

The Goa Fruit and Ornamental Plant Nurseries (Regulation) Act, 1995

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The Goa Fruit and Ornamental Plant Nurseries (Regulation) Act, 1995 (Goa Act 13 of 1997) [17-4-1997] published in the Official Gazette, Series I No. 5 dated 2-5-1997.

Arrangement of Sections

1	Short title and commencement	12	Appeals
2	Definitions	13	Revision
3	Appointment of competent authorities	14	Powers of entry and inspection of nurseries
4	Owner of every nursery to obtain licence	15	Penalties
5	Application for grant of licence	16	Offences by companies
6	Duties of licence holder	17	Cognizance of offence
7	Only licensed plants material to be utilized for propagation	18	Jurisdiction of Court
8	Power of Government to regulate or prohibit import, export or transport of certain fruit and ornamental plants	19	Officers and persons exercising powers under this Act to be public
9	Power to cancel or suspend licence	20	Servant
10	Return of licence	21	Powers to delegate
11	Issue of duplicate licence	22	Power to make rules

GOVERNMENT OF GOA

Department of Law & Judiciary

Legal Affairs Division

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Notification

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The Goa Fruit and Ornamental Plant Nurseries (Regulation) Act, 1995 (Goa Act 13 of 1997), which has been passed by the Legislative Assembly of Goa on 12-8-1996 and assented to by the Governor of Goa on 17-4-1997 is hereby published for general Information of the public.

P. V. Kadneker, Joint Secretary (Law).

Panaji, 24th April, 1997.

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The Goa Fruit and Ornamental Plant Nurseries (Regulation) Act, 1995

(Goa Act 13 of 1997) [17-4-1997]

AN

ACT

to provide for the regulation of fruit and ornamental plant nurseries in the State of Goa and for matters incidental thereto.

Be it enacted by the Legislative Assembly of Goa in the Forty-sixth Year of the Republic of India as follows:—

1. Short title and commencement.— (1) This Act may be called the Goa Fruit, and Ornamental Plant Nurseries (Regulation) Act, 1995.

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

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

(a) “Appellate authority” means an Officer of the Government not below the rank of Secretary to the Government appointed by notification in the Gazette for the purpose of section- 12;

(b) “Competent authority” means a person or authority appointed under section 3 of the Act;

(c) “Director” means the Director of Agriculture of the Government;

(d) “Government” means the Government of Goa;

(e) “Inspecting Officer” means any Officer not below the rank of Agricultural Officer or Zonal Agriculture Officer authorised by the Director for the purpose of inspection of nurseries;

(f) “Notification” means a notification published in the Official Gazette;

(g) “Nursery” means any fruit and/or ornamental plant nursery or tissue culture unit in Goa where fruit and/or ornamental plants, are in regular course of business, propagated and sold for transplantation or cultivation but does not include such a nursery belonging to or managed by the Government;

(h) “Nursery-man” means any person engaged in the production and sale of fruit and ornamental plants;

(i) “Official Gazette” means the Official Gazette of the Government;

(j) “Plant material” means any propagation material used in raising the plant and includes budwood, scion, rootstock, seed and cutting;

(k) “fruit and ornamental plant” means any Plant, which gives flowers, foliage ornamental or edible fruits or nuts and includes budwood, seedlings, grafts, layers, bulbs, seeds, suckers, rhizomes and cuttings of any such plant;

(l) “Owner” in relation to a fruit and ornamental plant nursery, means the person who, or the authority which, has the ultimate control over the affairs of such fruit and ornamental plant 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 of the fruit and ornamental plant nursery;

(m) “Prescribed” means prescribed by rules made under this Act;

(n) “Rootstock” means a fruit and ornamental plant or part thereof on which any portion of fruit and ornamental plant has been grafted or budded;

(o) “Scion” means a portion of a fruit and ornamental plant which is grafted or budded on to a rootstock.

3. Appointment of competent authorities.— The Government may, by notification in the Official Gazette.—

(a) appoint such persons as it thinks fit, being Gazetted Officers of the Government, to be competent authority for the purpose of this Act; and

(b) define the limits within which the competent authority shall exercise the powers conferred and perform the duties imposed thereon by or under this Act.

4. “Owner of every nursery to obtain licence.— No owner of a nursery shall, after the expiry of six months from the date of commencement of this Act, sell or conduct or carry on the business of fruit or ornamental plant nursery except under and in accordance with a licence obtained by him under the provisions of this Act. In case the owner has more than one nursery whether in the same town or village or different towns and villages he shall obtain a separate licence in respect of each such nursery”.

5. Application for grant of licence.— (1) Every application for licence shall be made to the competent authority in such form and manner and accompanied by such licence fee as may be prescribed.

