

THE GOVERNMENT

DECREE No. 140/2004/ND-CP OF JUNE 25, 2004 DETAILING A NUMBER OF ARTICLES OF THE LAW ON NATIONAL BORDERS

THE GOVERNMENT

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

Pursuant to the June 17, 2003 Law on National Borders;

At the proposal of the Defense Minister,

DECREES:

Chapter I

GENERAL PROVISIONS

Article 1.- Regulation scope

This Decree details a number of articles of the Law on National Borders regarding the building, management and protection of borders, border regions and the responsibility for the State management over the national borders of the Socialist Republic of Vietnam.

Article 2.- Subjects of observance of border legislation

Vietnamese and foreign agencies, organizations and individuals, whose life or activities are related to national borders and border regions, have the responsibility to observe the provisions of the Law on National Borders, this Decree and other Vietnamese law provisions; where international agreements which Vietnam has signed or acceded to otherwise provide for, such international

agreements shall apply.

Article 3.- National borders

1. The national borders of the Socialist Republic of Vietnam are lines and the vertical planes along those lines, used to determine the territorial boundaries of the mainland, islands, archipelagoes including the Paracels and the Spratlys, sea areas, underground areas and air space of the Socialist Republic of Vietnam.

2. The lines prescribed in Clause 1 of this Article cover the national borders on land and the national border on sea.

3. The vertical planes prescribed in Clause 1 of this Article comprises the vertical planes along the national land border, along the national sea border down to underground areas and up to the air space.

Article 4.- The national land borders

The national land borders between the Socialist Republic of Vietnam and the neighboring countries are determined by systems of border-markers posts, the agreements on border delimitation between Vietnam and the neighboring countries together with maps and the protocols enclosed with such agreements.

Article 5.- The national sea borders

1. The national sea borders are the outer limits of the territorial sea of the mainland, the territorial sea of islands, the territorial sea of archipelagoes of Vietnam.

At places where the territorial sea, internal waters or the historical waters of Vietnam are adjacent to the territorial seas, internal waters or the historical waters of neighboring countries, the national sea borders shall be determined according to the international agreements which Vietnam has signed with such neighboring countries.

2. The national sea borders shall be determined and marked with coordinates on sea charts under the provisions of Vietnamese laws and international agreements which Vietnam has signed or acceded to.

Article 6.- Territorial sea

1. The Vietnamese territorial sea is a sea area stretching 12 nautical miles from the baseline outwards; where the international agreements which Vietnam has signed with neighboring countries otherwise provide for, such international agreements shall apply. The Vietnamese territorial sea covers:

- a) The territorial sea of the mainland;
- b) The territorial sea of islands, the territorial sea of archipelagoes of Vietnam.

2. The Socialist Republic of Vietnam shall exercise her full and integral sovereignty over her territorial sea as well as air space, sea beds and underground areas under the sea beds of the territorial seas.

3. Foreign vessels passing by must not cause harm in the Vietnamese territorial sea, must not harm peace, security, order and/or ecological environment of the Socialist Republic of Vietnam as provided for by Vietnamese laws and international agreements which Vietnam has signed or acceded to.

Article 7.- The outer limits of the contiguous zone, the exclusive economic zone, the continental shelf

1. The outer limit of the contiguous zone is the line with each point being equally 24 nautical miles away from the nearest point of the baseline used to calculate the width of the territorial sea.

2. The outer limit of the exclusive economic zone is the line with each point being 200 nautical miles

away from the nearest point of the baseline used to calculate the width of the territorial sea.

3. The outer limit of the continental shelf is the outer rim of the mainland edge. Where the outer rim of the mainland edge is less than 200 nautical miles away from the baseline used to calculate the width of the territorial sea, the outer limit of the continental shelf in these places shall extend to 200 nautical miles.

4. In places of the contiguous zone, the exclusive economic zone, the continental shelf of Vietnam, which are related to the contiguous zones, the exclusive economic zones and the continental shelves of neighboring countries, the outer limits of such zones are determined according to the international agreements signed between Vietnam and those neighboring countries.

