

**THE GOVERNMENT**

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**SOCIALIST REPUBLIC OF VIETNAM**

**Independence – Freedom – Happiness**

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No.: 31/2016/ND-CP

*Hanoi, May 06, 2016*

## **DECREE**

### **PENALTIES FOR ADMINISTRATIVE VIOLATIONS AGAINST REGULATIONS ON PLANT VARIETIES, PLANT PROTECTION AND QUANRATINE**

*Pursuant to the Law on the Organization of the Government dated June 19, 2015;*

*Pursuant to the Law on Actions against administrative violations dated June 20, 2012;*

*Pursuant to the Law on intellectual property dated November 29, 2005 and the Law dated June 19, 2009 on amendments to certain articles of the Law on intellectual property;*

*Pursuant to the Law on plant protection and quarantine dated November 25, 2013;*

*Pursuant to the Ordinance on plant varieties dated March 24, 2004;*

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

*The Government promulgates a decree on penalties for administrative violations against regulations on plant varieties, plant protection and quarantine.*

## **Chapter I**

### **GENERAL PROVISIONS**

#### **Article 1. Scope**

1. This Decree deals with violations, penalties, fines, remedial measures against administrative violations, the power to impose penalties against administrative violations against regulations on plant varieties, plant protection and quarantine.
2. Administrative violations against regulations on plant varieties, plant protection and quarantine prescribed in this Decree consist of:
  - a) Violations against regulations on plant varieties;
  - b) Violations against regulations on plant protection and quarantine, and pesticide products.

3. Other administrative violations against regulations on plant varieties, plant protection and quarantine which are not prescribed in this Decree shall apply other relevant Government's decrees on penalties for administrative violations against regulations on state management.

## **Article 2. Regulated entities**

This Circular shall apply to organizations and individuals (hereinafter referred to as entities) committing administrative violations against regulations on plant varieties, plant protection and quarantine in the territory of Vietnam.

## **Article 3. Prescriptive period of penalties for administrative violations**

1. Prescriptive period of penalties for administrative violations against regulations on plant varieties, plant protection and quarantine is one year, except for administrative violations against regulations on intellectual property rights in plant varieties, and administrative violations against regulations on production, import, export and trading in plant varieties, pesticide products, plants and plant products, for which prescriptive period of penalties is two years.

2. The time to calculate the prescriptive period of penalties for administrative violations as prescribed in Clause 1 of this Article shall comply with regulations in Point b Clause 1 Article 6 of the Law on Actions against administrative violations.

## **Article 4. Penalties and remedial measures**

1. Any entity committing any of administrative violations against regulations on plant varieties, plant protection and quarantine must face a warning or a fine.

2. Entities committing administrative violations might, subject to the nature and level of their violations, be compelled to take the following additional penalties:

a) Suspension of practicing certificates or permits, consisting of: Practicing certificate for representative service of rights to plant varieties; Plant variety rights assessor's card; Certificate of elite trees or certificate of budwood orchards; Decision on authorization for plant variety testing; Practicing card for treatment of plant quarantine subjects; Practicing card for treatment of plant quarantine subjects; Certificate of eligibility for production of pesticides; Certificate of eligibility for pesticide sales; Permit to import pesticides; Permit for pesticide testing; Phytosanitary certificate;

b) Suspension of operation registration certificates;

c) Confiscation of the exhibits of administrative violations against regulations on plant varieties, plant protection and quarantine.

3. Apart from remedial measures prescribed in Points a, c, d, dd, e, g, h, i Clause 1 Article 28 of the Law on Actions against administrative violations, this Decree provides for certain remedial measures as below:

- a) Change using purposes of plant varieties;
- b) Label each source of plant variety with varietal batch code;
- c) Make records of delivery of propagating materials;
- d) Transfer rights to use plant varieties;
- dd) Pay remunerations to plant breeders as regulated;
- e) Assist owners of plant variety patents in controlling propagating materials of registered plant varieties;
- g) Recycle pesticides which contain 70% of active ingredients or higher in comparison with applicable standards and corresponding technical regulations;
- h) Implement preventive measures against plant pests upon the decision on announcement of plant pests;
- i) Carry out treatment of wooden packages as regulated;
- k) Carry out the treatment of plant quarantine subjects which are infected with quarantine plant pests;
- l) Annul plant variety testing results;
- m) Change labels as regulated.

#### **Article 5. Regulations on fines and the power to impose fines**

1. The maximum fine for a violation against regulations on plant varieties, plant protection and quarantine incurred by an individual is VND 50,000,000; that incurred by an organization is VND 100,000,000.
2. The fines in this Decree are applied to individuals who commit administrative violations. The fine incurred by an organization is twice as much as the fine incurred by an individual for the same violation.
3. The maximum fines imposed by the persons mentioned in this Decree are incurred by individuals; the maximum fines they may impose upon organizations are twice as much as the fines incurred by individuals.

#### **Chapter II**

**ADMINISTRATIVE VIOLATIONS, PENALTIES, FINES AND REMEDIAL  
MEASURES FOR ADMINISTRATIVE VIOLATIONS AGAINST REGULATIONS ON  
PLANT VARIETIES**

**Article 6. Violations against regulations on management, use and conservation of plant genetic resources in sanctuaries**

1. A fine of from VND 3,000,000 to VND 5,000,000 shall be imposed for exploitation or use of plant genetic resources in sanctuaries beyond the limits approved by competent state authorities.
2. A fine of from VND 7,000,000 to VND 10,000,000 shall be imposed for exploitation or use of plant genetic resources in sanctuaries without permission granted by competent state authorities.
3. A fine of from VND 10,000,000 to VND 15,000,000 shall be imposed for any of the following violations:
  - a) Appropriation of genetic resources in sanctuaries;
  - b) Destruction of plant genetic resources in sanctuaries but the initial status of such genetic resources may be restored.
4. A fine of from VND 15,000,000 to VND 20,000,000 shall be imposed for destruction of plant genetic resources in sanctuaries at the level that the initial status of such genetic resources cannot be restored.
5. Additional penalties

Confiscation of the exhibits which are used to commit violations prescribed in Clauses 2, 3 and 4 of this Article.

6. Remedial measures:

Restore the initial status of genetic resources if any of the violations prescribed in Point b Clause 3 of this Article is committed.

**Article 7. Violations against regulations on collection and conservation of rare plant genetic resources in the list of rare plant genetic resources of greatest conservation need**

1. A fine of from VND 15,000,000 to VND 20,000,000 shall be imposed for any of the following violations:
  - a) Appropriation of rare genetic resources in sanctuaries;
  - b) Destruction of rare genetic resources in sanctuaries but the initial status of such genetic resources may be restored.

2. A fine of from VND 30,000,000 to VND 40,000,000 shall be imposed for destruction of plant genetic resources in sanctuaries at the level that the initial status of such genetic resources cannot be restored.

3. Additional penalties

Confiscation of the exhibits which are used to commit violations prescribed in Clauses 1, 2 of this Article.

4. Remedial measures:

Restore the initial status of genetic resources if any of the violations prescribed in Point b Clause 1 of this Article is committed.

### **Article 8. Violations against regulations on export of rare genetic resources and rare plant varieties**

1. A fine of from VND 10,000,000 to VND 15,000,000 shall be imposed for export of a rare plant genetic resource with a quantity exceeding that specified in the written permission granted by competent state authorities.

2. A fine of from VND 20,000,000 to VND 30,000,000 shall be imposed for export of a rare plant genetic resource other than that specified in the written permission granted by competent state authorities.

3. A fine of from VND 30,000,000 to VND 40,000,000 shall be imposed for export of rare plant genetic resources without the written permission granted by competent state authorities.

4. A fine of from VND 40,000,000 to VND 50,000,000 shall be imposed for export of plant varieties in the List of rare plant varieties which are banned from export.

5. Additional penalties

Confiscation of the exhibits which are used to commit violations prescribed in Clauses 1, 2, 3 and 4 of this Article.

6. Remedial measures:

Transfer earnings from violations prescribed in Clauses 1, 2, 3 and 4 of this Article to competent authorities.

### **Article 9. Violations against regulations on Value for Cultivation and Use Testing (referred to as VCU testing), and Testing for Distinctness, Uniformity and Stability (referred to as DUS testing)**

1. A fine of from VND 3,000,000 to VND 5,000,000 shall be imposed for failure to maintain the satisfaction of requirements for carrying out the testing which is approved by a competent state agency at the time when the testing is designated.

2. A fine of from VND 7,000,000 to VND 10,000,000 shall be imposed for failure to comply with current regulations on testing.

