

# **Nursery Management Act, 2057**

## **Preamble**

Whereas it is expedient to supply quality nursery plants by determining quality as per the necessity for the extension of horticulture crops in the kingdom of Nepal;

Whereas it is expedient to make plant production and its distribution well managed and private nurseries as well as sellers of various crops are to be participated in the same task,

Now, therefore, be it enacted by the parliament in the first year of the reign of His Majesty the King Gyanendra Bir Bickram Shah Dev.

## **Chapter –1**

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

- 1.1 This act may be cited as " Nursery Management Act, 2048".
- 1.2 This Act shall come into force immediately all over the kingdom.

### **2 Definition**

Unless the context otherwise required, in this Act

- 2.01. " Nursery" means private or government nursery registered with National Nursery Committee of His Majesty's Government, opened in any part of the kingdom for the purpose of production or sale of plants or seedlings.
- 2.02. " Private Nursery" means a nursery opened for the purpose of production and sale distribution of plants and seedlings at private level in any part of the kingdom and registered with the concerned committee of His Majesty's Government.
- 2.03. " Plants or seedlings" mean plant or seedling made out of seed of the fruit of any crop or from the plant portion of a plant or any other part or made by advanced or any other technology that meets the prescribed standards for re-expansion from commercial point of view for the purpose of sale or distribution.
- 2.04. " Garden" means farming of crops.
- 2.05. " Crop" means fruits, vegetables, potato, spices, flagrant, flower, industrial crops – tea, coffee, rubber, coconut, nut, olive, sea beach thorn and straw berry.
- 2.06. " Plant from seed" means a plant made out of seed of the fruit of any crop.
- 2.07. " Propogative Plant" means plant made out of any part other than seed of the fruit of any crop or made according to genetic technology.
- 2.08. " Nucellar Plant" means a plant from seed other than the plant from seed made out of the fertilized seed of a fruit.

- 2.09. " Grafted Plant" means a plant made out of the combination of rootstock and scion stock of any plant.
- 2.10. "Root stock" means the system in the bottom part of a plant while preparing a grafted plant.
- 2.11. "Scion Stock" means the upper part which is joined in the root stock (to be taken from mother plant) while preparing grafted plant.
- 2.12. " Mother plant" means the source plant which is especially chosen and brought to use to prepare plant by any other means.
- 2.13. " Means of production" means rootstock, scion stock, bud wood, sucker, bulb, Rhizome, organic fertilizer, chemical fertilizer, moss, plastic, rope, poison, hormone and etceteras.
- 2.14. " Department or concerned department" means the department established by His Majesty's Government within the kingdom of Nepal for the development of crops.
- 2.15. " Local office" means office established in the districts by His Majesty's Government for the development of crops within the kingdom of Nepal.
- 2.16. " Nursery inspector" means an officer level employee who is prescribed by His Majesty's government and working in horticulture group under Agriculture Service of His Majesty's Government.
- 2.17. " Nursery owner" means the institution or person who establishes nursery pursuant to Sub-clause 2.05 of this Act.
- 2.18. " Agriculture work" means the act of production of crops pursuant to Sub-clause 2.05 of this Act.
- 2.19. "Committee" means National Nursery Committee constituted pursuant to clause 3.
- 2.20. " Listed plants/seedlings" means the seedlings/saplings of the crops prescribed pursuant to clause 8 of this Act.
- 2.21. " Packing" means technology of packing plants in the means like moss, soil, tat, sack, hey, stubble, poletylin sheet and rope.
- 2.22. "Kind" means one or several close species or sub species, which can be recognized collectively or severally, and the species of plants to be used in agriculture work.
- 2.23. " Species" means the species of the plant used in agriculture work, which can be recognized collectively through fruit, seed, growth or other similar features.
- 2.24. " Leveling" means the description about plant (leveling) that is placed visibly.
- 2.25. " Prescribed or as prescribed" means prescribed or as prescribed in the rule made under this Act.

