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| **THE GOVERNMENT**  No. /2014/ND-CP  1ST DRAFT  Dated August 11, 2014 | **SOCIALIST REPUBLIC OF VIETNAM** **Independence - Freedom – Happiness *\*\*\****  *Hanoi, ……….., 2014* |

**DECREE**

**making detailed provisions of some articles of the Law on Plant Protection and Quarantine**

*Pursuant to the Law on Organization of the Government dated December 25, 2001;*

*Pursuant to the Law on Plant Protection and Quarantine dated November 25, 2013;*

*At the request of the Minister of Agriculture and Rural Development;*

*The Government hereby promulgates Decree to make detailed provisions of some articles of the Law on Plant Protection and Quarantine,*

**Chapter I**

**GENERAL PROVISIONS**

**Article 1. Governing scope**

This Decree makes detailed provisions and provides guidelines for implementation of some articles of the Law on Plant Protection and Quarantine in respect to the specialized plant protection and quarantine agencies (Article 9); announcement of plant epidemic (Article 17); funding for fighting the epidemic (Article 21); temporary suspension of export and import; prohibition from export and import of objects subject to plant quarantine (Article 35).

**Article 2. Applicability**

Domestic and foreign organizations and individuals involved in the plant protection and quarantine activities in Vietnam.

**Article 3. System of specialized plant protection and quarantine agencies**

1. The specialized plant protection and quarantine agency of the central level, which belongs to the Ministry of Agriculture and Rural Development, has the function of advising and implementing state management in the field of fighting and prevention against plant pests; plant quarantine and management of pesticides nationwide.

2. The specialized plant protection and quarantine agencies of the provincial level, which belong to the Departments of Agriculture and Rural Development, have the function of advising and implementing state management in the field of prevention and fighting against plant pests; domestic plant quarantine and management of pesticides in centrally-run provinces and cities and subject to the professional direction of the specialized plant protection and quarantine agency of the central level.

3. The specialized plant protection and quarantine agencies of the district level, which belong to the specialized plant protection and quarantine agencies of the provincial level, shall have the function of assisting the heads of the specialized plant protection and quarantine agencies of the provincial level to implement the state management in the field of prevention and fighting against of plant pests; domestic plant quarantine and management of pesticides in the area of one or more districts.

4. The specialized plant protection and quarantine agencies in localities shall operate in accordance with the guidelines of the Minister of the Interior and the Minister of Agriculture and Rural Development.

**Chapter II**

**ANNOUNCEMENT OF PLANT EPIDEMIC, FUNDING FOR FIGHTING EPIDEMIC**

**Article 4.Conditions for announcement of plant epidemic**

1. For pest plants not subject to plant quarantine or exotic pests.

a) Plant pests dramatically increase both in number and damaged area and degree as compared with the average level of many years and forecast by specialized plant protection and quarantine agency of the provincial level or higher; risk of rapidly spreading out in large scale, seriously impacting production, the environment, and people's lives, beyond plant owners’ control.

b) The measures of pest management have been applied by plant owners in accordance with the guidelines of specialized plant protection and quarantine agency, but fails to achieve efficiency, emergency measures must be applied to force plant owners, relevant organizations and individuals in the locality, where there is epidemic, to strictly implement for a certain period of time to rapidly control and extinguish the epidemic.

2. For plant pests subject to plant quarantine or exotic pests.

When detecting objects subject to plant quarantine or exotic pests appear or invade the territory of Vietnam, there is a risk of establishment of population, which spreads out to large area that emergency measure must be applied, plant owners, relevant organizations and individuals in the locality where there is epidemic are forced to strictly implement to rapidly surround and thorough treat objects subject to plant quarantine or exotic pests.

**Article 5.Order and procedure for announcement of plant epidemic**

1. The order and procedure.

a) Pursuant to the provisions of Article 4 of this Decree, the specialized plant protection and quarantine agencies of the central level shall report to the Minister of Agriculture and Rural Development; specialized plant protection and quarantine agencies of the central level shall present to the Director of the Department of Agriculture and Rural Development to report the Chairmen/Chairwomen of People’s Committees on the pest situation, the actual data that proves the eligibility for announcement of epidemic, the need for announcement of epidemic, the proposal on scope of epidemic announcement and anti-epidemic solutions.

b) The Chairmen of the Provincial People's Committees, the Minister of Agriculture and Rural Development shall base on report of the specialized plant protection and quarantine agency at central level or report of the Director of Department of Agriculture and Rural Development to decide the announcement of epidemic.

Chairmen of Provincial People's Committees shall authorize Chairmen of the District People's Committees to announce epidemic in case that the epidemic occurs within some communes in the district area on the basis of the report of the District Agricultural Office and proposal of the specialized plant protection and quarantine agency at the district level; the Minister of Agriculture and Rural Development authorizes the heads of the specialized plant protection and quarantine agency of the central level to announce epidemic in respect to plant pests subject to plant quarantine and exotic pests.

