

KASHMIR

HORTICULTURE

محکمہ ہارٹیکلچر کشمیر
Directorate of Horticulture Kashmir

The Jammu and Kashmir Fruit Nurseries (Licensing) Act, 1987



(Act No. 22 of 1987)

(Received the assent of the Governor on 29th December, 1987 and published in Government Gazette dated 4th January 1988).

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An Act to provide for the licensing and regulation of fruit nurseries in the State of Jammu and Kashmir.

Be it enacted by the Jammu and Kashmir State Legislature in the thirty-eighth year of the Republic of India as follows:-

1. **Short title, extent and commencement:** - This Act may be called the Jammu and Kashmir Fruit Nurseries (Licensing) Act 1987.

2. It extends to the whole of the State of Jammu and Kashmir.

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

2. Definitions:- in this Act, unless the context otherwise requires.

(a) "Competent Authority" appointed under section 3.

(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 an plant which can produce edible fruits or nuts and includes bud wood, seedlings, grafts, layers, seed, bulbs, suckers, rhizomes and cuttings of any such plant.

(d) "Owner" in relation to a fruit nursery means the person who 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 of managing agent shall be deemed to be the owner of the fruit nursery.

(e) "Prescribed" means prescribed by rules made under this Act.

(f) "Root stick" means a fruit plant or part thereof on which any portion of a fruit plant has been grafted or budded

(g) "Scion" means a portion of a fruit plant which is grafted or budded on to

3. Appointment of competent authorities:- The Government may by notification in the Government gazette

(a) Appoint any person, being Gazetted office of the Horticulture Department not

below the rank of District Horticulture Officer to be the authority for the purpose of this Act.

(b) Define the limits within which a competent authority shall exercise the powers conferred and perform the duties imposed on it by or under this Act.

4. **Owner of every fruit nursery to obtained licence:-** No owner shall after the expiry of six 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 fruit nursery except under and in accordance with a licence obtained by him under the provisions of this Act and the rules made there under.

Explanation:- where an owner has more than one fruit nursery, whether in the same town or Village or in different towns or villages he shall obtain a separate licence in respect of each such fruit nursery.

5. **Application for grant and renewal of licence:-** (1) Any owner desiring to obtain a licence referred to in the last preceding section shall may an application in writing to the competent authority in such from and manner, and accompanied by such licence fee, not exceeding rupees fifty as may be prescribed.

(2) On the receipt of such application, the competent authority shall make such inquiry as it considers necessary. If the competent authority is satisfied:-

(a) That the fruit nursery as per Soil test and other prescribed conditions is suitable form the propagation of the fruit plants in respect of which the license has been applied for,

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

(c) That the applicant has paid the prescribed license fee; and.

(d) That the applicant fulfils 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 fixed by the Government.

The competent authority shall grant the licence to the applicant. If the competent authority is not so satisfied it may, after giving a reasonable opportunity to the applicant of being heard and after recording a brief statement of the reasons for refusal, refuse to grant the licence and furnish a copy of such statement to the applicant and refund to him the licence fee, which may have been paid to him,

(3) Every licence granted under this section shall in the first instance be valid for a period of two years and may, on an application made to it, be renewed by the competent authority for such period and payment of such fee, and on such conditions, as may be prescribed. Where the competent authority refuses to

renew a licence it shall record a brief statement of 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 the holder of a licence :- Every holder of a licence under this Act shall-

(a) Undertake to employ only such varieties of the fruit 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 of source of every rootstock and every scion showing:

(i) Local and English names of rootstock as well as scion wood;

(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 plant.

(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) Specify in a conspicuous manner on a label the name of every 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;

(f) Undertaken to release for sale or distribute only such fruit plants as are completely free from any kind of insect pest or plant disease;

(g) Maintain a register in the form as may be prescribed showing the name of the fruit plant sold to any person, the name of the rootstock and scion and the name and address of person purchasing it;

(h) Take such measures as the competent authority may direct to ensure proper health/disease free growth of cultivators of known pedigree.

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

8. Power to cancel or suspend licences ;(1) the competent authority may suspend or cancel any licence granted or renewed under this Act on any one or more of the following grounds namely;

(a) That the owner has parted, in whole or in part, with his control or the fruit nursery or has otherwise ceases to conduct or hold such fruit nursery.

(b) That where the maximum rate or price for any variety of any fruit plants has been fixed by the Government, by notification in the Government Gazette, the owner has sold any such fruit plant at a higher rate or prices.

(c) That the owner has, without responsible cause failed to comply with any of the terms and conditions of the licence or any direction 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 ground as may be prescribed.

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

(3) Every order under sub-section (1) shall be in writing and shall contain the reasons in support thereof and every such order shall be communicated to the licence concerned provided that before making any such order the competent authority shall give to the licensee a reasonable opportunity of being heard.

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

(9) Return of licence:- On the expiry of the period of validity specified in the 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 as the case may be, give such reasonable time as it deems fit, to the owner to enable him to wind up his fruit nursery.

(10) Duplicate licence:- if a licence granted to an owner is lost, destroyed mutilated or damaged the competent authority shall, on application and on payment of the prescribed fee, issue a duplicate licence.

(11) appeal:- (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 it such form and manner within such period and to such authority, as may be prescribed;

Provided that the appellate authority may entertain the appeal after expiry of the prescribed period, if 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 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 deems fit.

(3) An order passed under this section shall, subject to the provisions of section 12 be final.