5. The outer limits of contiguous zone, the exclusive economic zone or the continental shelf are determined and marked with coordinates on sea charts according to Vietnamese laws and international agreements which Vietnam has signed or acceded to.

Article 8.- Border regions

1. The scope of a land border region is calculated from the national land border to the administrative boundaries of communes, wards, district townships which have part of their administrative boundaries overlap the national land border.

2. The scope of a sea border region is calculated from the national sea border to the administrative boundaries of coastal communes, wards, district townships and islands as well as archipelagoes.

3. The lists of communes, wards, district townships in the land border regions, the sea border regions are prescribed in the Government's

decrees promulgating the Regulations on border regions; in case of changes in the administrative boundaries of the communes, wards or district townships in the border regions, they shall be amended, supplemented appropriately.

4. All activities of people and means; the management and protection of the border regions as well as the maintenance of security and social order and safety therein shall comply with the Decrees promulgating the Regulations on border regions and other relevant legal documents.

Chapter II

BUILDING, MANAGEMENT AND PROTECTION OF NATIONAL BORDERS AND BORDER REGIONS

Article 9.- Construction of border works

1. Border works shall be prioritized with investment in their construction according to plans, including works to fix the border lines and works in service of management and protection of the national borders.

2. Works to fix the national border lines shall be planned by ministries, branches, provincial/municipal People's Committees and submitted to the Government for decision.

3. Works in service of national border management and protection activities shall be planned by the Defense Ministry and submitted to the Government for decision.

Article 10.- Border marker posts

1. The border marker posts shall be implanted according to the provisions of Vietnamese law and international agreements on borders, signed with the neighboring countries to mark the national border lines on the field and shall be preserved and protected to keep their right positions, shapes,

sizes, signs, inscriptions and colors as prescribed.

2. Upon detecting or receiving reports that border marker posts are damaged, lost, wrongly located, the nearest borderguard posts must carry out necessary procedures to take measures for timely handling and at the same time notify such immediately to the border protection agencies or units of neighboring countries for settlement according to jurisdiction prescribed by the signed border agreements.

3. The re-implanting, restoration, repair and maintenance of border marker posts shall comply with the provisions of Vietnamese law and international agreements already signed with neighboring countries.

Article 11.- Socio-economic development investment in border regions

1. The investment in socio-economic development and construction in border regions shall be effected in accordance with the State's undertaking, strategy, planning and plan for socio-economic development in each period in order to raise the material and spiritual life of people and combine the development with defense and security enhancement.

2. Annually, the concerned ministries, the ministerial-level agencies, the Government-attached agencies and the People's Committees of the provinces or centrally-run cities having national borders shall, within the scope of their respective functions, tasks and powers, work out and submit to the Government the construction investment plans for materialization of strategies on socio-economic development and defense as well as security enhancement in the border regions.

Article 12.- Building up the grassroots political

systems in the border regions

1. The grassroots political systems in the border regions must be constantly consolidated and firmly built according to the Party's and the State's undertakings and policies; ensure to well perform the functions of leading, managing and building the border regions and managing and protecting the national borders.

2. The contingent of grassroots officials in the border regions shall be recruited and fostered to raise their leading and managerial qualifications suitable to the requirements of socio-economic development, defense and security maintenance; priority shall be given to training and fostering ethnic minority officials and officials moving from delta regions for long-term working in border regions.

3. The Ministry of Home Affairs and the Nationality Committee shall, within their respective functions, tasks and powers, assume the prime responsibility for, and coordinate with the Defense Ministry as well as the concerned ministries and branches in, studying and proposing plans on building the grassroots political systems, training and fostering of the contingent of officials of each border region for submission to the Prime Minister for decision.

Article 13.- Population arrangement in border regions

1. The population arrangement in the border regions shall be planned in accordance with the general planning on socio-economic development, the natural conditions, nature and characteristics of each region, each ethnic group, each locality; on rational mobilization and use of labor to create material wealth and commodities in service of consumption and export and to meet the requirements of building, managing and protecting the national borders and border regions.

2. The State shall adopt proper policies for

people to settle down in the border regions; encourage officials to work for a long time and people to voluntarily settle down in border regions, particularly difficulty-hit areas.