3. A fine of from VND 10,000,000 to VND 15,000,000 shall be imposed for untrue announcement of testing results.

4. Additional penalties

Suspension of Decision on authorization for plant variety testing for a period from 06 to 12 months if any of the violations in Clause 3 of this Article is committed.

5. Remedial measures:

Announce accurate information about testing results if the violation in Clause 3 of this Article is committed.

**Article 10. Violations against regulations on use of new plant varieties which are undergone testing and trial production**

1. A fine of from VND 5,000,000 to VND 10,000,000 shall be imposed for testing of a new plant variety in the testing area that exceeds 30% or more of the regulated one.

2. A fine of from VND 10,000,000 to VND 15,000,000 shall be imposed for any of the following violations against regulations on trial production of plant varieties:

a) Failure to provide cultivation techniques and methods of plant varieties undergoing trial production to growers;

b) Failure to make the contract or the list which specifies name and address of the entity in charge of trial production, period of trial production, and quantity of plant varieties transferred for trial production;

c) Failure to make records of plant varieties during the trial production.

3. A fine of from VND 15,000,000 to VND 20,000,000 shall be imposed for any of the following violations:

a) Failure to carry out the trial production of a plant variety in a suitable ecological region as approved by a competent agency;

b) Carrying out the trial production of a new plant variety in the producing area that exceeds below 30% of the regulated one.

4. A fine of from VND 25,000,000 to VND 30,000,000 shall be imposed for the trial production of a new plant variety in the producing area that exceeds from 30% to below 70% of the regulated one.

5. A fine of from VND 40,000,000 to VND 50,000,000 shall be imposed for the trial production of a new plant variety in the producing area that exceeds 70% or more of the regulated one.

**Article 11. Violations against regulations on management of elite trees and budwood orchards of perennial industrial plants and fruit plants**

1. A fine of from VND 5,000,000 to VND 10,000,000 shall be imposed for any of the following violations:

a) Failure to label plant varieties with varietal batch codes;

b) Failure to satisfy criteria for exploiting plant varieties, or exploitation of plant varieties infected with any dangerous plant pest or degenerative plant varieties;

c) Failure to cultivate S<sub>0</sub> seedling and S<sub>1</sub> seedling in qualified net houses which can prevent vector entry;

d) Exploitation of propagating materials in excess of the limits specified in Certificate of elite trees or budwood orchards;

dd) Failure to make records of delivery of propagating materials;

2. Additional penalties

Suspension of Certificate of elite trees or budwood orchards for a period from 03 to 06 months if any of the violations in Points b, c, d and dd Clause 1 of this Article is committed.

3. Remedial measures:

a) Label plant variety sources with varietal batch codes if the violation in Point a Clause 1 of this Article is committed;

b) Make records of delivery of propagating materials if the violation in point dd Clause 1 of this Article is committed;

c) Destroy plant varieties infected with dangerous plant pests or degenerative plant varieties if any of the violations in Points b and c Clause 1 of this Article is committed.

**Article 12. Violations against regulations on rights of owners of plant variety patents**

1. A fine of from VND 20,000,000 to VND 30,000,000 shall be imposed for the use of a plant variety, of which the application for a patent has been accepted, for commercial purposes without payment of compensates as regulated in Article 189 of the Law on intellectual property.

2. A fine of from VND 40,000,000 to VND 50,000,000 shall be imposed for use of rights of a plant variety patent owner on propagating materials of a registered plant variety without consent of such patent owner for any of the following purposes:

a) Production or propagation;

b) Treatment for propagation purpose;

c) Offering;

d) Sales or performance of activities for access to the market;

dd) Export;

e) Import;

g) Storage for performing any of the acts in Points a, b, c, d, dd and e of this Clause;

h) Performance of any of the acts in Points a, b, c, d, dd and e of this Clause with regard to plant varieties of which the production must use the registered varieties;

i) Performance of any of the acts in Points a, b, c, d, dd and e of this Clause with regard to plant varieties originated from registered plant varieties, except for the cases where a registered plant variety is originated from another.

3. A fine of from VND 40,000,000 to VND 50,000,000 shall be imposed for use of a variety denomination which is the same or similar with the denomination of a registered variety of the same, or a closely related, species.

4. Additional penalties

Confiscation of the exhibits which are used to commit any of the violations prescribed in Clauses 1, 2 of this Article.

5. Remedial measures:

Transfer earnings from the commitment of any of the administrative violations in this Article.

### **Article 13. Violations against regulations on obligations of owners of plant variety patents and plant breeders**



1. A fine of from VND 15,000,000 to VND 25,000,000 shall be imposed for any of the following violations:

a) Owners of plant variety patents fail to transfer the rights to use registered varieties upon decisions on compulsory transfer granted by competent agencies.

b) Owners of plant variety patents fail to pay remuneration to plant breeders as regulated;

c) Owners of plant variety patents fail to maintain the satisfaction of requirements on distinctness, uniformity and stability of registered plant varieties as at the time when plant variety patents are granted but still exploit and use propagating materials;

d) Plant breeders fail to assist owners of plant variety patents in maintaining propagating materials of registered plant varieties;

2. A fine of from VND 20,000,000 to VND 30,000,000 shall be imposed for use of plant variety patents, whose validity is expired, suspended or annulled, to exercise rights to plant varieties.

3. Additional penalties

Confiscation of plant variety patents if any of the violations in Point c Clauses 1 and 2 of this Article is committed.

4. Remedial measures:

Fulfill obligations if any of the violations in Points a, b and d Clause 1 of this Article is committed.

#### **Article 14. Violations against regulations on conditions for production and sale of major plant varieties**

1. A fine of from VND 5,000,000 to VND 10,000,000 shall be imposed for any of the following violations against regulations on conditions for sale of major plant varieties:

a) Failure to establish business locations and facilities conformable to each species of plant and each grade of variety;

b) Failure to hire technicians who possess intermediate-level education qualifications in cultivation or plant protection, or certificates of training in cultivation or plant protection, or higher.

2. A fine of from VND 10,000,000 to VND 20,000,000 shall be imposed for any of the following violations against regulations on conditions for production of major plant varieties for commercial purpose:

- a) The production location is not conformable with the planning in agriculture sector; or production requirements for each species of plant, and those for each grade of variety as regulated;
- b) Technical facilities and equipment are not conformable with the production process and techniques for each species of plant, and those for each grade of variety as regulated;
- c) Failure to hire technicians who possess intermediate-level education qualifications in cultivation or plant protection, or higher.
- d) Failure to hire technicians who possess bachelor's degrees, or higher, in agronomy, cultivation, or plant protection, to carry out the production of pre-basic seeds, basic seeds, parental seeds and hybrid seeds.

### 3. Additional penalties

The production of plant varieties shall be suspended for 06 – 12 months if any of the violations in Clauses 2 of this Article is committed.

### **Article 15. Violations against regulations on production of plant varieties**

1. A fine of from VND 5,000,000 to VND 10,000,000 shall be imposed for production of plant varieties without going through production process for each species of plant or each grade of plant variety.
2. A fine of from VND 10,000,000 to VND 15,000,000 shall be imposed for any of the following violations:
  - a) Production of varieties of perennial industrial trees or fruit trees by vegetative propagation methods without using propagating materials from certified elite trees or budwood orchards with the scale of under 5,000 plants;
  - b) Production of major varieties of forest trees without using propagating materials from certified parental trees, budwood orchards, variety nurseries or sapling forests with the scale of under 10,000 plants.
3. A fine of from VND 15,000,000 to VND 25,000,000 shall be imposed for any of the following violations:
  - a) Production of varieties of perennial industrial trees or fruit trees by vegetative propagation methods without using propagating materials from certified elite trees or budwood orchards with the scale of 5,000 plants or more;
  - b) Production of major varieties of forest trees without using propagating materials from certified parental trees, budwood orchards, variety nurseries or sapling forests with the scale of 10,000 plants or more.

4. A fine of from VND 20,000,000 to VND 30,000,000 shall be imposed for production, for commercial purposes, of plant varieties which are not in the list of plant varieties eligible for production and sale in Vietnam, or are not recognized as new plant varieties by Ministry of Agriculture and Rural Development.

5. Remedial measures:

a) Change purposes of use or destruct plant varieties if any of the violations in Clauses 1, 2 and 3 of this Article is committed;

b) Transfer illegal benefits obtained from the violation mentioned in Clause 4 of this Article to state budget;

c) Destruct plant varieties if the violation mentioned in Clause 4 of this Article is committed.