(12) Revision:- (1) The Government may at any time, suo moto or on an application made to it in this behalf, examine the record of any case for the purpose of satisfying itself as to the legality or propriety of any such order and may pass such order in relation thereto as it deems fit:

Provided that the Government shall not call for the record in any case which is pending before the appeal authority or in respect of which period of limitation for filing appeal has not expired:

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

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

(13) Power of entry and inspection:-(1) For the purpose of ascertaining the position or examining the working of any fruit nursery or for other purpose mentioned in this Act or the rules made hereunder, the competent authority or any person authorized by it or by the Government in this behalf shall have the right at all reasonable hours with or without assistance:-

(a) To enter into any fruit nursery and 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 documents;

© To ask all necessary and relevant 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 authorized person or facilities for the purpose of sub-section (1) 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.

(14) 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, or on the performance of any duty imposed, on him by or under this Act.

Shall be liable to be punished with fine which may extend to one thousand rupees.

(15) Offence by companies:- If the person committing any offence under the 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 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.

Explanation:- For the purposes of this section, "Company" means any body corporate and includes a firm or other association of individuals.

(16) 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 competent authority or any officer authorized by the Government in this behalf.

(17) Jurisdiction of Court:- Notwithstanding anything contained in the Code of Criminal Procedure, Samvat 1989, no court inferior to that of Judicial Magistrate of the first class shall try any offence punishable under this Act.

(18) 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 Act shall be deemed to be public servants within the meaning of section 21 of the State Ranbir Penal Code.

(19) Protection of action taken in good faith:- No suit, prosecution or other legal proceedings shall lie against the Government or any officer or person for anything which is in good faith done or intended to be done or intended to be done in pursuance of this Act or any rules made there under.

(20) Power to delegate:- The Government may, by notification in the Government Gazette, direct that any power except the power to make rules shall, in such circumstances and subject to such conditions, if any, as be specified in the notifications, be exercised also by any officer or authority subordinate to it.

(21) Power to make rules:- (1) The Government may, by notification in the Government Gazette, and subject to the condition of previous publication, 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 all or any of the following matters, namely:-

(a) The form and the manner of making an application for a licence, the fee for such licence and renewal thereof, the period for which, the conditions subject to which and the form in which a licence may be granted, under section 5'

(b) the other grounds, the contravention of which by the licensee shall entail suspension or cancellation of the licence under section 8.

(c) The fee payable in respect of a duplicate license under section 10;

(d) The form and manner in which, the period within which and the authority to which, an appeal may be made under section 11 and the procedure to be followed by the appellate authority in disposing of the appeal;

(e) Any other matter which is required or may be required under this Act to be prescribed.

(3) Every rule made under this section shall be laid, as soon as may be, after it is made, before each house of the State Legislature.

Fruit Nurseries (Licensing) RULES, 1991
**THE JAMMU AND KASHMIR FRUIT
NURSERIES (LICENSING) RULES, 1991**
SRO 167 of 1992, dated 21-07-1992, Agriculture Department

The following draft rules which the Government propose to make, in exercise of the powers conferred by section 21 of the Jammu and Kashmir Fruit Nurseries(Licensing) Act, 1987(Act No. XXXII of 1987) are hereby published, as required by sub-section(1) of section 21 of the said Act, for information of all persons likely to be effected thereby and notice is hereby given that the said draft rules shall be taken into consideration on or before 31st January,1993.

Any objection or suggestion which may be received with respect to the said draft rules on or before the date specified above shall be considered by the Government in the Agriculture Department, Civil Secretariat.

DRAFT RULES

1. Short title and commencement

- (1) These rules may be called the Jammu and Kashmir Fruit Nurseries (Licensing) Rules,1991.
- (2) They shall come into force on such date as the Government may appoint in this behalf.

2. Definitions.

In the rules, unless the context otherwise requires.

- (a) 'Appellate Authority' means Appellate Authority to be appointed by the Government.
- (b) 'Form' means form annexed to these rules;
- (c) 'Licence' means a licence issued under these rules;
- (d) 'Licence' means a person holding licence under these rules;
- (e) 'Act' means Jammu and Kashmir Fruit Nurseries (Licensing).

3. Application for grant of licence

- (i) An application for grant of licence under sub-section(1) of section 5 of the Act, shall be in Form. It shall be made in duplicate duly signed by the applicant provided that the applicant shall be bound to furnish such additional information as may be required by the competent Authority for grant of licence in accordance with the provisions of the Act and of these rules.
- (ii) On receipt of the application under sub-rule (1) the competent Authority shall verify the contents of the application and after making such inquiry as it considers necessary, and having due regard to the conditions as prescribed in Form II, shall issue licence in the prescribed Form III on payment of licence fee as specified in rule 4, in the treasury under the head of account.
- (iii) Where the applicant desires to obtain licence in respect of more than one fruit nursery, he shall submit separate application for each such nursery.

4. Licence and renewal Fee

The licence fee for grant of licence in respect of a fruit nursery shall be Rs. 50/- and the renewal fee of the license for further period shall be Rs. 25/- for each licence.

5. Validity of Licence

The licence granted under sub-section (1) of section 5 of the Act shall be valid for a period of two years in the first instance.

6. Renewal of Licence

- (i) The licence shall make an application for renewal of licence which shall be in Form IV. The application shall reach to the Competent Authority within a period of one month from the date of its expiry unless the date is extended by the Government.
- (ii) The application of renewal of licence submitted after the above specified period shall also be considered by the Competent Authority on payment of prescribed renewal fee and late fee equal to half the amount of prescribed renewal fee.
- (iii) On receipt of an application for renewal inspection shall be conducted by an inspecting officer nominated by the competent authority. He shall submit his report on the prescribed Form V.
- (iv) After considering the report of the inspecting Officer, the competent authority shall renew the licence granted under section 5 of the Act, for one calendar Year on payment of the renewal fee prescribed in rule 4.

