

Part I. LEGAL DOCUMENTS

THE GOVERNMENT

Decree No. 41/2010/ND-CP of April 12, 2010, on credit policies for agricultural and rural development

THE GOVERNMENT

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

Pursuant to the December 12, 1997 Law on the State Bank of Vietnam, and the June 17, 2003 Law Amending and Supplementing a Number of Articles of the Law on the State Bank of Vietnam;

Pursuant to the December 12, 1997 Law on Credit Institutions, and the June 15, 2004 Law Amending and Supplementing a Number of Articles of the Law on Credit Institutions;

Pursuant to the Government's Resolution No. 24/2008/NQ-CP of October 28, 2008, promulgating the Government's action program to implement the Resolutions of the 7th plenum of the Xth Party Central Committee on agriculture, farmers and rural areas;

At the proposal of the Governor of the State Bank of Vietnam,

DECREES:

Chapter 1

GENERAL PROVISIONS

Article 1. Scope of regulation

1. This Decree provides credit policies for

agricultural and rural development and raising of living standards of farmers and rural population.

2. Credit policies for agricultural and rural development constitute a system of measures and policies of the State aiming to encourage credit institutions to provide loans for investment in agriculture and rural areas for economic restructuring in agriculture and rural areas, construction of infrastructure, hunger elimination and poverty reduction and incremental raising of people's living standards.

Article 2. Subjects of application.

1. Organizations providing loans for agricultural and rural development include:

a/ Credit institutions organized and operating under the Law on Credit Institutions;

b/ Small-sized financial institutions which provide small loans to poor people and other customers in the field of agriculture and rural areas under law;

c/ Banks and financial institutions set up by the Government for providing loans under state policies.

2. Organizations and individuals eligible to borrow capital under this Decree for production, business and consumption in the field of agriculture and rural areas include:

a/ Households and business households in rural areas;

b/ Individuals;

c/ Farm owners;

d/ Cooperatives and cooperation teams in rural areas;

e/ Organizations and individuals providing services for cultivation, husbandry, consumption and export of agricultural, forest and fishery

products and salt;

f/ Enterprises processing agricultural products or doing business in the fields of industry, trade and provision of non-agricultural services that have production and business establishments in rural areas.

Article 3. Interpretation of terms

In this Decree, the terms below are construed as follows:

1. "Rural areas" means parts of territory not belonging to inner urban areas of cities, towns or townships, which are managed by grassroots administrative units being commune-level People's Committees.

2. "Agriculture" means a branch in the system of national economic branches, which covers agriculture, forestry, salt making and fishery.

3. "Farm owner" means an individual or household doing large-scale business in agriculture under law.

4. "Widespread natural disaster or epidemic" mean that farmers' agricultural production is adversely affected by an epidemic, storm, flood, drought or another catastrophe on a large scale in one or more provinces or cities, which is certified and announced by competent authorities as a state of natural disaster or epidemic.

5. "Rural infrastructure" comprises technical infrastructure (transport, communications, power supply, public lighting, clean water and rural environmental sanitation systems and other works) and social infrastructure (public health, cultural, educational, sports, trade and public service works, trees, parks and other works).

Article 4. Areas covered by loans for agricultural and rural development

1. Production costs in the fields of agriculture, forestry, fishery and salt production;

2. Development of rural production and business lines;

3. Construction of rural infrastructure;

4. Processing and consumption of agricultural, forestry, fishery and salt products;

5. Trading in products and services for agriculture, forestry, salt production and fishery;

6. Industrial production, trade and provision of non-agricultural services in rural areas;

7. Consumption loans aiming to raise rural people's living standards;

8. Loans under economic programs of the Government.

Article 5. Lending principles

1. Small-sized credit institutions and financial institutions shall make credit investment for agricultural and rural development and raising people's living standards on the principle of autonomy and accountability for the investment effectiveness.

2. Credit institutions shall implement the loan security mechanism under current regulations and determine levels of unsecured loans for each specific borrower, suitable to the customer's business characteristics and the credit institutions' risk management capability. Credit institutions shall publicize levels of loans without requiring asset security and specific lending conditions and procedures in compliance with current regulations on credit institutions' provision of loans to customers.

