise the same powers, as he has and exercises in respect of the license to the owner of a horticultural nursery.

## **6. Application for grant and renewal of license**

i. Every application for license under Section 4, shall be made to the Competent Authority, in such form and in such manner with such license fees, as may be prescribed;

The standardized Form will be required to be maintained by the licensing authority. The format for maintenance of record or registers of such licenced nurseries shall also be standardized for maintenance of quality, honesty & transparency in the Form as may be prescribed.

ii. Nurseries owned by State Government or Central Government or corporate bodies of the state government or central government shall also obtain a license and abide by the rules made under the Act.

Provided that, these bodies, shall be exempted from the payment of the license fees, on an application made by the concerned authority of that government or body, in that regard.

iii. Every application referred to in the proviso to sub-section (ii), shall be disposed of by the Competent Authority, within a period of two months from its receipt and in the manner provided in this section.

iv. On receipt of such application, the Competent Authority shall make such inquiry, as it considers necessary and the Inspection Officer shall record his verification in such Form as may be prescribed.

If the Competent Authority is satisfied that,

(a) the nursery is suitable for the purpose of proper propagation of the horticultural plants in respect of which the license has been applied for;

(b) the applicant is competent to conduct such a horticultural nursery;

(c) the applicant has paid the prescribed license fee;

(d) the applicant fulfills or undertakes to fulfill such other conditions, as may be prescribed, being conditions for ensuring the quality of plants to be propagated and their sale at a reasonable price; he may grant the license to the applicant in such Form as may be prescribed . If the Competent Authority is not so satisfied for reason(s), if any, after giving reasonable opportunity to the applicant of being heard and after recording a brief statement of the reasons for refusal, can refuse to grant the license and furnish a copy of such statement to the applicant and refund to him the license fee, which has been paid by him.

v. Every license granted under this section shall be valid for the period specified therein (for a period of five years from the date of its issue), and may, on an application made to it, be renewed from time to time, by the Competent Authority for such period, as may be prescribed in Form on the basis of verification report in such Form as may be prescribed. Where the Competent Authority refuses to renew license, it shall record a brief statement of the reasons for such refusal and furnish copy thereof to the applicant.

## **7. Duties of the holder of license**

Every holder of a license under this act, shall-

i. undertake to employ only such varieties of horticultural plants, specified in the license, in respect of scion or rootstock, for propagation and sale, as may be directed by the Competent Authority;

ii. Keep a complete record of the origin or source of every rootstock and every scion, in such Form as may be prescribed showing: -

(a) the botanical name together with the local name, if any, of the rootstock used,

(b) the botanical name together with the local name, if any, of the scion used in raising the plants.

iii. Keep a layout plan showing the position of every rootstock and scion tree employed in raising the plants;

iv. Keep the nursery plots, as well as the parent trees, used for the propagation of horticultural plants free from all pests and diseases;

v. Undertake to propagate the nursery plants in such manner, as may be directed by the Competent Authority;

vi. Specify in a conspicuous manner, on a label, the name of every variety of horticultural plant, enclosed in any packing intended for sale, its age, as determined in the prescribed manner and the name of the rootstock, if any, together with that of the scion used if any of every such plant;

vii. Undertake to release for sale or distribution only such horticultural plants, as are freed from any kind of insect pest and or plant disease;

viii. Maintain a register in such Form as may be specified by the Competent Authority, showing the name of the horticultural plant, sold to any person, its age, the name of the rootstock and scion and the name and address of the person purchasing it, with a cash Memo in such Form as may be prescribed.

ix. Maintain the standards fixed by the Competent Authority with regard to the polythene bags or other packaging material, pot mixture, height of the plant, girth of the stem, number of branches etc. of the plants, sold or offered for sale.

## **8. Power of State government to prescribe minimum quality standards and prices**

The State Government in the Department of Agriculture, shall have the power to prescribe the minimum quality standards for production and sale of each kind, variety of plants, planting materials of Horticultural Crops and may fix maximum retail price for sale of these materials, from the nurseries in the state, under this section and may follow such procedure as may be prescribed.

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

The State Government may, for the purpose of maintaining the health and quality of the horticultural plants, grown in any part of the State or to protect them from infestation or infection from any insect pest or diseases, by notification in the Official Gazette, may impose such restrictions and conditions, to regulate or prohibit the transport within the State ,bringing into or taking out of the State or any part thereof, otherwise than across the customs frontiers as defined by the Central Government, of any horticultural plants of unknown pedigree or affected by any infectious or contagious pests or diseases.

#### **10. Power to cancel or suspend licenses**

i. The Competent Authority may suspend or cancel any license, granted or renewed under the provisions of 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 horticultural nursery, or has otherwise ceased to conduct or hold such horticultural nursery;

(b) that the Nursery charges a rate or price, higher than the rate or price fixed for the plant materials of standards prescribed for various parameters, by the State Government by notification, wherever such rates or prices have been fixed by a notification under Section 8;

(c) that he has, without reasonable cause, failed to comply with any of the terms and conditions of the license or any directions, lawfully given by the Competent Authority or has contravened any of the provisions of this Act or the rules made there under;

(d) on any other prescribed ground.

ii. The Competent Authority may suspend any license pending the passing of a cancellation order in respect thereof, under sub-section (i).

iii. Before passing an order under sub-section (i) or (ii), 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.

iv. Notwithstanding anything contained under this section, the licensee shall not carry out the production and sale of plant material from such nursery, upon cancellation, suspension or expiry of license. Advocate. Copy of every order passed under sub-section (i) or (ii) shall be communicated to the licensee forthwith.