7. Fee for duplicate licence.

If a licence is lost, destroyed, torn, defaced or otherwise becomes illegible, the same shall be surrendered by the licence to the competent authority along with the application for the issue of a duplicate licence accompanied by a fee of Rs. 30/-.

8. Issuance of vouchers.

The licensee shall issue printed numbered vouchers to the purchaser of the fruit plants/root stock, specifying therein the number, variety and quality of such fruit plant/root stock, The sale of fruit plant or root stock without issuance of voucher shall, inter alia, be ground for cancellation or suspension of licence under clause (d) of section 8 of the Act.

9. Maintenance of stock register ;

For purpose of clause (g) of section 6 of the Act. The licensee shall maintain a register in Form VI and cash memo in Form VII.

10. Appeal.

1. An appeal under section 11 against an order passed by the competent authority, shall be filled by the appellant in Form VIII within a period of 90 days from the date the competent authority refuses or rejects to grant or renew the licence or suspend, or cancel the licence.

(2) (a) Every appeal shall.

(i) Be in writing,

- (ii) Specify the name and address of the appellant and the date of the order appealed against,
 - (iii) Specify the date on which the order appealed against was communicated to the appellant,
 - (iv) Contain a statement of facts of the case and grounds relied upon by the appellant in support of the appeal,
 - (v) State the relief applied for, and.
 - (vi) Be signed and verified by the appellant or an agent duly authorized by him in writing in this behalf.
- (b) Every appeal shall be accompanied by
- (i) An authenticated copy of the order against which appeal is made,
 - (ii) A copy of the application made under section 5.
 - (iii) Any other document relating to the appeal, and
- (C) Every appeal shall be submitted to the appellate authority by the appellant or his authorized agent. When the appeal is presented by an agent, it shall be accompanied by a letter of authority written on a simple paper, appointing him as such agent,
- (d) On receipt of the appeal, the appellate authority shall endorse thereon the date of its presentation and the name of the appellant or his duly authorized agent presenting it, as the case may be.
- (e) As soon as the appeal is filed, the appellate authority shall peruse the same and if it considers that there are sufficient grounds for interfering it, the appellate authority may give notice of the same to the appellant in Form IX After serving the notice, the appellant shall be called upon to send the appellate authority, all the relevant records connected with the appeal.
- (f) Where the material on record is insufficient to enable the appellant authority to come to a definite decision, it may take additional evidence and call for such further relevant material from the appellant or the competent authority as it deems fit. Such material shall from part of the record only after the party than that from whom such record has been given an opportunity to peruse the same.
- (g) Where on the date fixed for hearing or any date to which the hearing of the appeal may be adjourned, the appellant or his duly authorized agent does not appear when the appeal is called for the hearing, the appeal shall be liable to be dismissed.
- (h) Where an appeal is dismissed under sub-rule (g), the appellant may, within thirty days from the dismissal, apply to the appellate authority for the restoration of the appeal and if it is shown to the satisfaction of the appellate authority that the appellant have not received intimation of the date of hearing appeal or was prevented by any cause, sufficient in the opinion of the appellate authority from appearing when the appeal was called for hearing, the appellate authoring may restore the appeal on such terms as it deems fit.
- (i) The order passed by the appellate authority on the appeal shall be in writing, bearing his seal and signature and shall state the points before it for determination, the decision thereon and the reasons for the decision.

- (i) A copy of the order passed in appeal shall be supplied by the appellate authority free of costs to the appellant and a copy thereof shall also be sent to the competent authority.

(11) Interpretation.

If any question arises relating to the interpretation of these rules, the matter shall be referred to the Government whose decision thereon shall be final and binding.

FORM I

(Rule 3 (1))

Application for licence under the Jammu and Kashmir, fruit nurseries (licensing) act, 1987.

To,
The _____

Sir,

As I wish to establish/conduct a fruit nursery in _____ Tehsil
_____ District _____

I may kindly be granted a licence for their purpose as required under the Act. The detailed particulars of the nursery are given below:-

1. Area of the nursery (in bigbas)
2. Distance from motor able road
3. Whether irrigated or not
4. Area of the progeny orchard (in bigbas)
5. Details of the progeny trees.

S. No	Kind	Variety/cultivar (c.v)	Age	No. of fruit trees
(1)	(2)	(3)	(4)	(5)

(Add additional sheet if required)

6. Fruit plants proposed to be propagated

S. No	Kind	Verities/Cultivars (c.v)
(1)	(2)	(3)

(Add additional sheet if required)

7. Details of existing plants material, if any.

S. No	Kind	Verities/Cultivars (c.v)	No. of plants available budded/grafted/seedling	Source of stock scion
(1)	(2)	(3)	(4)	(5)

(Add additional sheet if required)

The sketch plant of the area under nursery and progeny trees, tatima, shajra and fared patwar of the area are enclosed.

1. I undertake to obtain may additional requirements of scion material if any through the competent authority.
2. I have read the Act and the Rules framed hereunder and shall abide by all the condition mentioned therein.

Yours faithfully.

(Name and address of the owner
of the fruit nursery).

FORM II
CONDITIONS

(Name, designation and address)

Hereby certify that I have inspected the _____

(name of nursery)

_____ run/owned/managed by Shri/M/s _____

On dated _____ and on my personal observation state that:-

- (i) The applicant has an area of _____ under Nursery.
- (ii) _____ Progeny trees of the following cultivars (c.v.) have been found to be existing at the time of inspection.