3. The Ministry of Agriculture and Rural Development shall assume the prime responsibility for, and coordinate with relevant ministries, branches and People's Committees of the provinces or centrally-run cities having national borders in, studying and working out plans on population arrangement in the border regions and submitting them to the Prime Minister for decision.

Article 14.- The Entire-Population Borderguard Day

1. March 3 every year is taken as the Entire-Population Borderguard Day for annual observation nationwide. Contents of activities shall cover:

a) Education in the legislation on national borders, the respect for borders and territorial sovereignty, the sense of responsibility of all levels, branches, officials and employees of agencies and organizations, armed force officers and combatants and of the entire population; particularly officials and employees of agencies and organizations, armed force officers and combatants, administrations and people in the border regions in building, managing and protecting the national borders, border regions.

b) Mobilization of branches and localities to turn to the borders, to actively participate in building up the allround potentials in the border regions, creating the entire population's strength, to assist the border guards and other units of the people's armed forces, the functional agencies in the border regions in building, managing and protecting the national borders, maintaining security, social order and safety in the border regions.

c) The building of the borders of peace, friendship, and long stability with the neighboring

countries, coordination of both sides on the borders in managing and protecting the national borders and preventing and combating crimes.

2. The heads of all levels, branches and localities shall have to observe the Entire-Population Borderguard Day under the direction of the Government and the guidance of the Defense Ministry.

3. The Border Guard Command shall have the responsibility to advise the Defense Ministry on directing and guiding all levels, branches and localities in observing the Entire-Population Borderguard Day.

Article 15.- Building up the entire-population border protection and the entire-population border protection disposition

1. The entire-population border protection and the entire-population border protection disposition shall be firmly built up on the basis of building of the political system; the socio-economic construction and development; the enhancement and consolidation of defense and security in the border regions; the creation of posture for the defense of the Fatherland, the management and protection of national borders, the maintenance of security as well as social order and safety in the border regions.

2. The entire-population border protection and the entire-population border protection disposition are built up in combination with the entire-population defense, the entire-population defense disposition and the people security disposition.

3. The heads of all levels, branches and localities have the responsibility to organize the building of the entire-population border protection, the entire-population border protection disposition under the guidance of the Defense Ministry.

4. The Border Guard Command shall have the

responsibility to advise the Defense Ministry and guide the levels, branches and localities on implementation organization.

Article 16.- Building up core and specialized forces for management and protection of national borders

1. The border guard force shall be built along the revolutionary, regular, elite and gradual modernization direction; which is politically strong and firm, professionally skilled, thoroughly understands law and external activities, in order to meet the requirements of national border management and protection in all circumstances.

2. The Defense Ministry shall assist the Government in performing the State management over the building and operation of the border guard force. The Border Guard Command shall directly manage, command and build the border guards for performance of the function and tasks of managing and protecting the national borders, maintaining security as well as social order and safety in the border regions according to law provisions.

Article 17.- Management and protection of national borders and border regions

1. The management and protection of the national borders and border regions aim to ensure the inviolability of the national borders, to firmly maintain the sovereignty and territorial integrity, maintain security and social order and safety in the border regions; to build up the borders of peace, friendship and long stability with the neighboring countries.

2. The national borders, the national border marker posts and the border regions shall be managed and protected according to the Law on National Borders, this Decree, the decrees regarding the Regulations on border regions,

regulations on border gates, agreements on national border regulations, other legal documents and the relevant international agreements which Vietnam has signed or acceded to.

Article 18.- Settlement of border-related issues

1. The settlement of border and territorial issues related to neighboring countries shall be conducted through negotiations under law provisions and the Government's direction.

2. It is strictly forbidden to arbitrarily reach agreements on modification of national border lines or alteration of national border lines.

Article 19.- Responsibility for management and protection of the national borders and border regions

1. The management and protection of the national borders rest with the State, agencies, organizations, the armed forces, administrations of all levels and the entire population and constitute the direct and constant responsibilities of the administrations and people in the border regions.

2. Agencies, organizations and individuals have the obligation and responsibility to respect the national border lines, to strictly observe and implement the legislation on national borders; to actively participate in the protection of national borders, the maintenance of security as well as social order and safety in the border regions; to coordinate with and assist the border guards in preventing and combating acts of infringing upon the sovereignty, territory, national borders, security, social order and safety in the border regions.