#### **Article 16. Violations against regulations on sale of plant varieties**

1. A fine of from VND 6,000,000 to below VND 10,000,000 shall be imposed for any of the following violations committed in the course of sale of plant varieties in which value of the varietal batch is from VND 10,000,000 to below VND 20,000,000:

a) Sale of plant varieties whose period of use expires;

b) Sale of plant varieties which are not in the list of plant varieties eligible for production and sale in Vietnam, or are not recognized as new farm crop or forest tree varieties by Ministry of Agriculture and Rural Development.

2. Fines for the violations in Clause 1 of this Article:

a) A fine of from VND 10,000,000 to below VND 14,000,000 if value of the varietal batch is from VND 20,000,000 to below VND 30,000,000:

b) A fine of from VND 14,000,000 to below VND 20,000,000 if value of the varietal batch is from VND 30,000,000 to below VND 40,000,000:

c) A fine of from VND 20,000,000 to below VND 30,000,000 if value of the varietal batch is from VND 40,000,000 to below VND 50,000,000:

d) A fine of from VND 30,000,000 to below VND 40,000,000 if value of the varietal batch is from VND 50,000,000 to below VND 70,000,000:

dd) A fine of from VND 40,000,000 to VND 50,000,000 if value of the varietal batch is more than VND 70,000,000.

3. Remedial measures:

Change purposes of use or destruct plant varieties if any of the violations mentioned in this Article is committed.

**Article 17. Violations against regulations on import of plant varieties and plant genetic resources which are not rare plant genetic resources**

1. A fine of from VND 15,000,000 to VND 25,000,000 shall be imposed for import of plant varieties or plant genetic resources inconsistently with written permission granted by Ministry of Agriculture and Rural Development.

2. A fine of from VND 30,000,000 to VND 40,000,000 shall be imposed for import of plant varieties or plant genetic resources without written permission granted by Ministry of Agriculture and Rural Development.

3. A fine of from VND 40,000,000 to VND 50,000,000 shall be imposed for import of plant genetic resources or plant varieties that are harmful to manufacturing, human health, environment or ecosystem.

4. Remedial measures:

a) Re-export or destruct plant varieties or plant genetic resources if any of the violations mentioned in Clauses 1 and 2 of this Article is committed;

b) Destruct plant varieties or plant genetic resources if the violation mentioned in Clause 3 of this Article is committed.

**Article 18. Violations against regulations on management of permits/certificate of practice in plant varieties**

1. A fine of from VND 1,000,000 to VND 3,000,000 shall be imposed for using permits/certificates of practice in plant varieties of other persons, including the following types:

a) Certificate of elite trees or budwood orchards;

b) Decision on authorization for plant variety testing;

c) Certificates of sample-taking persons, individuals in charge of testing plant varieties, plant variety rights assessor's card;

d) Practicing certificate for representative service of rights to plant varieties;

dd) Permit for import/export of genetic resources of plant varieties.

2. A fine of from VND 3,000,000 to VND 5,000,000 shall be imposed for deliberately changing contents of any of the following documents:

- a) Types of documents mentioned in Clause 1 of this Article;
  - b) Certificate of conformity of plant varieties;
  - c) Written record of assessment results; written record of testing results of plant variety sample.
3. A fine of from VND 10,000,000 to VND 20,000,000 shall be imposed for forging the application for any of documents mentioned in Clause 2 of this Article that not liable to criminal prosecutions.
4. Remedial measures:
- a) Transfer illegal benefits obtained from the violations mentioned in Clause 1 of this Article to state budget;
  - b) Revoke relevant certificates/documents if any of the violations mentioned in Clause 2 of this Article is committed;
  - c) Revoke and destruct relevant certificates/documents if the violation mentioned in Clause 3 of this Article is committed.

### **Chapter III**

#### **ADMINISTRATIVE VIOLATIONS, PENALTIES, FINES AND REMEDIAL MEASURES FOR ADMINISTRATIVE VIOLATIONS AGAINST REGULATIONS ON PLANT PROTECTION AND QUARANTINE**

##### **Article 19. Violations against regulations on plant pest prevention and control**

1. A warning or a fine of from VND 200,000 to VND 500,000 shall be imposed upon an individual who directly provides plant protection services but fails to meet requirements for qualifications in plant protection as regulated by the law.
2. A fine of from VND 500,000 to VND 1,500,000 shall be imposed for any of the following violations:
  - a) Deliberately failing to adopt proper measures against plant pests as requested and instructed by competent state agencies upon the decision on announcement of plant pests;
  - b) Providing plant protection services without written permission granted by communal-level people's committees.
3. A fine of from VND 1,500,000 to VND 3,000,000 shall be imposed for any of the following violations:

a) Failure to adopt measures against plant pests as requested and instructed by competent state agencies upon the decision on announcement of plant pests;

b) Failing to appoint personnel and arrange facilities to serve the testing of plant quarantine subjects at the requests of specialized plant protection and quarantine agencies without legitimate reasons.

4. A fine of from VND 3,000,000 to VND 6,000,000 shall be imposed for any of the following violations:

a) Transport and use of plant varieties or planting materials infected with plant pests from the area where the plant pests are announced to other areas;

b) Import, transport, reproduction, raising or storage of plant pests without written permission granted by Minister of Agriculture and Rural Development;

c) Spreading plant pests.

5. A fine of from VND 6,000,000 to VND 12,000,000 shall be imposed for committing any of the violations mentioned in Points a, b Clause 4 of this Article for commercial purposes.

6. Remedial measures:

a) Implement measures against plant pests as regulated if any of the violations in Point a Clauses 2 and Point a Clause 3 of this Article is committed;

b) Destruct plant varieties, planting materials, and plant pests if any of the violations mentioned in Clause 4 of this Article is committed.

c) Transfer illegal benefits obtained from the violation mentioned in Clause 5 of this Article to state budget.

#### **Article 20. Violations against regulations on imported, exported and in-transit plant quarantine**

1. A fine of from VND 1,000,000 to VND 2,000,000 shall be imposed for any of the following violations:

a) Failing to carry out procedures for plant quarantine before plant quarantine subjects are imported/exported or in transit;

b) Failing to make statement or carry out procedures for plant quarantine for plant quarantine subjects brought together with cabin luggage or checked luggage.

2. A fine of from VND 3,000,000 to VND 5,000,000 shall be imposed for any of the following violations:

a) Carrying plant quarantine subjects into Vietnam without carry out quarantine procedures at border gates;

b) Carrying plant quarantine subjects into Vietnam without Phytosanitary Certificate granted in the exporting country, except for the cases where plant quarantine subjects carried are certified by a specialized plant protection and quarantine agency – Ministry of Agriculture and Rural Development;

c) Failing to obtain Phytosanitary Certificate for imported plants as regulated, except for the cases where certification is granted by specialized plant protection and quarantine agency – Ministry of Agriculture and Rural Development.

3. A fine of from VND 5,000,000 to VND 10,000,000 shall be imposed for any of the following violations:

a) Transporting or transiting plant quarantine subjects without implementing measures against plant pests in conformity with Vietnam's regulations;

b) Failing to transport or transit plant quarantine subjects in conformity with the routes regulated by specialized agencies for plant protection and quarantine, or storing in-transit plant quarantine subjects in the territory of Vietnam over the permitted period;

c) Failing to carry out the treatment of wooden packages as regulated.

4. A fine of from VND 10,000,000 to VND 20,000,000 shall be imposed for any of the following violations:

a) Providing false information or hiding plant quarantine subjects when a plant protection and quarantine agency carries out the quarantine inspection of import/export shipments;

b) Putting plant quarantine subjects of which the quarantine inspection is not yet carried out in shipments for which Phytosanitary Certificates have been granted;

c) Arbitrarily breaking the seal, loading/unloading, carrying out the transshipment, ship-to-ship transfer, carriage transfer or detachment of plant quarantine subjects which are exported, imported or in transit via means of transport under the inspection of specialized agencies for plant protection and quarantine.

5. A fine of from VND 20,000,000 to VND 30,000,000 shall be imposed for any of the following violations:

a) Carrying plant quarantine subjects into the territory of Vietnam but failing to implement mandatory measures as specified in the Phytosanitary Certificate;

b) Carrying plant quarantine pests or pests subject to control or live alien pests into the territory of Vietnam without obtaining permission from Minister of Agriculture and Rural Development;

- c) Transporting soils into Vietnam, except for the cases where a written permission has been granted by Minister of Agriculture and Rural Development;
- d) Failing to re-export plant quarantine subjects infected with plant quarantine pests or alien pests within a regulated period upon a decision by a specialized agency for plant protection and quarantine;
- dd) Transporting plant quarantine subjects that are infected with plant quarantine pests but are not thoroughly treated as designated by specialized agencies for plant protection and quarantine.

