

THE GOVERNMENT**THE SOCIALIST REPUBLIC OF VIETNAM**
Independence - Freedom - Happiness

No. 116/2014/ND-CP

Hanoi, December 4, 2014

DECREE**Detailing a number of articles of the Law on Plant Protection and Quarantine^(*)**

Pursuant to the December 25, 2001 Law on Organization of the Government;
Pursuant to the November 25, 2013 Law on Plant Protection and Quarantine;
At the proposal of the Minister of Agriculture and Rural Development,
The Government promulgates the Decree detailing a number of articles of the Law on Plant Protection and Quarantine.

Chapter I

GENERAL PROVISIONS

Article 1. Scope of regulation

This Decree provides in detail and guides the implementation of Articles 9, 17, 21 and 35 of the Law on Plant Protection and Quarantine, on specialized plant protection and quarantine agencies; announcement of plant pest; funds for pest control; suspension from and ban on the export and import of articles subject to plant quarantine.

Article 2. Subjects of application

This Decree applies to domestic and foreign organizations and individuals involved in plant protection and quarantine activities in Vietnam.

Article 3. System of specialized plant protection and quarantine agencies

1. The central specialized plant protection and quarantine agency under the Ministry of Agriculture and Rural Development shall advise and assist the Minister of Agriculture and Rural Development in performing the state management of, and organizing the implementation of law on, prevention and control of organisms harmful to vegetation; plant quarantine and management of plant protection drugs nationwide.

2. Specialized plant protection and quarantine agencies of provinces and centrally run cities (below referred to as provincial level) under provincial-level Agriculture and Rural Development Departments shall assist directors of provincial-level Agriculture and Rural Development Departments in advising provincial-level People's Committees in performing the state management of, and organizing the implementation of law on, prevention and control of organisms harmful to vegetation; domestic plant quarantine and management of plant protection drugs in their localities, and shall submit to professional direction by the central specialized plant protection and quarantine agency.

^(*) Công Báo Nos 1065-1066 (18/12/2014)

3. Specialized plant protection and quarantine agencies of urban and rural districts, towns and provincial cities (below referred to as district level) under provincial-level specialized plant protection and quarantine agencies shall perform their assigned tasks in district-level localities and coordinate with district-level Agriculture and Rural Development Divisions in assisting district-level People's Committees in performing the state management of prevention and control of organisms harmful to vegetation; domestic plant quarantine and management of plant protection drugs in district-level localities.

4. Local specialized plant protection and quarantine agencies shall operate under the guidance of the Minister of Home Affairs and the Minister of Agriculture and Rural Development.

Chapter II

PLANT PEST ANNOUNCEMENT, FUNDS FOR PEST CONTROL

Article 4. Conditions for plant pest announcement

1. For organisms harmful to vegetation other than plant quarantine objects or exotic harmful organisms, the following two conditions shall be met:

a/ Organisms harmful to vegetation remarkably increase in terms of quantity, area and severity of harmfulness compared with the average of 2 (two) years preceding the time of plant pest announcement and forecast of specialized plant protection and quarantine agencies of provincial or higher level; are likely to spread on wide areas, seriously affect production, the environment and people's life and go beyond the control capacity of plant owners;

b/ Measures to control organisms harmful to vegetation have been taken by plant owners under the guidance of specialized plant protection and quarantine agencies but yield no result and plant owners and related organizations and individuals are forced to apply compulsory urgent measures for a certain period to promptly control and stop pests.

2. For organisms harmful to vegetation being plant quarantine objects or exotic harmful organisms

When detecting that plant quarantine objects or exotic harmful organisms appear or penetrate into the territory of Vietnam, threatening to establish populations and spread on wide areas for which plant owners and related organizations and persons in pest-affected localities are forced to apply compulsory urgent measures to promptly encircle and thoroughly treat plant quarantine objects or exotic harmful organisms.

Article 5. Order and procedures for plant pest announcement

1. Order and procedures for plant pest announcement

a/ Pursuant to Article 4 of this Decree, the central specialized plant protection and quarantine agency shall report to the Minister of Agriculture and Rural Development; and provincial-level specialized plant protection and quarantine agencies shall propose directors of provincial-level Agriculture and Rural Development Departments to report to chairpersons of provincial-level People's Committees, on the situation of pests, factual data proving satisfaction of the conditions and necessity for pest announcement and propose scope of pest announcement and pest control solutions;

b/ Based on reports of the head of the central specialized plant protection and quarantine agency or directors of provincial-level Agriculture and Rural Development Departments, the Minister of Agriculture and Rural Development or chairpersons of provincial-level People's Committees shall decide on pest announcement;

c/ When necessary, a person competent to announce pests shall form an advisory council for consultation. The chairperson of this council is the person competent to announce pests or his/her deputy; the vice chairperson is the head of the central specialized plant protection and quarantine agency or the director of the provincial-level Agriculture and Rural Development Department, and members are representatives of related agencies and organizations and plant protection specialists.