3. While performing the tasks of protecting the national borders, the people's armed force units must base themselves on the functions, tasks and powers under the provisions of the Law on National Borders and law provisions on the national borders.

4. The border guards constitute the core and

specialized force, assuming the prime responsibility for, and coordinating with the People's Security force, the concerned branches and localities in, activities of managing and protecting the national borders, maintaining security as well as social order and safety in the border regions.

5. The navy, the Coast Guard force shall have to coordinate with the border guards in managing and protecting the national borders on the sea.

6. The air-defense and air force units shall have the responsibility to manage and protect the national borders in the air and coordinate with the border guards in protecting the national borders on the sea.

7. The people's armed force units in the border regions shall have the responsibility to coordinate with the border guards, the air-defense and air force units in protecting the national borders. The Defense Ministry shall prescribe the specific scope of responsibility and regulation on coordination among forces under its management in managing and protecting the national borders.

Article 20.- Border gates and activities at border gates

1. The opening of border gates and the openings for cross-border travel, the upgrading and closure of border gates; the determination and announcement of land routes, railways, internal waterways, maritime routes and air routes for transit shall comply with the provisions of Vietnamese law and international agreements signed with neighboring countries.

2. The entries, exits, importation, exportation, transit and national border crossings by residents in border regions at border gate areas shall comply with the border gate regulations prescribed by the Government and relevant legislation.

Article 21.- Control and assurance of security

and order at border gates

1. At the land border gates, railway border gates, internal water border gates, maritime border gates (seaports), airway border gates, the functional agencies control the entries, exits, importation, exportation, transits and border crossings according to law provisions.

a) At the land border gates, railway border gates, internal water border gates in the border regions, maritime border gates (seaports), the Border Guards shall assume the prime responsibility for, and coordinate with the concerned forces in, managing and protecting security, social order and safety in the border-gate areas.

b) At the airway border gates, the security agencies of the Ministry of Public Security shall assume the prime responsibility for, and coordinate with the concerned agencies in, managing and protecting security, social order and safety in the border-gate areas.

2. The functional State management agencies at border gates shall perform their tasks and exercise their powers according to law provisions.

Article 22.- Regimes and policies on building, managing and protecting the national borders and border regions.

1. The regimes and policies on building, managing and protecting the national borders and border regions shall include:

a) The regimes and policies towards people directly engaged in or participating the building, management and protection of the national borders;

b) The regimes and policies towards ethnic minority people in the border regions;

c) The regimes and policies on prioritizing investment in socio-economic construction and development in the border regions;

d) The regimes and policies on ensuring national defense and security in the border regions.

2. The ministries and branches shall, within their respective functions, tasks and powers, have to supplement and perfect the regimes and policies prescribed in Clause 1 of this Article and submit them to the competent authorities for decision.

Article 23.- Financial sources for the building, management and protection of the national borders and border regions

1. The financial sources for the building, management and protection of the national borders and border regions shall include the State budget sources (central budget and local budgets) and other law-prescribed revenue sources.

2. The State budget sources for the building, management and protection of the national borders and border regions shall cover:

a) The socio-economic construction and development in the border regions;

b) The building of border works;

c) Activities of managing and protecting the borders, maintaining security, social order and safety in the border regions;

d) The realization of regimes and policies towards people directly engaged or participating in the building, management and protection of the borders.

Article 24.- Decentralization of tasks of budget spending on the building, management and protection of the national borders and border regions

1. The central budget shall ensure the tasks of building, managing and protecting the national borders and border regions, which are performed by central agencies or units.

2. The local budgets shall ensure the tasks of

building, managing and protecting the national borders and border regions, which are performed by localities.

Article 25.- Estimating and settling budgets for building, managing and protecting the national borders and border regions

The estimation, implementation and settlement of budget expenditures on the building, management and protection of the national borders and border regions shall comply with the provisions of the State Budget Law.