3. Banks and financial institutions which provide loans to policy beneficiaries and economic programs under the Government's designation will be guaranteed by the Government with conditions for loan provision via policies towards agriculture, rural areas and farmers in each period.

4. Small-sized financial institutions providing

loans to borrowers in the field of agriculture and rural areas shall comply with provisions of law.

Article 6. The State's support policies

The Government shall adopt policies to encourage and support lending in the field of agriculture and rural areas via instruments of administering monetary policies and policies on handling of risks which arise on a large scale in the field of agriculture and rural areas and other specific policies in each period.

Chapter II

SPECIFIC PROVISIONS

Article 7. Lending capital sources

1. Sources of credit institutions' lending capital for agriculture and rural areas:

a/ Capital mobilized from other credit institutions and lending institutions;

b/ Borrowed capital, aid capital and entrusted capital of domestic and foreign financial or credit institutions;

c/ Capital entrusted by the Government for lending in the field of agriculture and rural areas;

d/ Capital borrowed from the State Bank: Based on the objectives of administering monetary policies and economic development requirements in each period, the State Bank shall adopt policies of capital source support for credit institutions through using instruments of administering monetary policies.

2. Banks and financial institutions which provide loans to policy beneficiaries and the Government's economic programs in rural areas shall be provided by the Government with lending capital sources from the state budget or with subsidies for differences between deposit interest rates and lending interest rates.

Article 8. Loan security mechanism

1. Credit institutions may consider the provision of loans to customers with or without asset security under current regulations.

2. Credit institutions shall clearly define the levels of loans without asset security, conditions and procedures for providing such loans to each borrower in compliance with current provisions of law on credit institutions' provision of loans to customers.

Particularly for customers being individuals, households, business households in rural areas, cooperatives and farm owners, credit institutions may consider providing them with loans without asset security at the following levels:

a/ Up to VND 50 million for individuals and households engaged in agriculture, forestry, fishery or salt production;

b/ Up to VND 200 million for households carrying out business or production activities or providing services for agriculture and rural areas;

c/ Up to VND 500 million for cooperatives and farm owners.

3. Credit institutions consider providing trust-based loans for individuals and households on the basis of guarantee by socio-political organizations in rural areas under current regulations. Socio-political organizations shall coordinate and perform all or some of credit operation stages after reaching agreement with the lending credit institutions.

4. Based on the particularities of loans in the field of agriculture and rural areas, credit institutions shall guide in detail simple and convenient procedures for loan security for borrowers.

5. Borrowers without asset security as defined in Clause 2 of this Article shall submit their land use right certificates (for those with land use right certificates) or written certifications of commune-level People's Committees that they have not yet

been granted land use right certificates and that their land is dispute-free. Customers may only use such written certifications to borrow loans at a single credit institution and bear responsibility before law for the use thereof for loans without asset security under this Decree.

6. Individuals and households, when registering security transactions to borrow loans at credit institutions for production and business activities are not required to pay security transaction registration fees to security transaction registration offices.

Article 9. Lending terms

Based on the capital rotation time, the capital-recovering capability of production and business projects or plans of customers, credit institutions and customers may negotiate on appropriate lending terms.

Article 10. Rescheduling of debts and provision of new loans

1. In case customers cannot pay debts to credit institutions on time for objective reasons (natural disaster, epidemic...), credit institutions may consider rescheduling the debt payment for customers according to current regulations, and at the same time base themselves on effective production and business projects or plans and debt-paying capabilities of customers to consider providing new loans, without depending on their outstanding debts not yet paid on time.

2. In case a natural disaster or an epidemic occurs on a large scale and competent authorities (such as provincial-level People's Committee, the Ministry of Health or the Ministry of Agriculture and Rural Development) issue a notice thereof, apart from the rescheduling of debt payment for customers under Clause 1 of this Article, the Government shall adopt specific support policies towards borrowers that suffer heavy losses and

are incapable of paying debts. Lending credit institutions may freeze the debts without calculation of interests for borrowers with regard to outstanding debts at the time the occurrence of natural disasters or epidemics is announced in the localities. The maximum debt-freezing time is 2 years and the interest amounts frozen by credit institutions for customers shall be deducted from pre-tax profits of the credit institutions.