6. Remedial measures:

- a) Re-export or destruct plant quarantine subjects if the violation mentioned in Point b Clause 1 of this Article is committed;
- b) Send plant quarantine subjects out of the territory of Vietnam upon decisions of specialized agencies for plant protection and quarantine if any of the violations mentioned in Points b, c Clause 2, Point c Clause 5 of this Article is committed; or the violation mentioned in Point a Clause 5 of this Article is committed again;

Over the period of 30 days from the date on which a competent state agency granted decision on imposition of penalties, if plant quarantine subjects are still in the territory of Vietnam, competent persons mentioned in Clause 4 Article 33 of this Decree may make decision on destruction of such plant quarantine subjects, except for legitimate reasons.

- c) Carry out treatment of wooden packages if the violation mentioned in Point c Clause 3 of this Article is committed;
- d) Destruct plant quarantine pests, or pests subject to control, or live alien pests if the violation mentioned in Point b Clause 5 of this Article is committed;
- dd) Carry out a thorough treatment of plant quarantine subjects which are infected with quarantine plant pests if the violation mentioned in Point dd Clause 5 of this Article is committed.

**Article 21. Violations against regulations on domestic plant quarantine**

1. A warning or a fine of from VND 200,000 to VND 500,000 shall be imposed for failing to obtain Phytosanitary Certificate for imported, in-transit or domestically transported plants from a specialized agency for plant protection and quarantine when plant quarantine subjects are transported from an area where the plant pests are announced to other areas.
2. A fine of from VND 1,000,000 to VND 2,000,000 shall be imposed for any of the following violations:



a) Failing to transport or load/unload plant quarantine subjects which are infected with plant quarantine pests, pests subject to control or alien pests in regulated places as mentioned in Phytosanitary Certificates for imported, in-transit or domestically transported plants;

b) Transporting plant quarantine subjects to places that are not regulated in the Phytosanitary Certificate.

3. A fine of from VND 3,000,000 to VND 5,000,000 shall be imposed for any of the following violations:

a) Transporting plant quarantine pests, pests subject to control or alien pests to various regions in the territory of Vietnam;

b) Transporting or selling plant quarantine subjects that are infected with plant quarantine pests, pests subject to control or alien pests as certified but failing to adhere to regulations of competent agencies on plant protection and quarantine;

c) Failing to implement measures to localize, block and eliminate epidemic niduses, pests subject to control or alien pests upon decisions of competent agencies on plant protection and quarantine.

4. A fine of from VND 5,000,000 to VND 10,000,000 shall be imposed for failing to implement measures for treatment of plant quarantine subjects infected with plant quarantine pests, or pests subject to control of Vietnam, or alien pests.

5. A fine of from VND 10,000,000 to VND 20,000,000 shall be imposed for failing to comply with regulations and decisions by specialized agencies for plant protection and quarantine on the treatment of plant quarantine pests.

6. Remedial measures:

a) Implement measures to stop the spread of plant quarantine pests if any of the violations mentioned in Clauses 2, 3 and 5 of this Article is committed;

b) Destruct plant quarantine subjects that are infected with quarantine plant pests if any of the violations mentioned in Clauses 4, 5 of this Article is committed.

## **Article 22. Violations against regulations on plant quarantine inspection of imported useful organisms and plant varieties**

1. A fine of from VND 1,000,000 to VND 3,000,000 shall be imposed for failing to report to the local plant protection and quarantine agency on the cultivation of firstly imported plant varieties in such local area upon the notice of specialized agency for plant protection and quarantine.

2. A fine of from VND 5,000,000 to VND 10,000,000 shall be imposed for any of the following violations:

- a) Failure to comply with regulations on import, raising and use of useful organisms;
- b) Failing to carry out the cultivation of firstly imported plant varieties in regulated places as mentioned in Phytosanitary Certificates granted by specialized agencies for plant protection and quarantine.

3. A fine of from VND 15,000,000 to VND 20,000,000 shall be imposed for carrying out the cultivation or production of imported plant varieties outside the isolation areas while a specialized agency for plant protection and quarantine does not come to the conclusion of pest infection of plant varieties the cultivation/production of which must be carried out in isolation areas.

#### 4. Remedial measures

Destruct imported useful organisms or plant varieties if any of the violations mentioned in Clause 2 and Clause 3 of this Article is committed.

### **Article 23. Violations against regulations on treatment of plant quarantine subjects**

1. A fine of from VND 5,000,000 to VND 10,000,000 shall be imposed for any of the following violations:

- a) Manager of an organization practicing treatment of plant quarantine subjects does not possess professional qualifications as regulated;
- b) Using persons who directly practices the treatment of plant quarantine subjects but do not have practicing cards for treatment of plant quarantine subjects;
- c) Failing to meet requirements on technical methods, facilities and equipment for practicing the treatment of plant quarantine subjects as regulated;
- d) Failing to meet requirements on warehouse of fumigants.

2. A fine of from VND 7,000,000 to VND 10,000,000 shall be imposed for any of the following violations:

- a) Using a type of fumigants whose commercial name is not in the list of pesticides permitted for use in Vietnam;
- b) Using fumigants which are not in conformity with applicable standards and corresponding technical regulations;
- c) Treatment of plant quarantine subjects and/or wooden packages is not in conformity with regulated technical processes;

d) Practicing treatment of plant quarantine subjects without obtaining a practicing certificate for treatment of plant quarantine subjects.

3. A fine of from VND 10,000,000 to VND 15,000,000 shall be imposed for any of the following violations committed while practicing the fumigation:

a) Using types of fumigants in the list of pesticides banned from use in Vietnam;

b) Failing to comply with regulations on use of fumigants which causes adverse effect on quality of plant quarantine subjects being fumigated;

c) Practicing treatment of plant quarantine subjects which are stated in violation announcements by competent plant quarantine agencies in importing countries;

4. Additional penalties

a) Suspend practicing cards for treatment of plant quarantine subjects for 01 - 03 months if having aggravating factors for the violation mentioned in Point c Clause 2 of this Article;

b) Suspend practicing certificates for treatment of plant quarantine subjects for 01 - 06 months if any of the violations mentioned in Points a, b Clause 2 and Points a, b Clause 3 of this Article is committed;

c) Suspend practicing activities for treatment of plant quarantine subjects for 01 - 03 months if any of the violations mentioned in Clause 1 of this Article is committed;

d) Suspend practicing activities for treatment of plant quarantine subjects for 03 - 06 months if the violation mentioned in Point c Clause 3 of this Article is repeated.

#### **Article 24. Violations against regulations on production of pesticides**

1. A fine of from VND 5,000,000 to VND 10,000,000 shall be imposed for any of the following violations:

a) Carrying out the production of pesticides while Certificate of eligibility for production of pesticides expires;

b) Failing to maintain the satisfaction of conditions for production of pesticides as regulated in Article 61 of the Law on plant protection and quarantine while carrying out production activities;

c) Carrying out the production of pesticides inconsistently with contents specified in the issued Certificate of eligibility for production of pesticides;

d) Failing to carry out the quality control of each batch of formulated pesticides, or failing to retain documents, quality control certificate and pesticide sample of each batch of formulated pesticides as regulated by the law.

2. A fine of from VND 10,000,000 to VND 15,000,000 shall be imposed for any of the following violations:

- a) Packing formulated pesticides whose expiration dates are over;
- b) Producing pesticides whose labeling contents are not in conformity with those stated in pesticide registration certificate.

3. A fine of from VND 15,000,000 to VND 20,000,000 shall be imposed for any of the following violations:

- a) Carrying out the production of pesticides without obtaining Certificate of eligibility for production of pesticides;
- b) Packing pesticides in the form of glass syringes;
- c) Continuing the production of pesticides while production activities are suspended, or certificate of eligibility for production of pesticides is suspended or revoked by a competent state agency;
- d) Failing to recollect or comply with period for recollecting pesticides under competent agency's decision.

4. A fine of from VND 20,000,000 to VND 25,000,000 shall be imposed for production of pesticides which are not in the list of pesticides permitted for use in Vietnam, except for the cases where an import permit is granted as regulated in Clause 2 Article 67 of the Law on plant protection and quarantine.