S.No	Kind of fruit trees	Variety Cultivar (c.v)	Performance (yield and quality)	No. of trees	Age of trees	Condition of trees
(1)	(2)	(3)	(4)	(5)	(6)	(7)

(Add additional sheet if required)

- (iii) A sketch of the nursery and progeny Orchard being maintained by the owner is enclosed.
- (iv) The nursery is not being kept free from the insects, pests and diseases;
- (v) The progeny trees are not being maintained in good conditions;
- (vi) The soil is/is not suitable for nursery production work.
- (vii) The Nursery man is/is not competent to conduct/ establish the nursery on approved lines, for reasons given below;
- (viii) The information supplied by the Applicant is/is not correct.
- (ix) Additional information and add additional sheet if required;
- (x) On the basis of the above observation I recommend/do not recommend it as a fit case for grant of licences.

Signature of Inspecting Officer,
Designation and seal of Officer.

Date.....

FORM III

**LICENCE FOR ESTABLISHING/CONDUCTING FRUIT PLANT NURSERY UNDER THE
JAMMU AND KASHMIR FRUIT NURSERIES (LICENSING) ACT, 1987.
(Act No. XXII of 1987).**

Licence No.....date of issue..... Son
of..... Of Village.....P/O
Tehsil.....District.....owner of.....is
hereby authorized to raise, exhibit for sale transplantation, fruit plants of the following
kinds and varieties:-

S.No	Kind	Variety /Cultivar (c.v)
<i>(1)</i>	<i>(2)</i>	<i>(3)</i>

The licence is available from _____ to _____

The licence shall be subject to the following condition:-

1. The licence shall not contravene any of the provisions of Act, or the rules framed thereunder.
2. The licensee shall conduct his business honestly and in fair manner.
3. The licensee shall produce his licence or the register and other records required to be maintained under the Act and the rules framed thereunder on demand by the competent authority or any person authorized by it.

4. The licensee shall not permit evasion or infringement of any of the provisions of the Act or rules framed there under and shall report in writing to the competent Authority any evasion or infringement which comes to his knowledge.
5. The licensee shall promptly comply with the instructions issued to him in accordance with the rules by the competent authority be by person authorized by it.
6. If a licensee transfers in whole or in part his control over the fruit nursery he shall send an intimation of such transfer to the competent authority within a period of one month of the transfer.

This licence is renewed _____

Signature of the competent authority
with seal of his office.

Period _____ From _____ to _____ renewal

Signature of the competent authority
with seal of his office.

FORM IV

APPLICATION FOR RENEWAL OF LICENCE UNDER THE JAMMU AND KASHMIR FRUIT NURSERIES (LICENSING) ACT, 1987.

To,

Sir,

Mr. Fruit Nursery Licence No. _____ expire On _____ It is requested that this licence maybe renewed for a period of _____ year. The licence in original along with the treasury challan for a _____ are enclosed.

2. the licence was granted last renewed on _____ and since then _____ (Nos) inspection have been carried out .I have complled with the instruction communicated to me in writing cases, for reasons indicated against each:-

S. No	Instructions conveyed by the inspecting authority	Dated	Reasons for non-compliance.
(1)	(2)	(3)	(4)

I have not contravened any of the provisions of the Act or the rules framed thereunder.

The detailed information with regard to this nursery and plant material are enclosed in Form 'I' (Fill in the Form I.)

Yours Faithfully,

(Signature of the owner.)

Note:- The tatima shajra and fared patwar be not given if there is no change in the original record.

FORM V
{See Rule 5 (2) }

To,

Sir,

I have inspected on (date of visit of the nursery) of Shri _____ Licence No. _____ issued on _____

2. The details of the nursery and progeny trees are given by the applicant have been found to be correct on spot examination.

(In case of any difference place give details in a separate sheet)

3. It is hereby certified that the owner has/has not contravened any of the provisions of the Act and the rules framed thereunder and that he has/has not been following instructions of the authorities.

4. he details of the contraventions are given below:-

S.No	Date and No of order	Authority by whom issued	Remarks
(1)	(2)	(3)	(4)

5. Additional information if any.

6. On the basis of the above observation ,I recommend/do not recommend it as a fit case for renewal of the licence.

FORMS

Signature of the Inspecting Officer.

Designation and seal of the Officer.

FORM VI

Name of nursery.....Licence No.....

SALE REGISTER OF NURSERY PLANTS.

S.No	Name & address of the purchaser	Kind and varieties/CVs of plants sold	Re-stock used	No. of plants sold	Rate per plant total price charged	total price charged	No. and date of receipt	Remarks.
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

FORM VII

Cash/credit memo..... No.....

Name, Address and Licence No.

(To be given at the top)

Shri/ M/S

S. No	Kind and cultivated of plants	Case	No.	Amount
(1)	(2)	(3)	(4)	(5)
			TOTAL:-	

Received with thanks.....

Signature of the owner.

NOTE:- (Carbon copy to be retained by the nurserymen).

FORM VIII

(See Rule 7)

FORM OF APPEAL

To

The.....

.....

1. Shri.....S/O.....R/O..... Tehsil
District.

2. Date of order appealed against.....

3. Date of communication of the order.....

4. Statement of facts/grounds on which the appeal is preferred.....

5. Relief to be paid.....

I(appellant) hereby certify that the above facts are true to the best of my knowledge.

Name and signature of the applicant
or authorized agent.

Date.....

FORM IX
FORM OF NOTICE
(See Rule 9 ©)

(name and designation of the appellate Authority)

*In the matter of appeal No.....19.....Filed under section 11 of the Jammu and Kashmir Fruit Nurseries (Licensing) Act, 1987 by Shri.....
S/o.....R/O.....*

Whereas the said Shri..... has filed before this authority a memorandum of appeal against the orderdated..... passed by the competent authority, and.