Chapter III

STATE MANAGEMENT OVER NATIONAL BORDERS

Article 26.- Responsibilities of the Defense Ministry

1. To assume the prime responsibility for, and coordinate with the Foreign Ministry, the Public Security Ministry In, guiding and directing the provincial/municipal People's Committees to perform the State management over the national borders;

2. To coordinate with the Foreign Ministry in performing the tasks of negotiating on settlement of border and territorial issues;

3. To assume the prime responsibility for, and coordinate with the concerned ministries and branches in, studying and proposing the elaboration of, and directing the implementation of, border strategies and policies;

4. To assume the prime responsibility for, and coordinate with the Public Security Ministry in, performing the tasks of managing and protecting the national borders and maintaining the security, social order and safety in the border regions;

5. To assume the prime responsibility for, and

coordinate with the concerned ministries and branches in, drafting legal documents on borders, policies towards the border-managing and -protecting forces and submitting them to competent authorities for decision and to promulgate documents guiding the implementation thereof;

6. To build the Border Guard into a strong force, ensuring the concentrated and unified command; to provide trainings and fosterings in order to raise their professional, military, legal and external relation levels in order to perform the core and specialized role of managing and protecting the national borders, maintaining security, social order and safety in the border regions;

7. To conduct scientific and technological research and application in service of national-border management and protection; to propose the Government to direct the construction of works to fix the national borders, works in service of national-border management and protection; to invest funding and technical means and equipment for the national-border managing and protecting forces;

8. To organize preliminary and final reviews of the management and protection of national borders, the maintenance of security, social order and safety in the border regions and the implementation of regimes and report them to the Government and notify the concerned ministries and branches thereof;

9. To assume the prime responsibility for, and coordinate with the ministries, branches and localities in, propagating and disseminating legislation on national borders; to conduct examination and inspection; to settle complaints and denunciations and handle violations of the legislation on management and protection of national borders;

10. To effect international cooperation on border

protection work and carry out work of border protection-related external relations for coordination in management and protection of the national borders, the building of borders of peace and friendship with the neighboring countries.

Article 27.- Responsibilities of the Foreign Ministry

1. To assume the prime responsibility for, and coordinate with ministries, branches in, proposing undertakings and policies on territorial border and State management over the national orders;

2. To assume the prime responsibility for, and coordinate with the Defense Ministry as well as the concerned ministries and branches in, assisting the Government to determine the national borders, sovereignty, sovereign rights of the Socialist Republic of Vietnam on land, sea, in the air, on islands, the *continental shelf and organizing negotiations on determining borders, dividing areas for implanting border marker posts and handling matters related to neighboring countries;*

3. To coordinate with the Defense Ministry in directing and guiding the People's Committees of the provinces and centrally-run cities where national borders run through to perform the function of State management over the national borders;

4. To assume the prime responsibility for, and coordinate with the Defense Ministry in, proposing the Government to direct or guide the handling according to competence of matters arising in activities of branches or localities, which are related to the sovereignty and sovereign rights of the Socialist Republic of Vietnam on land and sea, in the air, on islands and continental shelf;

5. To coordinate with the Defense Ministry in training, fostering and guiding the border guards on legislation and international agreements on national-border management and protection, external relation operations and settlement of cases

related to borders and foreigners.

Article 28.- Responsibilities of the Public Security Ministry

1. To coordinate with the Defense Ministry in directing or guiding the border guards to perform the tasks of ensuring security, social order and safety, preventing and combating crimes and other law-breaking acts in the border regions;

2. To assume the prime responsibility for, and coordinate with the Defense Ministry, the Foreign Ministry and the concerned ministries and branches in working out regulations on coordination among forces in performing the task of managing and controlling entries, exits, importation, exportation and transits according to law provisions;

3. To coordinate with the Defense Ministry in providing trainings and fosterings to raise the professional levels of protecting the security, social order and safety for specialized national border-managing and protecting forces;

4. To coordinate with the Defense Ministry in exchanging ideas on situation; reaching agreement on undertakings to direct the struggle to prevent and combat crimes and other law-breaking acts related to security, social order and safety in the border regions;

5. To effect international cooperation in the field of national security, coordinate with the Defense Ministry in effecting the border security cooperation.