In case of necessity, the competent epidemic-announcing persons shall establish the Advisory Council to ask for opinions. The competent epidemic-announcing persons or his deputy shall act as chairman of the Council, head of the specialized plant protection and quarantine agency of the central level or the Director of Agriculture and Rural Development acts as deputy Chairman, members are the representatives of relevant agencies, organizations and experts with experience in the field of plant protection.

Advisory Council is responsible for reviewing the reports of specialized plant protection and quarantine agencies, proposing the competent persons in respect to the epidemic announcement, scope of epidemic, anti-epidemic measures.

2. Decision on the announcement of an epidemic.

a) Contents of a decision on the announcement of epidemic will include plant pests, damaged objects, scope of epidemic announcement, solutions to fight the epidemic and effectiveness of the decision.

b) Within 24 hours after the announcement of an epidemic, a decision on the announcement of the epidemic must be announced publicly on the mass media at the central and local levels; the authorities of the locality where the epidemic is announced shall have to notify plant owners, relevant organizations and individuals in the locality for knowledge and implementation.

3. Announcement of the end of an epidemic.

a) When plant epidemic has been controlled and there is no risk of causing serious harm, the specialized plant protection and quarantine agency of the central level or the Director of Agriculture and Rural Development shall present to the competent person for announcing the epidemic end.

b) Within 24 hours after the announcement of the epidemic end, Decision on announcement of epidemic end shall have to be announced publicly on the mass media of the central and local levels.

**Article 6. Funding for fighting the epidemic**

1.Funding sources for fighting the epidemic.

a) State budget.

b) Funding of plant owners.

c) Contributions and donations from domestic and foreign organizations and individuals, international organizations and other legitimate sources.

2. Subjects that State budget assists funding for fighting the epidemic:

a) The plant owners who have their plant damaged by epidemic or forced to adopt anti-epidemic measures as required by the competent state agency.

b) Anti-epidemic participants.

3. Contents of support.

a) Disseminating, training, organizing anti-epidemic.

b) Vehicles, pesticides to fight epidemic.

c) Damages caused by epidemic.

d) Damage due to application of plant treatment required by the competent state agencies and expenses on treatment.

dd) Plant varieties to restore production.

4. Support level.

a) For support contents have no norms and standards stipulated by the State, the expenses [are implemented] in accordance with the applicable regulations.

b) For support contents, the norms and standards of which have not been stipulated, the Minister of Finance shall coordinate with the Minister of Agriculture and Rural Development to present the Prime Minister for decision.

5. Sources of funding from the State budget.

a) Funding to fight the epidemic in the localities is allocated by the Chairmen/Chairwomen of the Provincial People's Committees from the reserve budget of the localities as stipulated by the Law on the State Budget.

In cases that [the expenses are] beyond the financial capacity of the localities, Chairmen/Chairwomen of the Provincial People's Committees shall report to the Minister of Agriculture and Rural Development and the Minister of Finance to present the Prime Minister for decision of support.

b) Funding for anti-epidemic activities of the central agencies is allocated from the central budget in accordance with the provisions of the Law on the State Budget.

6. Funding of plant owners.

The expenses to fight the epidemic other than the support funding from the state budget, funding from domestic and foreign organizations and individuals and international organizations (if any).

7. Funding source being contributions and donations from domestic and foreign organizations and individuals, international organizations and other lawful sources.

a) Sources of contributions and donations from domestic and foreign organizations and individuals shall belong to the state budget and shall comply with the provisions of the Law on State Budget.

b) Other sources of lawful contributions and sponsors shall be implemented at the request of the donors.

**Chapter III**

**PROVISIONS ON TEMPORARY SUSPENSION OR PROHIBITION OF IMPORT AND EXPORT OR PERMISSION FOR CONTINUANCE OF EXPORT AND IMPORT OF PLANT**

**Article 7. Suspension of export, import and export of plants**

1. Temporary suspension of export plants [is implemented] in the following cases:

a) Plants has high risk of carrying objects subject to plant quarantine of importing country and has not had a thorough mitigating treatment measure.

b) Plants violating the regulations of the importing country, but there is no measure for thoroughly remedying the causes of violations and risk of losing export markets.

2. To temporary suspend the import of plants in the following cases:

a) Plants which is imported from countries or territories having high risk of carrying objects subject to plant quarantine of Vietnam, but has had no thorough treatment measures.

b) Plants which is imported from countries or territories detected to be infected with objects subject to plant quarantine or exotic pests that the specialized plant protection and quarantine agency of the central level issues announcement of incompliance with the plant quarantine regulations of Vietnam.

c) Plants from countries or territories where there is official information on outbreaks of objects subject to plant quarantine of Vietnam.

**Article 8. Conditions to permit the continuance of export and import of plant**

1. Conditions to permit the continuance of plants export:

a) Organizations and individuals having plants temporarily suspended to be exported have taken sufficient remedy measures in accordance with the guidelines of competent specialized plant protection and quarantine agency.

b) Specialized plant protection and quarantine agency of the central level shall inspect, supervise and confirm the efficient implementation of remedial measures and shall report to the Minister of Agriculture and Rural Development for review the allowance of continuing to be exported.