Whereas under sub-Rule (e) of rule 9 of the Jammu and Kashmir Fruit Nurseries (Licensing) Rules, 1991, this authority is required to give to the parties an opportunity of being heard.

Now, therefore, take notice that this authority has fixed As date of hearing of the aforesaid appeal. The hearing shall take place at AM/PM on that date in the office of the You are hereby called upon to appear before this authority at the appoint time and date and place, either in person or through a duly authorized agent, and explain your cause. Please take notice that failure on your part to appear on the day of hearing either in person or though a duly authorized agent without showing sufficient cause to the satisfaction of this authority will make your appeal liable to the dismissed or decided ex-parte.

Shr.....

Date.....Designation.....

(Appellate Authority)

RULES FOR GRANTING LICENCE FOR FRUIT PLANT NURSERY

**RULES FOR GRANTING LICENCE FOR FRUIT PLANT NURSERY
BUSINESS**

Under the J & K Fruit Nurseries (Licensing) Act, 1987

1. Any person having less than half an acre (4Kanals) of land under fruit plant nursery shall not be eligible to apply for a licence nor shall he be allowed to run an such business.
2. No owners shall after the expiry of six 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 fruit nursery except under and in accordance with a licence obtained by him under the provisions of the Act.
3. Where an owner has more than one fruit plant nursery, whether in the same town or village or in different towns or village, he shall obtain a separate licence in respect of each such fruit plant nursery.
4. The licensing authority will grant licence to only such applicants wherein he is satisfied that:-
 - (a) The fruit nursery as per soil test and other prescribed conditions is suitable for proper propagation of fruit plants in respect of which the licence has been applied for;
 - (b) The applicant has paid a licence fee of Rs. Fifty;
 - (c) The applicant is competent to conduct such a fruit nursery;
 - (d) The applicant fulfils or undertakes to fulfil the conditions for ensuring the quality of plants to be propagated, and their sale at a reasonable price fixed by Government.
5. Every licence granted after fulfilling all the formalities prescribed in the application Form N-1, shall in the first instance be valid for a period of two years and may, on an application Form No. made to it, be renewed by the licensing authority for a period of two years on a payment of Rs. Twenty-five and on such conditions as prescribed in Form N-4.
6. The licensing authority may suspend or cancel any licence granted or renewed on any one or more of the following ground:-
 - (a) That the owner has parted, in whole or in part, with his control over the fruit nursery or has otherwise cease to conduct or hold such fruit nursery.
 - (b) That where the maximum rates or price for any variety or any fruit plants has been fixed by the Government, the owner has sold any such fruit plant at a higher rate or price.
 - (c) That the owner has without reasonable cause, failed to comply with any of the terms and conditions of the licence or any direction lawfully given by the competent authority or has contravened any of the provision of the Act or the rules;
 - (d) That the owner has used the scion material other than being supplied to him by the concerned agency of the Department of Horticulture, free of cost;
 - (e) That the owner has not uprooted the seedling or nursery fruit plants or ropotstocks in presence of the licensing authority or his representative;
 - (f) That the owner has deceived the licensing authority or his representative or the customer by giving the wrong information pertaining to fruit plant nursery business.
7. On the expiry of the period of validity (i.e. two years from the date of issue) or on an order suspending or cancelling a licence, the licensee should return the licence to the issuing authority within one day.

After the expiry, suspension or cancellation, as the case may be, owner will be given at least 180 days from the date of expiry, suspension or cancellation to enable him to wind up his fruit nursery.

8. A licence may be renewed on payment of rupees twenty-five in the form of postal order and for this purpose any application on the prescribed Form 4 shall have to be made 90 days before the date of expiry. For any delay beyond the fixed period the owner shall have to pay a fine. In case the licence is not renewed within the stipulated time the licence shall be treated cancelled from the due date of its expiry and the owner shall have to obtain a new licence if he applies for as per Form N-1.

The Licence shall be issued as per Form N-3 after observance of all formalities as prescribed in the Act.

The licence will be renewed on the basis of the previous performance of the owner in respect of upkeep and maintenance of his nursery Certificate to this effect shall have to be issued by the concerned Horticulture Assistant of the scheme on Form N-4. In case of any disputed report the decision of the licence issuing authority shall be the final which report the decision of the licence issuing authority shall be final which should be based on sound justification. If the owner is aggrieved of the decision, he will make an appeal to the appellate authority within 15 days of the decisions as per the Form N-5.

If a licence granted to an owner is lost, destroyed, mutilated, or damaged, the licensing authority shall on prescribed application Form N-4 supported with an affidavit and on payment of rupees twenty-five issue a duplicate licence.

9. If any person,
- (a) Contravenes any of the provisions of the Act or the rules made or,
 - (b) Obstructs any officer or person in the exercise of any power conferred, or in the performance of any duty imposed on him by or under the Act, shall be liable to be punished with a fine which may extend to one thousand rupees.
10. During the period of suspension/cancellation of the licence and before the disposal of appeal made in this connection, no owner shall uproot or sell or dispose any fruit plant such nursery.
11. No owner shall uproot or sell or dispose any fruit plant from the nursery before he obtains a duplicate licence or get his licence renewed.
12. In case of death of the owner of the nursery, the licence shall remain suspended temporarily till the legal successor applied to licensing authority for transfer of licence in his name(Succession certificate issued by the competent authority shall have to be produced).