5. A fine of from VND 25,000,000 to VND 35,000,000 shall be imposed for production of pesticides which are in the list of pesticides banned from use in Vietnam if the amount of formulated pesticides is below 50 kilograms (or 50 liters).

6. A fine of from VND 40,000,000 to VND 50,000,000 shall be imposed for production of pesticides which are in the list of pesticides banned from use in Vietnam if the amount of formulated pesticides is from 50 kilograms (or 50 liters) to 100 kilograms (or 100 liters).

7. With regard to the production of pesticides which are in the list of pesticides banned from use in Vietnam, and where the amount of formulated pesticides exceeds 100 kilograms (or 100 liters), the competent person in charge of processing the case must transfer records of such violation to a criminal proceedings agency in order to carry out the criminal prosecution as regulated in Article 62 of the Law on actions against administrative violations. A fine of VND 50,000,000 shall be imposed if the criminal proceedings agency does not make decision on filing of criminal charges.

8. Additional penalties

a) Suspend activities of producer of pesticides for 06 months if the violation mentioned in Point d Clause 3 of this Article is committed;

b) Suspend certificate of eligibility for production of pesticides for 03 - 06 months if the violation mentioned in Clause 4 of this Article is committed;

b) Suspend certificate of eligibility for production of pesticides for 06 - 12 months if any of the violations mentioned in Clauses 5, 6 of this Article is committed.

#### 9. Remedial measures

a) Destruct or re-export formulated pesticides with recyclability if the violation in Point a Clause 2 of this Article is committed;

b) Recollect pesticides which have improper labels and eliminate improper contents or replace with proper labels as regulated if the violation mentioned in Point b Clause 2 of this Article is committed;

c) Destruct formulated pesticides or technical pesticides if any of the violations mentioned in Point b Clause 3, Clauses 4, 5, 6 and 7 of this Article is committed.

#### **Article 25. Violations against regulations on sale of pesticides**

1. A fine of from VND 1,000,000 to VND 2,000,000 shall be imposed for any of the following violations against regulations on sale of pesticides:

a) Sale of pesticides together with other goods such as foods, foodstuffs, soft drink, cattle feed, medicines, veterinary medicines;

b) Sale of expired or unqualified pesticides, or those whose quality is not conformable with corresponding technical regulations, or commercial names are not in the list of pesticides permitted for use in Vietnam and the amount of formulated pesticides is below 5 kilograms (or 5 liters);

c) Selling pesticides while Certificate of eligibility for sale of pesticides expires;

d) Failing to maintain the satisfaction of conditions for sale of pesticides as regulated in Article 63 of the Law on plant protection and quarantine.

2. A fine of from VND 3,000,000 to VND 5,000,000 shall be imposed for any of the following violations against regulations on sale of pesticides:

a) Sale of expired or unqualified pesticides, or those whose quality is not conformable with corresponding technical regulations, or commercial names are not in the list of pesticides permitted for use in Vietnam and the amount of formulated pesticides is from 5 kilograms (or 5 liters) to 20 kilograms (or 20 liters);

b) Sale of a type of pesticides in the list of pesticides banned from use in Vietnam and the amount of formulated pesticides is below 3 kilograms (or 3 liters);

c) Selling pesticides without obtaining a Certificate of eligibility for sale of pesticides.

3. A fine of from VND 5,000,000 to VND 8,000,000 shall be imposed for any of the following violations against regulations on sale of pesticides:

a) Sale of expired or unqualified pesticides, or those whose quality is not conformable with corresponding technical regulations, or commercial names are not in the list of pesticides permitted for use in Vietnam and the amount of formulated pesticides is from 20 kilograms (or 20 liters) to 100 kilograms (or 100 liters);

b) Selling a type of pesticides in the list of pesticides banned from use in Vietnam and the amount of formulated pesticides is from 03 kilograms (or 03 liters) to below 05 kilograms (or 05 liters);

c) Selling pesticides which are packed in the form of glass syringes;

d) Selling pesticides which are used as fumigants to persons who do not obtain practicing cards for treatment of plant quarantine subjects, or entities that do not obtain practicing certificates for treatment of plant quarantine subjects;

dd) Providing false instructions for use to buyers of pesticides;

e) Selling pesticides while sale activities are suspended, or certificate of eligibility for sale of pesticides is suspended or revoked.

4. A fine of from VND 8,000,000 to VND 15,000,000 shall be imposed for any of the following violations:

a) Sale of expired or unqualified pesticides, or those whose quality is not conformable with corresponding technical regulations, or commercial names are not in the list of pesticides permitted for use in Vietnam and the amount of formulated pesticides is from 100 kilograms (or 100 liters) to below 300 kilograms (or 300 liters);

b) Selling a type of pesticides in the list of pesticides banned from use in Vietnam and the amount of formulated pesticides is from 05 kilograms (or 05 liters) to below 10 kilograms (or 10 liters).

5. A fine of from VND 15,000,000 to VND 25,000,000 shall be imposed for any of the following violations:

a) Sale of expired or unqualified pesticides, or those whose quality is not conformable with corresponding technical regulations, or commercial names are not in the list of pesticides

permitted for use in Vietnam and the amount of formulated pesticides is from 300 kilograms (or 300 liters) to below 500 kilograms (or 500 liters);

b) Selling a type of pesticides in the list of pesticides banned from use in Vietnam and the amount of formulated pesticides is from 10 kilograms (or 10 liters) to below 20 kilograms (or 20 liters).

6. A fine of from VND 30,000,000 to VND 40,000,000 shall be imposed for any of the following violations:

a) Sale of expired or unqualified pesticides, or those whose quality is not conformable with corresponding technical regulations, or commercial names are not in the list of pesticides permitted for use in Vietnam and the amount of formulated pesticides is from 500 kilograms (or 500 liters) to below 1,000 kilograms (or 1,000 liters);

b) Selling a type of pesticides in the list of pesticides banned from use in Vietnam and the amount of formulated pesticides is from 20 kilograms (or 20 liters) to below 30 kilograms (or 30 liters).

7. A fine of from VND 40,000,000 to VND 50,000,000 shall be imposed for any of the following violations:

b) Sale of expired or unqualified pesticides, or those whose quality is not conformable with corresponding technical regulations, or commercial names are not in the list of pesticides permitted for use in Vietnam and the amount of finished pesticides is 1,000 kilograms (or 1,000 liters) or above;

b) Selling a type of pesticides in the list of pesticides banned from use in Vietnam and the amount of formulated pesticides is from 30 kilograms (or 30 liters) to below 50 kilograms (or 50 liters).

8. With regard to the sale of pesticides which are in the list of pesticides banned from use in Vietnam, and where the amount of formulated pesticides exceeds 50 kilograms (or 50 liters), the competent person in charge of processing the case must transfer records of such violation to a criminal proceedings agency in order to carry out the criminal prosecution as regulated in Article 62 of the Law on actions against administrative violations. A fine of up to VND 50,000,000 shall be imposed if the criminal proceedings agency does not make decision on filing of criminal charges.

9. Additional penalties

Suspend certificate of eligibility for sale of pesticides for 01 - 06 months for sale of pesticides which are not in the list of pesticides permitted for use in Vietnam, or sale of pesticides which are banned from sale in Vietnam as regulated in Clauses 4, 5, 6 and 7 of this Article.

10. Remedial measures

a) Recollect and return expired or unqualified pesticides, or pesticides whose quality is not conformable with corresponding technical regulations as regulated in Point b Clause 1, Point a Clause 2, Point a Clause 3, Point a Clause 4, Point a Clause 5, Point a Clause 6 and Point a Clause 7 of this Article to relevant producers or distributors for destruction or recycling, if possible.

b) Destruct pesticides which are in the list of pesticides banned from use in Vietnam, and/or those whose commercial names are not in the list of pesticides permitted for use in Vietnam, and/or pesticides packed in the form of glass syringes if the violations in Point c Clause 3, Points a, b Clause 2, Points a, b Clause 3, Clause 4, Clause 5, Clause 6, Clause 7 and Clause 8 of this Articles is committed.

### **Article 26. Violations against regulations on use of pesticides**

1. A warning or a fine of from VND 200,000 to VND 500,000 shall be imposed for any of the following violations:

a) Failing to follow instructions for use which are stated in labels of pesticides;

b) Failing to collect and put packages of used pesticides in regulated places.

2. A fine of from VND 1,000,000 to VND 2,000,000 shall be imposed for any of the following violations:

a) Using a type of pesticides whose commercial names are not in the list of pesticides permitted for use in Vietnam;

b) Using pesticides which are packed in the form of glass syringes.