(2) On receipt of such application, the competent authority shall make such inquiry as it considers necessary and if he is satisfied,—

(a) that the fruit and ornamental plant nursery is suitable for proper propagation of fruit and ornamental plants in respect of which licence has been applied for;

(b) that the applicant is competent to conduct or establish any such fruit and ornamental plant nursery;

(c) that the applicant fulfills all other conditions as may be prescribed;

(d) that the applicant has paid the fee prescribed for the licence and has also furnished the prescribed security deposit, if any, shall grant the licence in the prescribed form.

(3) If the competent authority is not satisfied, it may, after giving a reasonable opportunity of being heard, refuse to grant the licence, after recording the reasons for such refusal, and shall furnish to the applicant a copy of order made thereunder.

(4) Every licence granted under this section shall be valid for a period of five years from the date of issue and may, on an application made to it, be renewed from time to time by the competent authority for such period and on payment of such fee in such manner and on the fulfilment of such conditions as may be prescribed.

(5) Where the competent authority refuses to renew a licence, it shall record in writing the reasons for such refusal and furnish a copy thereof to the applicant:

Provided that no order refusing to renew a licence shall be made, unless the applicant is given a reasonable opportunity of being heard.

6. Duties of licence holder.— Every licence holder under this Act shall,—

(a) undertake to multiply only such varieties of the fruit and ornamental plants specified in the licence in respect of scion or rootstock, for propagation and sale as may be directed by the competent authority;

(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 and ornamental plants;

(c) keep a layout plan showing the position of every rootstock and scion tree employed in raising the fruit and ornamental plants;

(d) keep the nursery plots as well as the parent trees used for the propagation of fruit and ornamental plants free from insects, pests or plant diseases;

(e) undertake to prepare the fruit and ornamental plants in such manner as may be directed by the competent authority;

(f) display in a conspicuous manner on a label the name of every variety of fruit and ornamental 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 plant;

(g) maintain a register in the prescribed form showing the name of the fruit and ornamental 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;

(h) preserve the register for at least five years after the date of conclusion of the sale of the fruit and ornamental plants;

(i) undertake to release for sale or distribution only such fruit and ornamental plants which are completely free from any kind of insect, pests or plant disease; and

(j) keep the plant as well as the progeny tree used for the production of nursery plants free from such insects, pests or diseases as may be prescribed.

7. Only licenced plants material to be utilised for propagation.—

(a) the plant material utilised for propagation shall be only such for which licence has been granted;

(b) the scion variety and rootstock to be propagated in the nursery shall be those which are approved by the Horticulture Department or Agriculture Department of the Government, from time to time;

(c) the vegetatively propagated plant material shall be in direct proportion to the availability of rootstock (vegetative propagation, if any) and scion wood with the nursery-man;

(d) the nursery-man shall maintain a map showing the details of the fields or beds and the kind of varieties of plants in each bed including that of seedlings as well as budded and grafted plant materials;

(e) the nursery-man shall maintain a register in the prescribed form wherein the performance of the progeny trees shall be recorded;

(f) the competent authority may declare mother trees as unfit for use, if it is satisfied that use of such a tree material shall not be in the interest of fruit and ornamental plant industry on account of the following reasons.

(i) poor quality of fruits and ornamental plant;

(ii) poor fruit and ornamental plant bearing capacity;

(iii) infected with insects, pests and diseases which cannot be cured;

(iv) any other reason which may be considered fit by the competent authority in the interest of fruit and ornamental plant industry.

(g) The nursery-man shall quarantine such trees and shall not use their budwood for further propagation and should there be a danger of the spread of the insect, pest or diseases to other nurseries and nursery plants, these trees may be ordered to be destroyed by the competent authority and the nursery-man shall carry out these orders accordingly. Such orders shall also apply to the supply of plant material.

8. Power of Government to regulate or prohibit import, export or transport of certain fruit and ornamental plants.— The Government may, for the purpose of maintaining the quality of any fruit and ornamental plants grown in any part of the State or to protect them from injurious insect, pest or plant disease, by notification in the Official Gazette, regulate or prohibit, subject to such restriction and conditions as it may impose, the bringing into or taking out of the State or any part thereof, otherwise than across the customs frontiers, as defined by the Central Government, or the transport within the State, of any fruit and ornamental plants of unknown pedigree or affected by any infectious or contagious diseases or pests.