Proposals:

For the implemented of the Act, it is proposed that Government may by notification in the Government Gazette declare:

604 RULES FOR GRANTING FOR FRUIT PLANT NURSERY **RULE 12**

1.	Licensing Authority	Nursery Registration Officer
2.	Appellate Authority	Director Horticulture
3.	Licence fee	Rupees fifty
4.	Validity period for licence	Two years.
5.	Licence renewal fee	Rs. Twenty five.
6.	Duplicate licence fee	Rs. Twenty five and affidavit
7.	Period for appeal by the owner against decision of licensing authority, if aggrieved	Fifteen days from the date of issuing orders for suspending/cancelling a denial to renew/issue a duplicate licence.
8.	Minimum area of the nursery to be fixed for issuing a licence	4 Kanals.
9.	Enforcement agency for restricting the movement of diseased damaged, infested fruit plant material, seeds stones cuttings, runners, seedlings etc. into the State or outside the state.	Plant Nursery Registration scheme power be delegated to the staff working in Nursery Registration scheme, Horticulture Asstt, (NRS) and Field Asstt.(NRS) be also delegated the powers of Enforcement Inspector, and Asstt Enf. Inspector respectively, in addition to their own duties. Nursery Registration Officer will be also the Enforcement Officer identify cards be issued to the staff involved in enforcement.
10.	Authority to fix sale rule of different fruit plants.	Director Horticulture.

PROCEDURE TO BE ADOPTED BY THE APPELLATE AUTHORITY FOR HEARING AN APPEAL.

If the owner is aggrieved by the order of the licensing authority regarding suspension/cancellation/denial to renew or issuance of duplicate licence, and makes an appeal to authority within the stipulated time, he may follow the following procedure in disposing off the appeal.

1. The appellate authority will admit the appeal in the Form N-4, duly filled. And supported with an affidavit by the owner.
2. The appellate authority will dispose of the appeal within 30 days of appeal.
3. The appellate authority will form a committee officers comprising of Deputy Director Horticulture (Provincial), Entomologist and Mycologist (Fruits), Department of Horticulture to verify on the spot and record grounds/reasons on the basis of which the licensing authority has suspended/cancelled/denied to renew or issue a duplicate report/recommendations to the appellate authority within one week of assignment.
4. The appellate authority and the committee members shall have access to all the records pertinent to such order of licensing authority.
5. If the report of the committee is found otherwise, the appellate authority may call the licensing authority to justify has order in written statement regarding the appeal in question.

6. On the basis of report/recommendations of the committee the statement of licensing authority and the statement of appellant (as per Form N-4) and if necessary, his on the spot inspection of nursery, may dispose, off/decide the appeal in question.
7. If the decision of the appellate authority is in favour of the appellant, the licensing authority will rove off the order of suspension/ cancellation of the licence without any fee renew/ and issue a duplicate licence as per rules and prescribed fee.
8. The decision of the appellate authority shall be the final.

FORM-I

(To be filled in Triplicate)

**GOVERNMENT OF JAMMU AND KASHMIR, DEPARTMENT
OF HORTICULTURE, RAJBAGH, SRINAGAR.**

Application form for grant of licence to run the Fruit Plant Nursery under the Jammu and Kashmir Fruit Nursery (Licensing) Act, 1987.

No. _____ Postal order No. _____ Amount _____

Date _____

Issuing Post Office _____

606 **RULES FOR GRANTING FOR FRUIT PLANT NURSERY Rule FORMS**

S. No	Particulars	
1.	Name of the owner of the nursery with parentage.	
2.	Residential address	Village _____ P/O _____ Tehsil _____ Distt. _____
3.	Qualification	_____
4.	Location of the Nursery	_____
5.	Is the Nursery business run by the owner himself.	Yes/ No.
6.	If answer S. No 5 is No, name and parentage of the person/Manager/Managing Director/Managing Agent responsible for running the business of Nursery.	_____
7.	Residential Address	Village _____ P/O _____ Tehsil _____ Distt. _____
8.	For how long your have been running the nursery	(a) _____ Yrs _____ Month _____
		(b) Starting afresh
9.	Total area	A _____ -K _____ -M- _____
	(i) Area under Nursery	A _____ -K _____ -M- _____
	(ii) Area under orchard if any	A _____ -K _____ -M- _____
	(iii) Area under roads, buildings etc.	A _____ -K _____ -M- _____
	(iv) Area fallow	A _____ -K _____ -M- _____
10.	Is the nursery irrigated?	Yes/ No.
11.	If answer to No. 10 is yes source	
12.	Is the nursery are fenced	Yes/ No.
13.	No. of budded. Grafted fruit plants produced and sold for last 3 years	Kind variety No. No. prod. Sold
14.	No. of fruit trees existing in the orchard attached to nursery, if any.	Kind variety No. Age group.

FORMS **RULES FOR GRANTING FOR FRUIT PLANT NURSERY Rule 607**

15.	Wherefrom you get the bud/grant wood Name the source	_____
16.	No.of labour days being engaged for cultural and other operations of the nursery in a year.	_____
17.	Is nursery a part time of full time business for your.	_____
18.	Name the kind of fruit trees/seedlings your want to produce in your nursery for which you seek a licence.	_____

Date

Place;

Signature of the owner.

Owner means a person who has the ultimate control over the affairs of such fruit nursery, and where the said affairs are entrusted to a Manager, Managing Director, of or Managing Agent, such Manager, Managing Director of managing Agent shall be deemed to the owner of the fruit nursery.

DECLARATION BY THE OWNER.