## **2. Constitution of National Nursery Committee**

- 3.1 A National Nursery Committee shall be constituted for the determination and execution of policies relating to nursery and for providing necessary consultations to His Majesty's Government on matters relating to nursery.
- 3.2 There shall be the following members in the committee
  - 3.2.1 Secretary – Ministry of Agriculture and Cooperatives – Chairman
  - 3.2.2 Director General – Department of Agriculture
  - 3.2.3 Executive Director – Nepal Agriculture Research Council – Member
  - 3.2.4 Executive Director – National Tea and Coffee Development Board

- 3.2.5 Three people nominated by His Majesty's Government from among the technicians/ scientists relating to agriculture, Horticulture Science.
- 3.2.6 Horticulture expert, Agriculture and Veterinary Institute, Tribhuvan University – Member
- 3.2.7 Two nursery owners nominated by His Majesty's government – Member
- 3.2.8 Director of Vegetable Development Program – Member
- 3.2.9 Director of Professional Pesticide Development Program - Member
- 3.2.10 Director, Fruit Development Program – Member Secretary
- 3.3 The tenure of members nominated by His Majesty's Government pursuant to Sub-clauses 3.2.5,3.2.6,3.2.7 shall be three years and they shall be eligible for reappointment.
- 3.4 Notwithstanding anything contained in sub-clauses 3.3, His Majesty's Government may relive the members nominated pursuant to 3.2.5, 3.2. 6 and 3,2,7 before the expiry of the period.
- 3.5 His Majesty's Government may, through a notification published in the Nepal Gazette, commute or remit in the members if it deems necessary.
- 3.6 If the Committee deems necessary, any national or international expert may be invited as an observer in the meeting of the Committee.

#### **4. Meetings and Decision of the Committee**

- 4.1 Meeting of the Committee shall be held at the time, date and place as prescribed by the chairperson.
- 4.2 If fifty percent out of the total number of the members are present, the quorum of the meeting shall be deemed as satisfied.
- 4.3 The meeting of the Committee shall be chaired by the Chairman and in his absence; the person chosen from among them shall chair the meeting.
- 4.4 In the meeting of the Committee, the opinion of majority shall be adopted and the chairman shall caste decisive vote in case of tie.
- 4.5 Member secretary shall authenticate the decision of the Committee.
- 4.6 Other procedures relating to the meeting of the Committee shall be as determined by the Committee itself.

#### **5. Power, Duties and functions of the Committee**

- 5.1 To provide consultation to His Majesty's Government while formulating national policy on nursery.
- 5.2 To provide necessary advice and suggestion to concerned department.
- 5.3 To coordinate between private and government sectors on the task of plant production and distribution.
- 5.4 To encourage private sector to invest in nursery.
- 5.5 To regulate or control the quality of the plants produced from the nursery industry operated by private or government sector.
- 5.6 To recommend, release and register new plants as prescribed.
- 5.7 To examine the potentiality as well as distinct, uniform and stability of the plants of new variety and thereby hand over the ownership to the breeder as prescribed.
- 5.8 To determine the quality of plants.

- 5.9 To recommend as per the necessity the quality of the plants as determined by national or foreign agency.
- 5.10 To take necessary assistance and consultation with foreign agencies.
- 5.11 To register private nursery, provide license, renew license, suspend and repeal.
- 5.12 To identify, time and again, the dangerous diseases, insects as well as prohibited disease and thereby publish in Nepal Gazette after obtaining consultation from the Council.
- 5.13 To carry out the activities to maintain the quality of the plants.
- 5.14 To carry out publicity on any matter of public importance about plants.
- 5.15 To solve the problem that may occur about nursery.
- 5.16 To carry out other necessary activities about nursery.

#### **6. Sub - committee may be formed**

- 6.1 For the purpose of smooth operation of acts relating to production and sale distribution of plants and thereby providing quality plants, the committee may form various sub-committees.
- 6.2 Power, functions and duties of the sub-committees and procedures relating to meeting shall be as prescribed:

#### **7. Establishment of the body to register nursery.**

His Majesty's Government may, through the publication of a notification in the Nepal Gazette, establish a body to register nursery.