Article 11. Lending interest rates

1. Banks and financial institutions which provide loans to policy beneficiaries or economic programs in rural areas under the Government's designation shall provide loans at interest rates set by the Government.

2. Credit institutions' lending interest rates for agricultural and rural development comply with the current commercial credit mechanism.

3. For loans provided by credit institutions for agriculture and rural areas under the entrustment of the Government or other organizations or individuals, their interest rates comply with the Government's regulations or the entrustors' agreement.

4. Small-sized financial institutions shall provide loans at interest rates agreed with customers in compliance with law.

Article 12. Setting up of risk provisions

1. Credit institutions providing loans for agriculture and rural areas shall set up risk provisions based on actually arising risks. In a year, credit institutions shall set up risk provisions based on risks which actually arose in the preceding year and at the year-end, adjust them based on risks actually arising in the year, regardless of whether or not provided loans are secured with assets.

2. The State Bank shall coordinate with the

Ministry of Finance in guiding in detail the setting up and use of risk provisions for loans in the field of agriculture and rural areas.

Article 13. Risk handling

1. Credit institutions shall handle risks related to agricultural or rural loans with their risk provisions.

2. If risks occur on a large scale for objective reasons and go beyond capabilities of credit institutions, the State shall consider and apply specific policies on a case-by-case basis.

Article 14. Agricultural insurance

Credit institutions shall adopt policies of interest exemption or reduction for customers who have purchased agricultural insurance according to their respective customer policies in order to encourage customers to purchase agricultural insurance, aiming to limit risks for credit institutions.

Chapter III

**RESPONSIBILITIES OF AGENCIES,
ORGANIZATIONS AND INDIVIDUALS**

Article 15. The State Bank of Vietnam

1. To guide credit institutions in providing loans for agriculture and rural areas under this Decree.

2. To adopt support policies for credit institutions which provide loans for agriculture and rural areas through using instruments of administering the national monetary policies.

3. To formulate policies of support via training and re-training of credit personnel for grassroots people's credit funds and small-sized financial institutions.

4. To assume the prime responsibility for, and coordinate with the Ministry of Finance in, inspecting and supervising, proposing measures for, debt handling and removing difficulties and

problems arising in the course of debt handling under Article 13 of this Decree.

5. To formulate policies to encourage credit institutions to expand their networks (branches, transaction offices) to rural areas, especially deep-lying, remote and exceptional difficulty-hit areas.

Article 16. The Ministry of Agriculture and Rural Development

1. To coordinate with provincial-level People's Committees in finalizing the master plan for agricultural and rural development, including a detailed plan for development of cultivated plants, livestock, agricultural and rural production and business lines.

2. To direct localities in well implementing agricultural, forestry, fishery and salt production promotion; to guide households, cooperatives, farm owners and other entities in formulating effective agricultural production projects and plans which serve as a basis for credit institutions to provide loans.

3. To support farmers in science, techniques, varieties and post-harvest preservation to serve consumption of farmers' products.

4. To coordinate with concerned units in perfecting regulations and guide the grant of certificates to farm owners and other entities, creating legal grounds for these entities to borrow loans from credit institutions.

5. To specifically announce the time and scope of natural disasters or epidemics which cause large-scale damage to husbandry and crops in the mass media so that concerned units can apply measures to support.

Article 17. The Ministry of Finance

1. To coordinate with the State Bank in inspecting and supervising, proposing measures for, debt handling, and removing difficulties and

problems arising in the course of debt handling under Article 13 of this Decree.

2. To coordinate with the Ministry of Justice and the Ministry of Natural Resources and Environment in guiding the non-collection of security transaction registration fees as provided for in Article 8 of this Decree.

3. To coordinate with the State Bank in guiding the setting up of risk provisions for agricultural loans.

Article 18. The Ministry of Planning and Investment

1. To act as the focal point in negotiating and exploiting domestic and foreign support capital sources for entrusted loans to agriculture and rural areas via credit institutions.