1, Mr./Ms./Mrs. _____ S/O D/O W/O _____ R/) _____

solemnly declare that the information given above is correct to the best of my knowledge and I undertake to produce and sell the fruit plants from the nursery owned by me on the terms and conditions, as mentioned below:-

01. I undertake to employ only such varieties of the fruit plants/seedlings as specified in the licence in respect of scion or rootstock for propagation and sale, as may be directed by the concerned licencing authority.
02. I will keep a complete record of the source of every rootstock and scion as per the proforma that will be provided to me by the concerned licencing authority.
03. I will keep a layout plant showing the position of every rootstock and scion tree employed in raising the fruit plants.
04. I will keep the nursery plots as well as the parent trees used for the propagation of fruit plants free from insect pests.
05. I will specify in a conspicuous manner on a label the name of every 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 as per the proforma that will be provided to me.
06. I undertake to release for sale or distribute only such fruit plants as are completely free from any kind of insect pest.
07. I will maintain a register in the form as may be prescribed showing the name of the fruit plants sold To any person the name of rootstock and scion and the name and address of the person purchasing it.
08. I will take such measures as the licensing authority or his representative may direct to ensure proper health/disease free growth of cultivars of known pedigree.
09. I will fulfill/ undertake 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 price faced by the Government.
10. I will have no objection to allow any inspection officer/official of the Department of Horticulture to examine the records mentioned above and to inspect my nursery area from time to time to

ensure the nursery plants and trees used as a source of scion material are kept free from insect and diseases and will remove/ destroy any plant material found infested with insects and diseases as and when advised by inspecting officer.

11. I will sell the nursery fruit plants/seedlings against proper receipt.
12. I undertake to keep the fruit plant nursery area free from vegetable, flower or any other crop for which licence has not been granted.
13. I shall abide by all the terms and conditions of the Act that may be laid from time to time.

Date:-

Signature of the owner.

Name _____

Parentage _____

Residence _____

FORM N-2

(To be filled in triplicate)

A. Report of Horticulture Assistant _____

District _____

I have inspected the Fruit Plant Nursery/Fruit Plant Nursery-cum Orchard/Proposed areas for Fruit Plant Nursery of applicant.

Mr/Ms/Mrs. _____ S/O, D/O W/O _____ R/O

_____ situated at _____ under application form No. _____

dated _____.

And certified that the information given by him is correct/incorrect. He may/may not be granted a licence to run the business of fruit plant nursery as per the prescribed rules.

Note:- Give detailed justification for not granting a licence.

Signature of Horticulture Assistant (NRS)

Name _____

Date of Inspection _____ District _____

B. Remarks of the licensing authority after on the post inspection.

1. Licence may be issued against the payment of Rs. 50.00 in the form of crossed postal order pledged to _____ licensing authority.

2. Licence may not be issued. (Give full justification)

Signature of Licensing Authority.

Name _____

Dated _____

Designation _____

FORM N-3

**LICENCE FOR ESTABLISHING/CONDUCTION A FRUIT PLANT NURSERUY
UNDER THE JAMMU AND KASHMIR FRUIT NURSERIES REGISTRATION ACT, 1987.**

(Act No. of 1987)

Licence No. _____ Dated Issue _____ of

Son of _____ Village _____

Post Office _____ Tehsil _____

610 RULES FOR GRANTING FOR FRUIT PLANT NURSERY FORMS

District _____ owner _____ of

Is hereby authorized to raise, exhibit for sale and sell for transplantation. Fruit plants of the following kinds and varieties.

S. No	Kind	Variety/ Cultivar
1	2	3

The licence shall be subject to the following conditions:-

1. The licence shall not contravene any of the provisions of Act. Of the rules framed there under.
2. The licence shall conduct his business honesty and in fair manner.
3. The licence shall produce his licence or the register and other records required to be maintained under the Act. And the rules framed thereunder on demand by the competent authority or any person authorised by it.
4. The licence shall not permit evasion or infringement of any of the provisions the Act. Or rules framed there under and shall report in writing to the competent authority any evasion or infringement which comes to his knowledge.
5. The licence shall promptly comply with the instruction issued to him in accordance with the rules by the control over the fruit nursery he shall send an intimation of such transfer to the competent authority within a period of one month of the transfer.
6. If a licence transfer in whole or in part his control over the fruit nursery transfer in whole or in part his control over the fruit nursery he shall send an intimation of such transfer to the competent authority within a period of one month of the transfer.

Signature of the competent authority

With seal of his.

This licence is renewed

Period of renewal.....From..... to

FORM N-4

(To be filled in triplicate)

APPLICATION FORM FOR RENEWING/ ADUPLICATE LICENCE UNDER THE JAMMU AND KASHMIR FRUIT NURSERIES (LICENSING) ACT, 1987.

Postal order No _____ Amount _____ Form No. _____ dated
_____ issuing post office _____

S. No. Particulars

1. Name of the owner of the Nursery _____ with parentage (in whose name
precious licence was issued)

2. Residential address Village _____ Tehsil _____
P/O _____ District _____

3. Pervious licence No. and date of _____ issue.

4. Reasons for renewing /issuing duplicate licence

(a) Validity period of two years expired

(b) Licence was suspended.

© Licence was cancelled

(d) Licence lost/destroyed/damaged.

5. Total area (if extended/decreased during the period in between)

(i) Area under nursery A _____ K _____ M

(ii) Area under orchard A _____ K _____ M

(iii) Area under roads, building etc A _____ K _____ M

(iv) Area fallow A _____ K _____ K

No. of budded/grafted fruit plants	Year	Kind	No.	No.
Produced and sold during the period			Prod	Sold.

In between (From the date of issuing the
Licence to the date of renewal)

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7. No. of bud/graft wood sticks received	Year	Kind	Bud Sticks	Graft Sticks
				Received

During the period in between also mention the source of supply.

8. No. of labour days engaged during _____ the period in between

9. Kind of fruit tree your want to _____ produce in your nursery for which licence was
granted.

I solemnly declare that the information given above is correct and in case of any wrong
information I shall stand personally responsible.