#### **8. Power, duties and functions of the body to register nursery**

Power, duties and functions of the body to register nursery shall be as follows: -

- 8.1 To prepare necessary standards and procedures about nursery registration and submit it to the Committee.
- 8.2 To register nursery according to method, standard and level approved by the Committee and provide certificate as per the necessity.
- 8.3 Other powers, duties and functions of the body to register nursery and the procedures to be followed while registering nursery by the body shall be as prescribed:

#### **9. Provision about nursery inspector**

- 9.1 For the purpose of smooth operation of the acts of production, sale and distribution of the plants and thereby providing quality plants, the Committee may provide for several nursery inspectors as per the necessity.
- 9.2 Powers, duties and functions of nursery inspectors shall be as prescribed.

#### **10. Power of listing of kind or species of plants**

If it is deemed necessary to regulate or control the species or kind of plants/seedlings used in agriculture purpose, His Majesty's Government, by obtaining consultation

with the committee and through the notification in the Nepal Gazette, prescribe such plants/ seedlings as listed plants/seedlings.

### **Chapter – 3**

#### **11. Establishment of private nursery**

- 11.1 Since nursery is to be established in a technically suitable place, nursery inspector should be caused to visit the place and his recommendation should be obtained.
- 11.2 For the establishment of private nursery registration and license is required for this an application pursuant to schedule –1 should be submitted to the Committee through the local office. The application should contain prescribed fee and other necessary documents.
- 11.3 Sale or distribution of plants shall not be allowed without obtaining registration certificate and license.
- 11.4 Person wishing to establish private nursery should be Nepali citizen, or if, any foreign national wishes to establish a nursery in Nepal, nursery may be established by joint investment with Nepali citizen.
- 11.5 Person wishing to establish private nursery should manage " mother plants " and rootstock and the detail of the same should be maintained pursuant to schedule – 6.
- 11.6 While establishing private nursery, at least 1 *ropani* land shall require for vegetables and fruits and at least 3-ropani lands shall require for fruits and other crops.

#### **12. Registration of private nursery and license:**

- 12.1 If the application received is deemed appropriate after a scrutiny, the concerned department shall register private nursery and provide certificate pursuant to schedule 2.
- 12.2 After registration of private nursery, the concerned department shall provide license pursuant to schedule –3.
- 12.3 If anyone wants to establish more than one nursery in more than one place, separate registration certificate and license should be obtained for each nursery.
- 12.4 If the registration certificate or license is lost, damaged or torn out, the concerned department may provide transcript copy by charging prescribed fees.
- 12.5 The nurseries, which are presently registered, shall, after the commencement of this Act, be deemed to have been registered with concerned department notwithstanding the department or agencies they are registered from.

#### **13. License renew**

- 13.1 Plants produced without renewing license shall not be allowed for sale and distribution.
- 13.2 The license shall be valid for the period of one year and the license should be renewed within 35 days period.

- 13.3 If the license is not registered even within three months of the expiry of the period, the license renewal may be repealed.
- 13.4 License renewal fee and additional fee shall be as prescribed.

### **13. Responsibility of licensed nursery holder**

- 14.1 Subject to the private nursery, adopting the provisions and rules as prescribed shall produce plant as prescribed.
- 14.2 Only the Plants authenticated by nursery inspector as highly qualitative and free from dangerous disease, insect and problems caused there from shall be sold or distributed.
- 14.3 Nursery record as wished by nursery inspector as well as any part of the nursery should be shown.
- 14.4 Nursery activities should be carried out according to the technical advice and direction given by nursery inspector.
- 14.5 Plants shall be sold or distributed only after packing properly and putting level clearly.