#### **11. Return of license**

On the expiry of the period of validity specified in a license or on receipt of cancellation order by the Competent Authority, the licensee shall return the license to the Competent Authority;

Provided that such Authority may, after such expulsion, suspension or cancellation, give such reasonable time, as it thinks fit, to the licensee to enable him to wind up the horticultural nursery, subject to fulfillment of such condition(s), as such authority may impose.

## **12. Duplicate license**

If the license granted to a person is lost, destroyed, mutilated or damaged, in any way, the Competent Authority may, upon an application made by the holder of the license to the Competent Authority in such Form as be prescribed and payment of the prescribed fee, issue a duplicate license.

## **13. Appeals**

i. Any person aggrieved by an order of the Competent Authority, refusing to grant or renew the license, or suspending or canceling a license, may appeal in such form, in such manner, within such period and to such authority, as may be prescribed;

Provided that, the appellate authority may condone the delay in filing the appeal after expiry of the prescribed period, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

ii. On receipt of an application under sub-section (i), the appellate authority shall after giving the appellant an opportunity of being heard, pass such order on the appeal, as deemed fit.

## **14. Revision**

i. The State Government may, at any time, on its own motion or on an application made to it by an aggrieved person, for the purpose of satisfying itself as to the legality or propriety of any order, passed by any authority under this Act, call for and examine the record of any case and may pass such order, as it thinks fit;

Provided that, the State Government shall not exercise the power conferred on it under this section, in respect of an order against which an appeal under section 13 of this Act is pending or, in respect of a case in which the appeal has not been preferred, before the expiry of the time limit prescribed thereof.

Provided further that, the State Government shall not pass any order under this section, which adversely affects any person, unless such person has been given a reasonable opportunity of being heard.

ii. An order passed under this section shall be final.

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

i. For the purpose of ascertaining the position or examination of the working of any horticultural nursery or place of business, where the horticultural plants are sold or for the purpose of carrying out any other provision of this Act or the rules made there under, the Competent Authority or any person authorized by it or by

the State Government in this behalf, shall have the power at all reasonable hours, with or without assistant(s), to-

- (a) enter into any horticultural nursery or place of business, where the horticultural plants are sold and to inspect or examine the plants therein;
- (b) order the production of any account book, register, record or other documents relating to such nursery or place of business and take or cause to be taken extracts from such documents and record in such Form as may be prescribed;
- (c) ask all necessary questions and examine any person having control of or employed in connection with such nursery.

ii. The licensee and or all persons employed in connection with such nursery or such place of business, shall afford the Competent Authority or any authorized person(s), 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 horticultural nursery or place of business where plants are sold, as may be required by such authority.

## **16. Penalties**

If any person,

- (a) contravenes any of the provisions of this Act or the rules made there under; or
- (b) obstructs any officer or person in the exercise of any power conferred to him or in the performance of any duty imposed on him by or under this Act or rules made there under,

he shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both.

## **17. Offences by companies**

i. Where an offence under this Act is committed by a company, or by a person who at the time when offence was committed, was in charge of, and was responsible to the company, 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 under in the Act, if he proves that the offence was committed without his knowledge or he has exercised all due diligence to prevent the omission of such offence.

ii. Notwithstanding anything contained in sub-section (i), where an offence under this Act is 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 the director, manager, secretary or other, by whatever name or

designation he is called, 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 company as defined under the Companies Act, 1956 and includes a firm or association of individuals or a voluntary association formed or organized to carry on a business;

(b) "Director" in relation to a company or firm, includes a partner in the firm.

### **18. Cognizance of offence**

i. No court shall take cognizance of an offence punishable under this Act or the rules made thereunder, save on a complaint made by the Competent Authority or any officer authorized by the State Government in this behalf;

ii. No court inferior to that of a Chief Judicial Magistrate or a Magistrate of the first class shall try any offence punishable under this Act.

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

All officers appointed under this Act and every person authorized to exercise any power 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, 1860.

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

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

### **21. Power to delegate**

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

### **22. Power to make Rules**

i. The State Government may by notification in the Official Gazette, and subject to the condition of previous publication, make rules to carry out the purpose of this Act.

ii. In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:

(a) the form and manner of making an application for a license, the fees for such license and renewal thereof, the period for which the conditions subject to which and the form in which a license may be granted, under section 6;

(b) the other grounds, the contravention of which by the licensee, shall entail suspension or cancellation of the license under section 10;

(c) the fees payable in respect of a duplicate license under section 12;

(d) the form and manner in which the period within which and the authority which and the authority to which, an appeal may be made under section 13, and the procedure to be followed by the appellate authority in disposing of the appeal;

(e) any other matter which is to be or may be prescribed,

iii. Any rule made under this section may provide that contravention thereof shall be punishable under section 16.

### **23. Rules to be laid before the State Legislature**

Every rule made by the State Government under this Act shall be laid, as soon as may be, after it is made, before the State Legislature, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session immediately following the session or the successive sessions aforesaid, the house of the State Legislature agrees in making any modification in the rule or the House agrees 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.

### **24. Inconsistency in laws**

Nothing contained in this Act or any rules made thereunder or any instrument having effect by virtue of this Act or rules shall have effect in so far as it is inconsistent with any other provisions of the Consumer Protection Act, 1986.

### **25. Power to remove difficulties**

i. 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 may appear to be necessary for removing the difficulty;

Provided that no order shall be made under this section after the expiry of two years from the date of commencement of this Act.

ii. Every order made under this section shall be laid, as soon as may be after it is made, before State Legislature.

**D.M. Jamatia**  
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**Government of Tripura.**