Date _____

Signature of owner

Name _____

Date _____

Parentage _____

Residence _____

B. Remarks of the Horticulture Assistant of the scheme of the concerned area.

1. The licence may be renewed (as its period of validity has expired) as the performance of owner in respect of upkeep and maintenance of the nursery has been satisfactory.
2. The licence holder has co-operated with the staff and obeyed the rules concerned and the advice given to him from time to time.
3. Certify that the information given above by the owner is correct to the best of my knowledge.
4. Duplicate licence may be issued as the owner has lost/destroyed/mutilated/damaged his licence No. _____ dated _____ as stated by him in the form N-3 and supported an affidavit given by him.
5. The licence may be issued to the owner as the appellate authority has ordered renewal of licence vide Order No _____ dated _____ on the basis of appeal made by owner.
6. Licence may not be renewed/duplicate issued, because :-

FORMS **RULES FOR GRANTING FOR FRUIT PLANT NURSERY** 613

Give full justification.

Note:- Strike out whichever is not applicable

No. _____ Date _____

Signature of Horticulture Asstt.

C. Remarks of licence issuing authority after on the spot inspection.

1. Licence may be renewed/ issued may not be renewed/issued give full justification for denial

Signature of licence issuing authority

FROM N-5
FORM OF APPEAL AGAINST THE ORDER OF
SUSPENSION/CANCELLATION/DENTAL TO RENEW OF ISSUE A DUPLICATE
LICENCE TO THE NURSERY OWNER
(THIS FORM SHOULD BE SUPPORTED BY AN AFFIDAVIT)

To,
The Director Horticulture,
Jammu and Kashmir Government.
Sir,

I am aggrieved by the order of licensing authority and hence file an appeal supported with an affidavit for your kind consideration;

Yours faithfully,

Signature of the owner (appellant)	_____
Name of the owner	_____
Parentage	_____
Residence	_____
Location of nursery	_____
Licence No.	_____
Licence issuing authority	_____
Appeal against Licensing Authority order No.	_____
Date	_____
Dated of appeal	_____

Copy enclosed)

614 RULES FOR GRANTING FOR FRUIT PLANT NURSERY FORMS

The information given above is correct and for any wrong information I shall stand responsible.

Signature of the owner (appellant).

Enclosed:- One affidavit.

AFFIDAVIT

I, _____ S/O _____ D/O W/O _____ R/O
_____ today the _____ day of 199 _____ solemnly declare that:-

1. I am owner of the fruit plant nursery located at _____.
2. My licence No. _____ dated _____ valid from _____ to _____
Issued by _____
3. The grounds on the basis of which my licence has been suspended/cancelled are not correct.
(Give your statement with justification).
4. The grounds on the basis of which renewal/issue of duplicate licence has been denied are not correct (Give your statement with jurisdiction).
5. I Shall not uproot/dispose/sell any fruit plants during the period of suspension or cancellation the licence/before the decision of appeal.
6. I shall not uproot/dispose/sell any fruit plants before the renewal or obtaining a duplicate licence before the decision of appeal.
7. I will hide any record of the nursery as and when demanded by appellate authority or his authorised representative.
8. I shall stand personally responsible for any consequences that may arise, if statements are found wrong.

Note:-Strike out whichever is not applicable.

Date:-

Signature of appellant (Owner)

**PROFORMA "A" FOR THE REGISTER TO BE MAINTAINED BY THE OWNER OF
FRUIT PLANT NURSERY.**

S.No	Kind	Rootstock	Source of rootstock	Date of transplantation of rootstock seed sowing.
1	2	3	4	5

No. survived/germinated	Dt. Of budding/grafting	Variety budded/grafted	No. of budded/grafted sticks used	Source of supply of scion
1	2	3	4	5

Pedigree Mark No	No. available for sale	Remarks if any, inspecting officer
1.	2.	3.

PROFORMA "B" FOR SALE REGISTER OF THE OWNER.

S.No	Date	Kind with rootstock	Variety	No. sold	Name and address of the owner to whom sold.	Remarks, if any by the Inspecting Officer.
1	2	3	4	5	6	7

PROFORMA "C" FRO SALE LABLES.

LICENCE No. _____
 Kind and rootstock _____
 Variety _____
 Age of the plant year _____
 Rate per plant Rs. _____

Signature of the owner
 NAME _____

Certified plant material
 Authority or his authorised

Seal and signature of licensing
 Representative.

**FORM IV
 NURSERY LICENCE REGISTER FORM.**

S. No	Name and address of the licence	Name of the Nursery	Area of the Nursery	Kind of Fruit Plants and variety CVs to be propagated.
1	2	3	4	5

FORMA **RULES FOR GRANTING FOR FRUIT PLANT NURSERY** 617

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Name and designation of Inspecting Officer	Date of visit of inspecting Officer	No. and date of issue of licence	Date of expiry of licence
6	7	8	9

Date of renewal	Period of renewal	Remarks	Initials of the competent authority.
10	11	12	13

FORM VII

Form of Register of the progeny tree of _____

Licence No. _____.

Year	S. No of progeny tree	Kind and variety/ Cultivar	Yield in Kgs.	General health conditions of the progeny tree	General observations about quality and grade of fruits.
1	2	3	4	5	6

618 **RULES FOR GRANTING LICENCE FOR FRUIT PLANT NURSERY** Forms

FORM XI

INSPECTION REGISTER.

S. No	Date of visit	Name of the Inspecting Officer	Instruction of the Officer	Compliance report by the Nursery men.
1	2	3	4	5

FORM XII

REGISTER OF PLANT PROTECTION OPETATION

S. No	Date	Name of the Insect/ pest or diseases	Control measure taken (mention pesticide used and their formulation)
1	2	3	4