## **Chapter- 4**

### **15. Plant production control:**

- 15.1 Each private nursery holder who has obtained license should use species of crops, seed, rootstock and scion stock etc as prescribed.
- 15.2 While choosing mother plant for seeds and scion stock necessary for the production of plants, it shall be done only after obtaining the recommendation of nursery inspector.
- 15.3 For the purpose of avoiding dangerous diseases, insects and problems caused there from that are seen in the garden and nursery, nursery owner should cause the nursery and garden inspected by the nursery inspector and thereby should keep a copy of the same.

### **16. Prohibition on sale, distribution of listed shrub, plants**

- 16.1 If any governmental or non-governmental institution or organization needs any listed saplings, plants, such institution, organization shall have to procure such necessary plants only from the nursery, which has obtained license.

## **Chapter – 5**

### **17. Suspension of license:**

- 17.1. Upon filing an authorized complaint against any private nursery by any person or institution or organization, or if, it is shown, without such complaint, by the technical report of the nursery inspector that the plants, sapling do not meet the quality as prescribed, the concerned committee may, until the matter is finally disposed, suspense the license of the private nursery.
- 17.2. The period of suspension shall be three months at maximum.

## **18. Repeal of license**

- 18.1. The committee may repeal the license in the following condition and thereby order to stop production, sale and distribution of the plants.
  - 18.1.1 If the terms stipulated in the license are not complied by the nursery owner.
  - 18.1.2 If the technical advice given by the inspector is not followed, and if, acts on his own in a discretionary manner and thereby does not sell or distribute the plants at per with the determined standards.
  - 18.1.3 If a written application is received by the nursery owner asking for repeal of the nursery.
  - 18.1.4 If the license is not renewed within the time given for the renewal of the license.
- 18.2 If any dangerous or prohibited disease or problem to be caused there from that is limited within a particular crop is found, the committee may prohibit production, sale or distribution of such crops.
- 18.3 The compensation for the loss caused by the renewal or repeal of the license shall not be provided.

## **19. Quality of the plants, saplings**

- 19.1. His Majesty's Government may, through the publication of a notification in the Nepal Gazette, prescribe time and again the quality of several crops.
- 19.2. Sale or distribution should be made pursuant to the quality prescribed in Sub-clause 18.1.
- 19.3. Sub-clause 18.2 shall be enforced in equal footing for both private and government nurseries.

## **20. Power to frame Rules**

For the purpose of obtaining the objective of this Act, His Majesty's Government may frame rules in the following matters: -

- 20.1. Procedure regarding the establishment, registration and license of private nursery.
- 20.2. Procedure regarding renewal, suspension or repeal of license.
- 20.3. Duties of the license holder nursery owner.
- 20.4. Procedure regarding plants production as well as sale or distribution.
- 20.5. Quality of the plants
- 20.6. Provisions regarding inspection or authentication of private nursery.
- 20.7. Regarding dangerous diseases, insects as well as prohibited disease.
- 20.8. Other timely rules as per the necessity.

## **21. Punishment:**

- 21.1. If anyone does not comply with this Act or Rules made thereunder, he may be punished with a fine up to Rs. 3000 or imprisonment up to three months or both.

- 21.2. If a company does not comply with this Act or Rules made thereunder, the partners of the company may be punished with the punishment according to Sub-clause 20.1.
- 21.3. The Committee shall punish according to Sub-clauses 20.1 and 20.1 on the recommendation of the chief of concerned local office.
  
- 22. Government to be plaintiff
- 22.1. His Majesty's Government shall be plaintiff in the cases under this Act.
- 23. Investigation and prosecution of case.
- 23.1. The nursery inspector shall carry out investigation of the cases subsisting the offense to be punished under this Act.
- 23.2. While investigating or prosecuting a case pursuant to Sub-clause 22.1, the nursery inspector may take the opinion of government attorney. After the prosecution of the case, the government attorney shall do the pleading, counseling and appeal of the case.
  
- 24. **Right to entertain the case**
- 24.1. The right to entertain case under this Act shall be vested on the official as prescribed.
- 24.2. While entertaining and deciding a case pursuant to Sub-clause 23.1, the prescribed officer shall follow the procedure pursuant to Special Court Act, 2031.
- 25. Saving of the acts done with good faith:
- 25.1 Nursery inspector or any employee authorized to work under this Act shall not be personally accountable for the work done with good faith while complying with one's duty pursuant to this Act. But concerned person shall be accountable for the act done with the intention of exerting unnecessary pain, trouble or difficulties to anyone.