2. Conditions to permit the continuance of import of plants.

a) Quarantine agencies of the exporting country, which determine the cause plant is contaminated with objects subject to plant quarantine, have taken thorough remedy measures and have written report at the request of the specialized plant protection and quarantine agency of the central level.

b) The specialized plant protection and quarantine agency of the central level shall inspect, supervise and confirm the efficient implementation of remedial measures and shall report to the Minister of Agriculture and Rural Development for review the allowance of continuing to be exported.

**Article 9. Prohibition of export and import of plant**

1. To prohibit export of plant in the following cases:

a) Plant falling within the List of import prohibition of importing countries.

b) Plant for which there is no treatment measure in satisfaction of the regulation of importing countries.

2. To prohibit import of plant in the following cases:

a) Plant imported from countries or territories identified at high risk of carrying objects subject to plant quarantine, threatening domestic agriculture production, the national food security, but there is no thorough treatment measure.

b) Imported plant has been applied with treatment measure of temporary suspension of import, but still fails to apply remedy measures or has been applied with the remedy measures, but fails to meet the regulations on imported plant quarantine of Vietnam.

**Article 10. The authority to suspend or prohibit the export or import of plant or to permit the continuance of export and import of plant**

The Minister of Agriculture and Rural Development shall decide the temporary suspension or prohibition of export and import [of plant] or the permission for continuance of export and import of plant in accordance with the provisions of this Decree.

**Article 11. Order and procedures for the temporary suspension or prohibition of export and import of plant**

1. Pursuant to the provisions of Article 7 and Article 9 of this Decree, the specialized plant protection and quarantine agency of the central level shall specifically determine category of plant, causes for temporary suspension or prohibition of export and import in respect to a country or territory and shall report to the Minister of Agriculture and Rural Development.

2. The Minister of Agriculture and Rural Development shall base on the report of the specialized plant protection and quarantine agency of the central level to consider or organize a meeting to ask for opinions of relevant ministries and branches before deciding the temporary suspension or prohibition of export and import and prohibition of export and import of plant.

3. The decision to suspend or prohibit the export and import of plant must specify the following:

a) Name of plant, including scientific name.

b) Name of the country or territory from which the plant is exported to Vietnam or imported from Vietnam.

c) Cause, for which the export and import is suspended or prohibited, including legal basis, technical demonstration and scientific basis.

d) Decision takes effect after 2 months (60 days) from the date of its signing and must be officially published within time-limit of 24 hours in the mass media and shall be notified to the competent plant quarantine agency of exporting country or territory.

**Article 12. Order and procedure to permit the continuance of plant export and import**

1. Pursuant to the provisions of Article 8 of this Decree, the specialized plant protection and quarantine agency of the central level shall report the Minister of Agriculture and Rural Development.

2. The Minister of Agriculture and Rural Development shall base on report of the specialized plant protection and quarantine agency of the central level to consider in order to decide the permission for continuance of plant export and import.

3. Decision to permit the continuance of plant export and import shall be of full force and effect from the date of its signing and must be officially published within time-limit of 24 hours in the mass media and shall be notified to the competent plant quarantine agency of exporting country or territory.

**Chapter IV**

**IMPLEMENTING PROVISIONS**

**Article 13. Implementation effective**

1. This Decree shall be of full force and effect from January 1, 2015.

2 Plant Protection Charter, Charter on management of pesticides promulgated in conjunction with Decree 59/2002/ND-CP dated June 3, 2002 of the Government; Decree 2/2007/ND-CP dated January 5, 2007 of the Government on plant quarantine shall expire from the date on which this Decree takes effect.

**Article 14. Responsibility for implementation**

Ministers, heads of ministerial-level agencies, heads of agencies belonging to the Government, chairmen of People's Committees of centrally-run provinces and cities and relevant agencies shall implement this Decree./.

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| ***Recipients:***  - Party’s Central Committee Secretariat;  - The Prime Minister, Deputy Prime Ministers;  - The ministries, ministerial-level agencies, agencies belonging to the Government;  - People’s councils and people's committees of centrally-run provinces and cities;  - Central Office and Committees of the Party;  - Office of the General Secretary;  - Office of the State President;  - Ethnicity Council and Committees of National Assembly;  - National Assembly’s Office;  - The Supreme People's Court;  - The Supreme People's Procuracy;  - National Financial Supervisory Commission;  - The State Audit;  - Bank for Social Policies;  - Vietnam Development Bank;  - Central Committee of the Vietnam Fatherland Front;  - The central offices of the unions;  -Government Office: Minister, Chairman/Chairwoman of the Office of the Government, deputy Chairman/Chairwoman, Assistants to the PM, e-payment gateway, Departments, Divisions, attached units, Official Gazette;  - Archives, Office, Legal Department (3b). | **ON BEHALF OF GOVERNMENT**  **(Signed)**  **PRIME MINISTER**  **Nguyen Tan Dung** |