The advisory council shall consider reports of the plant protection and quarantine agency and propose competent persons to announce pests and their scope and pest control solutions.

2. Decisions on plant pest announcement

a/ A decision on plant pest announcement must specify organisms harmful to vegetation, affected subjects, scope of pest announcement, pest control solutions and effect of the decision;

b/ Within 24 hours after pest announcement, the pest announcement decision shall be notified in the central and local mass media; administrations of localities where a pest announcement is made shall notify it to plant owners and related organizations and persons for compliance.

Article 6. Order and procedures for announcement of end of plant pests

1. When plant pests have been controlled and no longer threaten to cause serious damage, the central specialized plant protection and quarantine agency or the provincial-level specialized plant protection and quarantine agency shall report on pest control results and propose the Minister of Agriculture and Rural Development or the provincial-level Agriculture and Rural Development Department director to propose the provincial-level People's Committee chairperson, to announce the end of plant pests.

2. A report on pest control results and proposal of announcement of the end of plant pests must state the situation of pest developments and forecast on development of harmful organisms; measures to remedy consequences caused by pests, stabilize life and restore production; sustainable measures to control harmful organisms; and legal, scientific and practical grounds for proposal of announcement of the end of pests.

3. Based on reports of the head of the central specialized plant protection and quarantine agency or directors of provincial-level Agriculture and Rural Development Departments, the Minister of Agriculture and Rural Development or chairpersons of provincial-level People's Committees shall issue decisions announcing the end of pests.

4. Within 24 hours after a competent person signs a decision announcing the end of pests, this decision shall be notified in the central and local mass media.

Article 7. Funds for plant pest control

1. Funding sources for plant pest control

a/ State budget funds according to the current decentralization;

b/ Funds of organizations and persons having the right to own or use plants or directly managing plant owners;

c/ Contributions and financial aid from domestic and foreign organizations and individuals, international organizations and other lawful sources.

2. Beneficiaries of state budget support for plant pest control:
 - a/ Owners of damaged plants caused by pests or plant owners having to apply pest control measures as requested by competent state agencies;
 - b/ Persons participating in plant pest control.
3. Support for plant pest control shall cover:
 - a/ Dissemination, training and organization of pest control;
 - b/ Facilities, equipment and plant protection drugs for pest control;
 - c/ Damage caused by pests;
 - d/ Damage resulting from the application of plant treatment measures as requested by competent state agencies and treatment costs.
4. Levels of support for plant pest control
 - a/ Contents of support for which norms and standards have been prescribed by the State must comply with current regulations;
 - b/ For contents of support for which norms and standards are not available yet, the Minister of Finance shall assume the prime responsibility for, and coordinate with the Minister of Agriculture and Rural Development in, proposing the Prime Minister to decide on levels of support from the central budget. Chairpersons of provincial-level People's Committees shall decide on the levels of support from local budgets.
5. Use of state budget funds for plant pest control
 - a/ People's Committees of all levels shall decide to use provisional local budgets to fund pest control in their localities in accordance with the State Budget Law.

In case plant pest control costs exceed the balancing capacity of local budgets, provincial-level People's Committees shall report such to the Ministry of Finance and the Ministry of Agriculture and Rural Development for summarization and submission to the Prime Minister for consideration and decision;
 - b/ Funds for pest control activities of central agencies shall be allocated from the central budget in accordance with the State Budget Law.
6. Use of funds for pest control of plant owners

Funds for pest control other than funds from the state budget include funds from domestic and foreign organizations and individuals and international organizations (if any).
7. Use of funds for pest control contributed or financed by domestic and foreign organizations and individuals, international organizations and other lawful sources
 - a/ Contributions and financial aid of domestic and foreign organizations and individuals which belong to state budget revenues must comply with the State Budget Law;
 - b/ Other lawful contribution and financial aid must conform with donors' requirements.