**Schedule: 1**

**Private Nursery registration form**

The Chairman  
National Nursery Committee

.....

Sir,

It is to be borne and realized pursuant to law, if the particulars as stated hereunder to get license by registering under mentioned private firm in my name for the purpose of operating business mentioned here under, are deemed false.

**Particulars**

1. Full name of firm:
2. Full address of firm:
3. Purpose of firm:
4. Total Capital:
5. Details of work and things of transaction:
6. Name, family name and address of the nursery owner including his father and grandfather:
7. Detail of the land:

Person to authenticate the above mentioned name, family name and address as being correct and exact:

Signature of the applicant both in writing and fingerprint

Fingerprint of both fingers

Right              Left

- | 1. Signature | Name | Address |
|--------------|------|---------|
| 2. "         | "    | "       |
| 3. "         | "    | "       |

## **Schedule - 2**

**His Majesty's Government  
Ministry of Agriculture and cooperatives**

.....

Pvt. Ltd.

### **Certificate**

Shree ..... (Private) Limited has been registered pursuant to  
Company Act, 2021 on 20 .. Year...month ... day of the week and this certificate  
has been conferred.

1. Name of first operator:
2. Address:
3. Authorized capital
4. Issued capital
5. Main objective of Industry

Date:

.....

Chairperson

### **Schedule – 3**

His Majesty's Government  
Ministry of Agriculture and cooperatives

#### **Registration certificate**

Registration certificate has been provided as the firm with the name Shree  
..... bearing number .....has been registered with this department  
pursuant to Partnership Act, 2021.

Name of the partnership:

Address:

Total Capital:

Objective:

Address of the firm:

Date:

.....  
Chairperson

#### **Certificate renewed**

Name of the firm:

Name of the office to renew	Date of the renewal to be valid	Renewal fees voucher No. Date	Signature and date

#### **Schedule: 4**

His Majesty's Government  
Ministry of Agriculture and Cooperatives

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#### **Certificate**

Registered in the year 20.... day of the month (....) day of the week ( .....)  
pursuant to Private Firm Registration Act, 2041 and thereby this certificate has been  
conferred.

Name of the proprietor:

Address:

Total Capital:

Objective:

Address of the firm:

.....

Chairperson

#### **Evidence of renewal**

Name of the firm:

Name of the office to renew	Date of the renewal to be valid	Renewal fees voucher No. Date	Signature and date

## **Schedule: 5**

His Majesty's Government  
Ministry of Agriculture and Cooperatives

.....

Subject: Nursery Registration

Shree .....

.....

.....

.....

Upon receipt of the application submitted by you/ including you on  
.....for the approval of nursery establishment, this application has been  
provided to you according to the decision to provide the license. This license shall,  
ipso facto, be ineffective if the following conditions are not complied compulsorily.

.....

Chairperson

### Conditions

1. Kinds of nursery
2. Fixed capital
3. Station of the nursery
4. Objective of the nursery and aim of annual plants production
5. Manpower necessary for the nursery should be fulfilled from Nepali nationals.
6. Foreign nationals are not allowed to be involved in works.
7. Nursery should be operated without causing any harm to others.
8. Other works except stated in the objectives are not allowed to do.
9. Name of the nursery should be written in bold letters in correct Nepali language and in other languages in the underneath of the same if necessary and thereby should be kept in the place to be seen by everyone.

**Schedule: 6**

**Detail record of mother plant**

S.N.	Kind of mother plant	Species	Root stock Species	Number of plant	Date of plantation	Source	Condition of disease, insect

**Schedule: 7**

**Detail of plant, sapling production and distribution**

S.N.	Kind of plant	Species	Number of plant produced	Number of sale, distribution	Name, address of buyers