3. A fine of from VND 2,000,000 to VND 3,000,000 shall be imposed for failing to follow instructions for use as stated labels of pesticides, leading to dangerous consequences.

4. A fine of from VND 3,000,000 to VND 5,000,000 shall be imposed for using pesticides which are in the list of pesticides banned from use in Vietnam.

5. Remedial measures

a) Destruct pesticides if any of the violations mentioned in Clauses 2, 4 of this Article is committed;

b) Implement measures for controlling environmental pollution if the violation mentioned in Clause 3 of this Article is committed.

### **Article 27. Violations against regulations on transport of pesticides**



1. A warning or a fine of from VND 500,000 to VND 1,000,000 shall be imposed for any of the following violations:

- a) Failing to meet technical requirements on vehicles for transporting pesticides;
- b) Transporting pesticides together with other goods such as foods, foodstuffs, soft drink, cattle feed, medicines, veterinary medicines;
- c) Transporting chemical pesticides by public transport vehicles.

2. Penalties for administrative violations against regulations on sale of pesticides mentioned in Article 25 of this Article shall be imposed for transporting banned pesticides, or pesticides whose commercial names are not in the list of pesticides permitted for use in Vietnam.

### **Article 28. Violations against regulations on import of pesticides**

1. A fine of from VND 3,000,000 to VND 5,000,000 shall be imposed for any of the following violations:

- a) Importing formulated pesticides which are in the list of pesticides permitted for use in Vietnam from a manufacturer other than that stated in the pesticide registration certificate granted in Vietnam;
- b) Importing formulated pesticides which are in the list of pesticides permitted for use in Vietnam but remaining of shelf life, as of the date on which such pesticides enter Vietnam, is below two-thirds of that specified in their labels.

2. A fine of from VND 5,000,000 to VND 10,000,000 shall be imposed for importing pesticides which are in the list of pesticides banned from use in Vietnam to use as titrant in tests without obtaining Permit to import pesticides from Ministry of Agriculture and Rural Development.

3. A fine of from VND 10,000,000 to VND 15,000,000 shall be imposed for import of unqualified formulated pesticides or technical pesticides, or those whose quality is not conformable with corresponding technical regulations.

4. A fine of from VND 10,000,000 to VND 20,000,000 shall be imposed for any of the following violations:

- a) Importing formulated pesticides or technical pesticides which are not in the list of pesticides permitted for use in Vietnam without Permit to import pesticides granted by Ministry of Agriculture and Rural Development;
- b) Importing expired formulated pesticides or technical pesticides, or those packed in the form of glass syringes;

c) Importing formulated pesticides or technical pesticides other than those stated in the issued Permit;

d) Using, selling or failing to preserve the status quo of imported formulated pesticides or technical pesticides without obtaining notice of state inspection results on quality of imported pesticides.

5. A fine of from VND 20,000,000 to VND 30,000,000 shall be imposed for importing pesticides that contain methyl bromine or active ingredients with grade-I or grade-II acute toxicity upon Globally Harmonized System of Classification and Labeling of Chemicals (referred to as “GHS”) without obtaining Permit to import pesticides from Ministry of Agriculture and Rural Development.

6. A fine of from VND 30,000,000 to VND 40,000,000 shall be imposed for import of pesticides which are in the list of pesticides banned from use in Vietnam.

#### 7. Remedial measures

a) Re-export pesticides if any of the violations mentioned in Clause 1 and Clause 3 of this Article is committed;

Over the period of 30 days from the date on which a competent state agency granted decision on imposition of penalties, if pesticides are still not re-exported, competent persons mentioned in Clause 4 Article 33 of this Decree may make decision on confiscation or destruction of exhibits of violations as regulated, except for legitimate reasons.

b) Re-export or destruct formulated pesticides and technical pesticides if any of the violations mentioned in Clause 2, Points a, b, c Clause 4, Clause 5 and Clause 6 of this Article is committed.

### **Article 29. Violations against regulations on pesticide testing for recording in the List of pesticides**

1. A fine of from VND 5,000,000 to VND 10,000,000 shall be imposed for any of the following violations:

a) Failing to obtain Permit for pesticide testing;

b) Failing to maintain the satisfaction of conditions for pesticide testing as regulated in Article 59 of the Law on plant protection and quarantine while carrying out relevant testing.

2. A fine of from VND 10,000,000 to VND 20,000,000 shall be imposed for any of the following violations:

a) Failing to comply with technical regulations, standards and methods, and requirements on pesticide testing as regulated;

b) Committing frauds of pesticide testing.

3. A fine of from VND 20,000,000 to VND 30,000,000 shall be imposed for making reports on testing results without carrying out the pesticide testing as regulated.

4. Additional penalties

Suspend activities of an entity carrying out pesticide testing for 03 – 06 months if any of the violations in Clauses 2, 3 of this Article is committed.

5. Remedial measures

Cancel pesticide testing results if any of the violations mentioned in Clauses 2, 3 of this Article is committed.

**Article 30. Violations against regulations on management of permits/ certificates of plant protection and quarantine**

1. A fine of from VND 3,000,000 to VND 5,000,000 shall be imposed for deliberately changing contents of any of the following documents:

a) Permit to import pesticides;

b) Permit for pesticide testing;

c) Pesticide registration certificate;

d) Phytosanitary Certificates for imported plants, or Phytosanitary Certificates for exported, imported, in-transit and domestically transported plants;

dd) Certificate of eligibility for production of pesticides; Certificate of eligibility for sale of pesticides;

e) Practicing certificate for treatment of plant quarantine subjects;

g) Practicing card for treatment of plant quarantine subjects;

h) Notice of state inspection results on quality of imported pesticides.

i) Certificate of plant protection services granted by a communal-level people's committee.

2. A fine of from VND 10,000,000 to VND 20,000,000 shall be imposed for forging the application for any of documents mentioned in Clause 1 of this Article that not liable to criminal prosecutions.

3. A fine of from VND 20,000,000 to VND 30,000,000 shall be imposed for using pesticides for purposes other than those regulated in Permit to import pesticides.

4. Remedial measures:

a) Revoke relevant certificates/documents if any of the violations mentioned in Clause 1 of this Article is committed;

b) Revoke and cancel relevant certificates/documents if the violation mentioned in Clause 2 of this Article is committed.

## **Chapter IV**

### **POWER TO RECORD AND IMPOSE PENALTIES FOR ADMINISTRATIVE VIOLATIONS**

#### **Article 31. Power to impose penalties of Presidents of people's committees at various levels**

1. Presidents of people's committees of communes have the power to:

a) Issue warnings;

b) Impose a fine up to VND 5,000,000;

c) Confiscate the exhibits whose value is up to VND 5,000,000;

d) Enforce the remedial measures mentioned in Points a, c, dd Clause 1 Article 28 of the Law on Actions against administrative violations.

2. Presidents of people's committees of districts have the power to:

a) Issue warnings;

b) Impose a fine up to VND 25,000,000;

c) Suspend practicing certificates/permits, or suspend relevant activities;

d) Confiscate the exhibits whose value is up to VND 25,000,000;

dd) Enforce the remedial measures mentioned in Points a, c, dd, e, h, i Clause 1 Article 28 of the Law on Actions against administrative violations and Clause 3 Article 4 of this Decree.

3. Presidents of people's committees of provinces have the power to:

a) Issue warnings;

- b) Impose a fine up to VND 50,000,000;
- c) Suspend practicing certificates/permits, or suspend relevant activities;
- d) Confiscate the exhibits for committing administrative violations;
- dd) Enforce the remedial measures mentioned in Points a, c, d, dd, e, g, h, i Clause 1 Article 28 of the Law on Actions against administrative violations and Clause 3 Article 4 of this Decree.

### **Article 32. Power to impose penalties of inspectors of plant varieties**

Inspectors of plant varieties have the power to impose penalties for administrative violations mentioned in Chapter II of this Decree. To be specific:

1. Agriculture and rural development inspectors, and persons who are assigned to carry out specialized inspections have the power to:

- a) Issue warnings;
- b) Impose a fine up to VND 500,000;
- c) Confiscate the exhibits whose value is up to VND 500,000;
- d) Enforce the remedial measures mentioned in Points a, c, dd Clause 1 Article 28 of the Law on Actions against administrative violations.