2. To assume the prime responsibility for, and coordinate with concerned ministries and sectors in, formulating mechanisms and determining sources of annual budget capital for agricultural and rural loans entrusted to credit institutions, and submitting them to the Prime Minister for consideration and decision.

3. To summarize programs and projects on development of rural infrastructure under approved development planning, together with a projected distribution of investment capital sources, serving as a basis for credit institutions to provide loans.

4. To coordinate with the State Bank and the Ministry of Finance in inspecting and supervising, proposing plans for, risk handling with regard to agricultural and rural loans hit by large-scale damage.

Article 19. The Ministry of Industry and Trade, the Ministry of Justice, the Ministry of Health and the Ministry of Natural Resources and Environment

1. The Ministry of Industry and Trade shall assume the prime responsibility for, and coordinate with the Ministry of Agriculture and Rural Development as well as concerned ministries and sectors in, formulating policies to support farmers in market information and trade promotion of agricultural products.

2. The Ministry of Justice shall assume the prime responsibility for, and coordinate with the Ministry of Finance and the Ministry of Natural Resources and Environment in, guiding the non-collection of the security transaction registration fee under this Decree.

3. The Ministry of Health shall specifically announce the time and scope of human epidemics or epidemics transmitting between humans and livestock for use as a basis for determining damage suffered by people in the affected areas, including loss of bank loans.

4. The Ministry of Natural Resources and Environment shall direct, urge and guide provincial-level People's Committees in granting certificates of land use rights and house and land-attached asset ownership.

Article 20. Provincial-level People's Committees

1. To plan the development of agricultural products and rural infrastructures in their respective provinces or cities; to adopt policies to support farmers in science, techniques, agricultural, forestry and fishery promotion, market information and consumption of agricultural products.

2. To direct their departments, sectors and subordinate People's Committees in supporting credit institutions to appraise and provide loans and recover debts according to law.

3. To direct People's Committees of communes, wards or townships to consider

certification of trust-based loan proposals of customers as defined in Clause 5, Article 8 of this Decree.

4. To assume the prime responsibility for examining and submitting to the Prime Minister (via the Ministry of Finance, the Ministry of Planning and Investment and the State Bank) mechanisms for handling risks with regard to loans of customers suffering damage due to widespread natural disasters or epidemics.

Article 21. Socio-political organizations

1. To provide trust guarantee that a number of customers in rural areas can borrow capital from credit institutions according to regulations.

2. To coordinate with credit institutions in performing all or some of credit operation stages after reaching agreement with lending credit institutions.

3. To monitor, supervise and support organizations and individuals provided with guaranteed loans in the production and sale of products and timely payment of debts to credit institutions.

Article 22. Credit institutions

1. Based on this Decree and guiding documents of management agencies, to guide the provision of agricultural and rural loans within their entire systems according to clear, transparent and simple procedures in order to facilitate customers' access to loans of credit institutions.

2. To promulgate regulations on, and procedures for, the provision of loans without asset security for uniform implementation within their respective systems in the direction of convenience, simplicity and suitability to borrowers and the levels of loans without asset security to borrowers in the field of agriculture and rural areas.

3. To guide the interest exemption or reduction for customers who buy agricultural insurance when they borrow loans at credit institutions in conformity with their customer policies.

4. To expand their operation networks in deepening, remote and rural areas suitable to their practical financial and operational capabilities; to closely coordinate with socio-political organizations in localities in the provision of loans, recovery of debts and supervision of the loan use by customers.

Article 23. Borrowers

1. To fully and honestly provide information and documents related to their borrowing and take responsibility for the accuracy of such information and documents.

2. To use loans for proper purposes, to pay loan principals and interests as agreed upon with credit institutions.

3. To strictly comply with relevant provisions of law when borrowing loans at credit institutions.

Chapter IV

IMPLEMENTATION PROVISIONS

Article 24. Effect

This Decree takes effect on June 1, 2010.

Article 25. Implementation responsibility

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

On behalf of the Government
Prime Minister
NGUYEN TAN DUNG