Article 29.- Responsibilities of the ministries, ministerial-level agencies, Government-attached agencies

Within the scope of their respective tasks and powers, the ministries, ministerial-level agencies and Government-attached agencies shall have to perform, and coordinate with the Defense Ministry, the Foreign Ministry and the Public Security Ministry in performing the State management over national

borders according to law provisions

Article 30.- Responsibility of the Border Guard

1. The Border Guard Command has the responsibility to advise the Defense Ministry on the management and protection of the national borders, the maintenance of security, social order and safety in the border regions and the building of the Border Guard force;

2. For matters related to the building, management and protection of the national borders and border regions as well as the maintenance of security, social order and safety in the border and border gate areas, the Border Guard Command may take initiative in reporting to and directly contacting the functional bodies of the Party, the State, the concerned ministries and branches, the provincial/municipal People's Committees, the border-protecting forces or administrations of the adjacent countries for exchange of ideas on settlement and at the same time report thereon to the Defense Ministry;

3. The Border Guard operates according to the provisions of law and international agreements which Vietnam has signed or acceded to regarding the national borders, security, social order and safety in the border regions and at border gates;

4. The Border Guard may deploy forces and appropriate means to perform the function and tasks of managing and protecting the national borders, maintaining security, social order and safety in the border regions and at border gates; to examine and control border crossings, entries into, and exits from, border regions, border belts, control entries and exits at the border gates (excluding the aviation border gates managed by the Public Security Ministry); to prevent and combat crimes, smuggling, trade frauds and effect the work of border protection-related external relations, to effect combat readiness against armed conflicts and aggressive wars according to law provisions;

5. To assume the prime responsibility for, and coordinate with the armed forces and concerned branches in, advising the Defense Ministry on directing the building of the entire-population border protection and the entire-population border protection disposition.

Article 31.- Responsibilities of the People's Committees at all levels in areas where national borders run through

1. To perform the State management over the national borders in their respective localities according to law provisions and direct or guide the Defense Ministry as well as the concerned ministries and branches therein;

2. To build the border regions strong in politics, economy, culture, social affairs, defense and security; to build the entire-population border protection and the entire-population border protection disposition in their respective localities;

3. To formulate plannings on population arrangement, infrastructure construction, production reorganization in the border regions; to combine socio-economic and cultural development with the consolidation of national defense and security in the border regions;

4. To direct different forces, committees, branches and launch mass movements in their localities for coordinating with the border guards in managing and protecting the national borders; maintain security, social order and safety and struggle to prevent and combat crimes in the border regions according to law provisions;

5. To coordinate with the concerned ministries and branches in:

a) Formulating and implementing projects on economic, cultural and social development for every sub-region, creating economic and social improvement in the border regions;

b) Mobilizing enterprises operating in the border regions to support the infrastructure construction, educational, medical, cultural and social development;

c) Mobilizing and encouraging organizations and localities throughout the countries to swear brotherhoods, enter into joint ventures with, and support border localities.

6. Organizing the propagation, dissemination and education of legislation on national borders;

7. Effecting the external relations with the local administrations of neighboring countries according to the provisions of legislation and international agreements on borders.

Article 32.- Responsibilities of citizens

All Vietnamese citizens have the responsibilities and obligations to protect the national borders of the Socialist Republic of Vietnam, to build up the border regions, to maintain security, social order and safety in the border regions. If detecting acts of encroaching upon borders, undermining security, social order and safety in the border regions, they must report them to the nearest border guard posts, local administrations or State agencies for timely notification to the Border Guard for handling according to law provisions.

Chapter IV

IMPLEMENTATION ORGANIZATION

Article 33.- Implementation effect

This Decree takes implementation effect 15 days after its publication in the Official Gazette.

Article 34.- Implementation guidance

The Defense Ministry shall assume the prime responsibility for, and coordinate with the concerned ministries in, elaborating guiding documents and inspecting the implementation of this Decree.

Article 35.- Implementation responsibility

The ministers, the heads of the ministerial-level agencies, the heads of the Government-attached agencies and the presidents of the provincial/municipal People's Committees shall have to implement this Decree.

On behalf of the Government

**Prime Minister
PHAN VAN KHAI**