2. Chief Inspectors of Departments of Agriculture and Rural Development; Directors General or Forest Protection Sub-departments or Sub-departments of Forestry, Sub-departments of Fisheries, Plant Protection Sub-departments or Sub-departments of Crop Production and Plant Protection; Chiefs of inspectorates of Departments of Agriculture and Rural Development; Chiefs of inspectorates of Department of Crop Production, Forest Protection Sub-departments or Sub-departments of Forestry, Sub-departments of Fisheries, Plant Protection Sub-departments or Sub-departments of Crop Production and Plant Protection that are assigned to manage plant varieties have the power to:

- a) Issue warnings;
- b) Impose a fine up to VND 25,000,000;
- c) Suspend practicing certificates/permits, or suspend relevant activities;
- d) Confiscate the exhibits whose value is up to VND 25,000,000;
- dd) Enforce the remedial measures mentioned in Points a, c, d, dd, e, g, h, i Clause 1 Article 28 of the Law on Actions against administrative violations and Points a, b, c, d, dd, e Clause 3 Article 4 of this Decree.

3. Chief of the Inspectorate of Ministry of Agriculture and Rural Development, and Chiefs of Inspectorates of Directorate of Fisheries, and Directorate of Water Resources have the power to:

- a) Issue warnings;
- b) Impose a fine up to VND 35,000,000;
- c) Suspend practicing certificates/permits, or suspend relevant activities;
- d) Confiscate the exhibits whose value is up to VND 35,000,000;
- dd) Enforce the remedial measures mentioned in Points a, c, d, dd, e, g, h, i Clause 1 Article 28 of the Law on Actions against administrative violations and Points a, b, c, d, dd, e Clause 3 Article 4 of this Decree.

4. Chief Inspector of Ministry of Agriculture and Rural Development, Director General of Vietnam Administration of Forestry, Director General of Directorate of Fisheries, Director General of Department of Crop Production, and Director General of Plant Protection Department have the power to:

- a) Issue warnings;
- b) Impose a fine up to VND 50,000,000;
- c) Suspend practicing certificates/permits, or suspend relevant activities;
- d) Confiscate the exhibits for committing administrative violations;
- dd) Enforce the remedial measures mentioned in Points a, c, d, dd, e, g, h, i Clause 1 Article 28 of the Law on Actions against administrative violations and Points a, b, c, d, dd, e Clause 3 Article 4 of this Decree.

### **Article 33. Power to impose penalties of inspectors of plant protection and quarantine**

Inspectors of plant protection and quarantine have the power to impose penalties for administrative violations mentioned in Chapter III of this Decree. To be specific:

1. Agriculture and rural development inspectors, and persons who are assigned to carry out specialized inspections shall comply with regulations in Clause 1 Article 32 of this Decree.

2. Chief Inspectors of Departments of Agriculture and Rural Development; Directors General of Plant Protection Sub-departments or Sub-departments of Crop Production and Plant Protection; Chiefs of inspectorates of Departments of Agriculture and Rural Development; Chiefs of inspectorates of Plant Protection Department, Plant Protection Sub-departments or Sub-departments of Crop Production and Plant Protection have the power to:

- a) Issue warnings;
- b) Impose a fine up to VND 25,000,000;
- c) Suspend permits/certificates of eligibility/certificates of practice in plant protection and quarantine, or suspend relevant activities;
- d) Confiscate the exhibits whose value is up to VND 25,000,000;
- dd) Enforce the remedial measures mentioned in Points a, c, d, dd, e, g, h, i Clause 1 Article 28 of the Law on Actions against administrative violations and Points g, h, i, k, l, m Clause 3 Article 4 of this Decree.

3. Chief of the Inspectorate of Ministry of Agriculture and Rural Development shall have the power to:

- a) Issue warnings;
- b) Impose a fine up to VND 35,000,000;
- c) Suspend practicing certificates/permits, or suspend relevant activities;
- d) Confiscate the exhibits whose value is up to VND 35,000,000;
- dd) Enforce the remedial measures mentioned in Points a, c, d, dd, g, h, i Clause 1 Article 28 of the Law on Actions against administrative violations and Points g, h, i, k, l, m Clause 3 Article 4 of this Decree.

4. Chief Inspector of Ministry of Agriculture and Rural Development and Director General of Plant Protection Department have the power to:

- a) Issue warnings;
- b) Impose a fine up to VND 50,000,000;
- c) Suspend permits/certificates of eligibility/certificates of practice in plant protection and quarantine, or suspend relevant activities;
- d) Confiscate the exhibits for committing administrative violations;
- dd) Enforce the remedial measures mentioned in Points a, c, d, dd, e, g, h, i Clause 1 Article 28 of the Law on Actions against administrative violations and Points g, h, i, k, l, m Clause 3 Article 4 of this Decree.

#### **Article 34. Power to impose penalties of People's Public Security Forces**

1. Soldiers on duty of People's Public Security Forces have the power to:

a) Issue warnings;

b) Impose a fine up to VND 500,000;

2. Heads of public security stations, and leaders of soldiers mentioned in Clause 1 of this Article have the power to:

a) Issue warnings;

b) Impose a fine up to VND 1,500,000;

3. Communal-level police chiefs, heads of public security stations, heads of public security stations at border gates and export processing zones have the power to:

a) Issue warnings;

b) Impose a fine up to VND 2,500,000;

c) Confiscate the exhibits whose value does not exceed the fine mentioned in Point b of this Clause;

d) Enforce the remedial measures mentioned in Points a, c, dd Clause 1 Article 28 of the Law on Actions against administrative violations.

4. District-level police chiefs; Chief of operation division of Railway and Road Traffic Police Department, Chief of operation division of Waterway Police Department; Chiefs of provincial-level police agencies, including Chiefs of Police Agencies for Administrative Management of Social Order, Chiefs of Order Police Agencies, Chiefs of Police Agencies for Investigation of Social Order-related Crimes, Chiefs of Police Agencies for Investigation of Crimes Related to Economic Management Order and Positions, Chiefs of the Police Agencies for Investigation of Drug-related Crimes, Chiefs of Railway and Road Traffic Police Agencies, Chiefs of Waterway Traffic Police Agencies, Chiefs of Anti-Environment Crime Police Agencies, Chiefs of Internal Political Security Agencies, Chiefs of Economic Security Agencies, Chiefs of Ideology & Cultural Security Agencies, and Chiefs of Information Security Agencies, have the power to:

a) Issue warnings;

b) Impose a fine up to VND 10,000,000;

c) Suspend practicing certificates/permits, or suspend relevant activities;

c) Confiscate the exhibits whose value does not exceed the fine mentioned in Point b of this Clause;



dd) Enforce the remedial measures mentioned in Points a, c, dd Clause 1 Article 28 of the Law on Actions against administrative violations.

5. Directors of Public Security Departments of provinces have the power to:

a) Issue warnings;

b) Impose a fine up to VND 25,000,000;

c) Suspend practicing certificates/permits, or suspend relevant activities;

d) Confiscate the exhibits whose value does not exceed the fine mentioned in Point b of this Clause;

dd) Enforce the remedial measures mentioned in Points a, c, dd, i, k Clause 1 Article 28 of the Law on Actions against administrative violations.

6. Directors General of Department of Internal Political Security, Department of Economic Security, Department of Ideology & Cultural Security, Department of Information Security, Police Department for Administrative Management of Social Order, Police Department for Investigation of Social Order-related Crimes, Police Department for Investigation of Crimes Related to Economic Management Order and Positions, Police Department for Investigation of Drug-related Crimes, Railway and Road Traffic Police Department, Waterway Police Department, Anti-Environment Crime Police Department, and Police Department for Hi-tech Crime Prevention, have the power to:

a) Issue warnings;

b) Impose a fine up to VND 50,000,000;

c) Suspend practicing certificates/permits, or suspend relevant activities;

d) Confiscate the exhibits for committing administrative violations;

dd) Enforce the remedial measures mentioned in Points a, c, dd, i, k Clause 1 Article 28 of the Law on Actions against administrative violations and Clause 3 Article 4 of this Decree.

### **Article 35. Power to impose penalties of Customs Authorities**

1. Customs officials on duty have the power to:

a) Issue warnings;

b) Impose a fine up to VND 500,000;

2. Team leaders of Customs Branches, and team leaders of Post-clearance Audit Branches have the power to:

- a) Issue warnings;
- b) Impose a fine up to VND 5,000,000;

3. Directors General of Customs Branches and Post-clearance Audit Branches, leaders of customs enforcement teams affiliated to provincial, inter-provincial or city Customs Departments, leaders of anti-smuggling and control teams, leaders of customs procedure teams, leaders of marine control squads and leaders of intellectual property protection and control teams, affiliated to Anti-smuggling and Investigation Department, Vietnam Customs, have the power to:

- a) Issue warnings;
- b) Impose a fine up to VND 25,000,000;
- d) Confiscate the exhibits whose value does not exceed the fine mentioned in Point b of this Clause;

dd) Enforce the remedial measures mentioned in Points d, dd, g, i, k Clause 1 Article 28 of the Law on Actions against administrative violations.