9. Power to cancel or suspend licence.— (1) The competent authority may suspend or cancel any licence granted or renewed under section 5 on one or more of the following grounds, namely:—

(a) that he has parted, in whole or in part, with his control over the fruit and ornamental nursery, or has otherwise ceased to conduct or hold such fruit and ornamental nursery; or

(b) that where the maximum rate or price for the notified species of any fruit and ornamental plants has been fixed by the Government by notification, he has sold any such fruit and ornamental plant at a higher rate or price; or

(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; or

(d) if, the licensee has applied to be adjudicated or has been adjudicated an insolvent; or

(e) if in the opinion of the competent authority, that he has become incompetent to conduct or possess such fruit and ornamental plant nursery; or

(f) if he has refused to surrender or produce his licence or the registers and other records required to be maintained under this Act or the rules made thereunder, to the competent authority or any person authorised by it; or

(g) any other prescribed grounds.

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

(3) Before passing an order under sub-section (1), the competent authority shall inform the licensee about the grounds on which it proposes to take action and give him a reasonable opportunity of showing cause against such action.

(4) A copy of every order passed under sub-section (1) or (2) shall be communicated to the licensee forthwith.

10. Return of licence.— On the expiry of the period of validity specified in a licence or on receipt of an order suspending or cancelling a licence, the licensee shall return the licence to the competent authority:

Provided that, the competent 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 and ornamental plant nursery.

11. Issue of duplicate licence.— If a licence granted to an owner is lost, destroyed, mutilated, or damaged, the competent authority shall, on application and payment of prescribed fee, issue a duplicate licence.

12. Appeals.— (1) Any person aggrieved by an order of a competent authority refusing to grant or renew a licence, or suspending or cancelling a licence, may appeal in such form and manner, within such period, and to the appellate authority as notified by the Government:

Provided that, the appellate authority may entertain 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.

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

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

Provided that, the Government shall not exercise the powers conferred on it by this section, in respect of an order against which an appeal preferred under section 12 is pending, or, upon application in case an appeal has not been preferred before the expiry of the time limit therefor:

Provided further that, the 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) An order passed under this section shall be final.

14. Powers of entry and inspection of nurseries.— (1) For the purpose of ascertaining the position and examining the working of any fruit and ornamental plant nursery or for any other purpose mentioned in this Act, or the rules made thereunder, the competent authority or any person authorised by it or by the Government in this behalf, shall have the right at all reasonable hours and with or without assistants,—

(a) to enter into any nursery and to inspect or examine the fruit and ornamental plants therein;

(b) to order the production of any account book, register, records or other documents, relating to such nursery and take or cause to be taken extracts from or copies of such documents;

(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 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 and ornamental plants nursery as may be required by such authority or person.

15. Penalties.— If any person,—

(a) contravenes any of the provisions of this Act, or of any rule made thereunder, the contravention of which is made punishable under this section; or

(b) obstructs any officer or person in the exercise of any powers conferred or in the performance of any duty imposed upon him by or under this Act,

he shall on conviction, be punished with fine which may extend to one thousand rupees, or imprisonment for a term which may extend to one month, or with both.

16. Offences by companies.— (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed 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 of the company, such director, manager, secretary or other officer, as the case may be, 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.

17. 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.

18. Jurisdiction of Court.— No Court inferior to that of a Judicial Magistrate of the First Class, shall try any offence punishable under this Act or rules made thereunder.

19. 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, 1860 (Central Act XLV of 1860).

(2) No suit, prosecution or other legal proceedings shall lie against the Government or any officer thereof for anything which is in good faith done or intended to be done in pursuance of any powers conferred under this Act or any rules made thereunder.

20. Powers to delegate.— the Government may, by notification in the Official Gazette and subject to such restriction and conditions as may be specified therein, authorise any officer subordinate to it, to exercise any power under this Act except the power to make rules under section 21.

21. Power to make rules.— (1) The Government may, by notification in the Official Gazette, and subject to condition of previous publication, make rules for carrying out the purposes of this Act.

(2) 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 in which and manner of making application for licence;
- (b) the fee and security deposit for the grant of licences and renewal thereof the period for which the conditions subject to which and the form in which licence may be granted under section 5;
- (c) the grounds, the contravention of which by the licensee, shall entail suspension or cancellation of the licence under section 9;
- (d) the manner of determination of age of fruit and ornamental plants kept for sale;
- (e) maintenance of register;
- (f) specifying the names of insects, pests, and diseases from which progeny trees, are to be kept free from;
- (g) the fee payable in respect of duplicate licence under section 11;
- (h) the form and manner in which the period within which an appeal may be made under section 12, and the procedure to be followed by the appellant authority in disposing of the appeal; and
- (i) any other matter which is to be or may be prescribed.

Secretariat Annexe,
Panaji,
Dated: 24th April, 1997.

B. S. SUBBANNA,
Secretary to the Government of Goa,
Law Department (Legal Affairs).