Chapter III

PROVISIONS ON SUSPENSION FROM AND BAN ON EXPORT AND IMPORT OF ARTICLES SUBJECT TO PLANT QUARANTINE

Article 8. Suspension from export and import of articles subject to plant quarantine (below referred to as articles)

1. Export of articles shall be suspended in the following cases:

a/ Articles are identified as at high risk of carrying plant quarantine objects of importing countries without thorough treatment measures;

b/ Articles having violated regulations of importing countries without thorough treatment measures to find out causes of their violation and likely causing loss of export markets.

2. Import of articles shall be suspended in the following cases:

a/ Articles imported from a country or territory which are at high risk of carrying plant quarantine objects of Vietnam without thorough treatment measures;

b/ Articles imported from a country or territory detected to have plant quarantine objects or exotic harmful organisms which fail to comply with Vietnam's plant quarantine regulations as notified by the central specialized plant protection and quarantine agency;

c/ Articles from a country or territory which officially notifies an outbreak of plant quarantine objects of Vietnam.

Article 9. Conditions for resumption of export and import of articles

1. Conditions for resumption of export of articles:

a/ All measures have been applied to articles as guided by competent specialized plant protection and quarantine agencies;

b/ Articles have been examined, supervised and certified that measures to remedy the risks prescribed in Clause 1, Article 8 of this Decree have been effectively applied.

2. Conditions for resumption of import of articles:

a/ Plant quarantine authorities of exporting countries have identified and reported on the cause of contamination of plant quarantine objects and thorough treatment measures have been applied;

b/ Articles have been examined, supervised and certified that measures to remedy the risks prescribed in Clause 2, Article 8 of this Decree have been effectively applied.

Article 10. Ban on export and import of articles

1. Export of articles shall be banned in the following cases:

a/ Articles on the import ban list of importing countries;

b/ Articles without treatment measures meeting requirements of importing countries.

2. Import of articles shall be banned in the following cases:

a/ Articles imported from a country or territory which are identified as at high risk of carrying plant quarantine objects and threatening domestic agricultural production and national food security without thorough treatment measures;

b/ Imported articles which have been suspended from import but no treatment measures have been taken or the treatment measures taken fail to meet Vietnam's quarantine requirements for imported plants.

Article 11. Competence to suspend, ban or resume export and import of articles

The Minister of Agriculture and Rural Development shall decide on the suspension from, ban on and resumption of export and import of articles in accordance with this Decree.

Article 12. Order and procedures for suspension from or ban on export and import of articles

1. Pursuant to Articles 8 and 10 of this Decree, the central specialized plant protection and quarantine agency shall identify specific articles to be suspended or banned from export or import; reasons for suspension from or ban on export or import for a specific country or territory and report them to the Minister of Agriculture and Rural Development.

2. Based on reports of the central specialized plant protection and quarantine agency, the Minister of Agriculture and Rural Development shall consider, and when necessary, hold meetings to consult related ministries and sectors before suspending or ban the export or import of articles.

3. A decision suspending or banning the export or import of an article must specify:

- a/ The article's name, including its scientific name;
- b/ The name of the country or territory from which the article is exported to Vietnam or to which the article is exported from Vietnam;
- c/ Reasons for the export or import suspension or ban, including legal and scientific grounds;
- d/ The decision shall take effect 2 months (60 days) after the date of its signing and be officially announced in the mass media within 24 hours and notified to the competent plant quarantine authority of the country or territory of export.

Article 13. Order and procedures for resumption of export or import of articles

1. Pursuant to Article 9 of this Decree, the central specialized plant protection and quarantine agency shall inspect, supervise and certify the effective application of remedies and report such to the Minister of Agriculture and Rural Development.

2. Based on reports of the central specialized plant protection and quarantine agency, the Minister of Agriculture and Rural Development shall consider and decide on resumption of export or import of articles.

3. A decision on resumption of export or import of articles shall take effect on the date of its signing and be officially announced in the mass media within 24 hours and notified to the competent plant quarantine authority of the country or territory of export.

Chapter IV

IMPLEMENTATION PROVISIONS

Article 14. Effect

- 1. This Decree takes effect on January 18, 2015.
- 2. The Regulation on plant protection, the Regulation on management of plant protection drugs promulgated together with the Government's Decree No. 58/2002/ND-CP of June 3, 2002, and the Government's Decree No. 02/2007/ND-CP of January 5, 2007, on plant quarantine cease to be effective on the effective date of this Decree.

Article 15. Implementation responsibilities

Ministers, heads of ministerial-level agencies, heads of government-attached agencies, chairpersons of provincial-level People's Committees and related agencies shall implement this Decree.-

On behalf of the Government

Prime Minister

NGUYEN TAN DUNG