4. Directors General of Anti-smuggling and Investigation Department, and Post-clearance Audit Department, affiliated to Vietnam Customs, and Directors General of provincial, inter-provincial or city Customs Departments have the power to:

- a) Issue warnings;
- b) Impose a fine up to VND 50,000,000;
- c) Suspend practicing certificates/permits, or suspend relevant activities;
- d) Confiscate the exhibits whose value does not exceed the fine mentioned in Point b of this Clause;

dd) Enforce the remedial measures mentioned in Points d, dd, g, i, k Clause 1 Article 28 of the Law on Actions against administrative violations.

5. Director General of Vietnam Customs has the power to:

- a) Issue warnings;
- b) Impose fines up to maximum levels mentioned in this Decree;

d) Confiscate the exhibits for committing administrative violations;

d) Enforce the remedial measures mentioned in Points d, dd, g, i, k Clause 1 Article 28 of the Law on Actions against administrative violations.

### **Article 36. Power to impose penalties of Market Surveillance Units**

1. Market controllers on duty have the power to:

a) Issue warnings;

b) Impose a fine up to VND 500,000;

2. Leaders of Market Surveillance Teams have the power to:

a) Issue warnings;

b) Impose a fine up to VND 25,000,000;

c) Confiscate the exhibits whose value does not exceed the fine mentioned in Point b of this Clause;

d) Enforce the remedial measures mentioned in Points a, dd, e, g, h, i, k Clause 1 Article 28 of the Law on Actions against administrative violations.

3. Directors General of Market Surveillance Departments affiliated to Departments of Industry and Trade, and Heads of Anti-smuggling Division, Anti-Counterfeiting Division, and Goods Quality Control Division, affiliated to Market Surveillance Agency, have the power to:

a) Issue warnings;

b) Impose a fine up to VND 50,000,000;

c) Confiscate the exhibits whose value does not exceed the fine mentioned in Point b of this Clause;

d) Suspend practicing certificates/permits, or suspend relevant activities;

dd) Enforce the remedial measures mentioned in Points a, c, d, dd, e, g, h, i, k Clause 1 Article 28 of the Law on Actions against administrative violations.

4. Director General of Market Surveillance Agency has the power to:

a) Issue warnings;

b) Impose fines up to maximum levels mentioned in this Decree;

- c) Confiscate the exhibits for committing administrative violations;
- d) Suspend practicing certificates/permits, or suspend relevant activities;
- dd) Enforce the remedial measures mentioned in Points a, c, d, dd, e, g, h, i, k Clause 1 Article 28 of the Law on Actions against administrative violations.

### **Article 37. Power to impose penalties of Border Guard Forces**

1. Border guards on duty have the power to:

- a) Issue warnings;
- b) Impose a fine up to VND 500,000;

2. Heads of border guard stations, and leaders of individuals mentioned in Clause 1 of this Article have the power to:

- a) Issue warnings;
- b) Impose a fine up to VND 2,500,000;

3. Heads of Border Guard Posts, Leaders of Marine Border Guard units, Commanders of border guard sub-regions, and Commanders of Border Guard Teams at Ports have the power to:

- a) Issue warnings;
- b) Impose a fine up to VND 10,000,000;
- c) Confiscate the exhibits whose value does not exceed the fine mentioned in Point b of this Clause;

d) Enforce the remedial measures mentioned in Points a, c, dd, k Clause 1 Article 28 of the Law on Actions against administrative violations.

4. Commanders of Border Guard Units of provinces, Commanders of Marine Boarder Guard Fleets affiliated to the Border Guard High Command have the power to:

- a) Issue warnings;
- b) Impose fines up to maximum levels mentioned in this Decree;
- c) Suspend practicing certificates/permits, or suspend relevant activities;
- d) Confiscate the exhibits for committing administrative violations;

dd) Enforce the remedial measures mentioned in Points a, c, dd, i, k Clause 1 Article 28 of the Law on Actions against administrative violations.

### **Article 38. Power to impose penalties of Coast Guard Units**

1. Coast guards on duty have the power to:

- a) Issue warnings;
- b) Impose a fine up to VND 1,000,000;

2. Heads of Coast Guard operation groups have the power to:

- a) Issue warnings;
- b) Impose a fine up to VND 2,500,000;

3. Heads of Coast Guard operation units and Heads of Coast Guard stations have the power to:

- a) Issue warnings;
- b) Impose a fine up to VND 5,000,000;
- c) Enforce the remedial measures mentioned in Points a, c, dd Clause 1 Article 28 of the Law on Actions against administrative violations.

4. Heads of Coast Guard squads have the power to:

- a) Issue warnings;
- b) Impose a fine up to VND 10,000,000;
- c) Confiscate the exhibits whose value does not exceed the fine mentioned in Point b of this Clause;
- d) Enforce the remedial measures mentioned in Points a, c, d, dd, k Clause 1 Article 28 of the Law on Actions against administrative violations.

5. Heads of Coast Guard Fleets have the power to:

- a) Issue warnings;
- b) Impose a fine up to VND 15,000,000;
- c) Confiscate the exhibits whose value does not exceed the fine mentioned in Point b of this Clause;

d) Enforce the remedial measures mentioned in Points a, c, d, dd, k Clause 1 Article 28 of the Law on Actions against administrative violations.

6. Commanders of Coast Guard regions have the power to:

a) Issue warnings;

b) Impose a fine up to VND 25,000,000;

c) Confiscate the exhibits whose value does not exceed the fine mentioned in Point b of this Clause;

d) Enforce the remedial measures mentioned in Points a, c, d, dd, k Clause 1 Article 28 of the Law on Actions against administrative violations.

7. The Commander of Coast Guard High Command has the power to:

a) Issue warnings;

b) Impose fines up to maximum levels mentioned in this Decree;

c) Suspend practicing certificates/permits, or suspend relevant activities;

d) Confiscate the exhibits for committing administrative violations;

dd) Enforce the remedial measures mentioned in Points a, b, c, d, dd, k Clause 1 Article 28 of the Law on Actions against administrative violations.

**Article 39. Determination of power to impose penalties of People's Public Security, Customs Authorities, Market Surveillance Units, Border Guard Forces and Coast Guard Forces**

1. Competent persons of People's Public Security Forces have the power to impose penalties for administrative violations, impose additional penalties and enforce remedial measures for administrative violations mentioned in this Decree within their competence as regulated in Article 34 of this Decree and within the ambit of their functions, tasks and powers.

2. Competent persons of Customs Authorities have the power to impose penalties for administrative violations, impose additional penalties and enforce remedial measures for administrative violations mentioned in Article 8, Points d, dd Clause 2 Article 12, Article 17, Article 20, Article 22, Article 28 and Article 30 of this Decree within their competence as regulated in Article 35 of this Decree and within the ambit of their functions, tasks and powers.

3. Competent persons of Market Surveillance Units have the power to impose penalties for administrative violations, impose additional penalties and enforce remedial measures for administrative violations mentioned in Articles 13, 14, 15, 16, 18, 19, 24, 25, 27 and 30 of this

Decree within their competence as regulated in Article 36 of this Decree and within the ambit of their functions, tasks and powers.

4. Competent persons of Border Guard Forces have the power to impose penalties for administrative violations, impose additional penalties and enforce remedial measures for administrative violations mentioned in Article 17, Clause 1 Article 18, Clause 4 Article 19, Article 20, Article 27, and Clause 6 Article 28 of this Decree within their competence as regulated in Article 37 of this Decree and within the ambit of their functions, tasks and powers.

5. Competent persons of Coast Guard Forces have the power to impose penalties for administrative violations, impose additional penalties and enforce remedial measures for administrative violations mentioned in Article 17, Clause 1 Article 18, Clause 4 Article 19, Article 20, Article 27, and Clause 6 Article 28 of this Decree within their competence as regulated in Article 38 of this Decree and within the ambit of their functions, tasks and powers.

#### **Article 40. Power to record administrative violations**

1. The persons having the power to impose penalties mentioned in Article 31 - 38 of this Decree within the ambit of their functions, tasks and powers.

2. Officials and public employees on duty within the ambit of their functions and powers as assigned in the field of plant varieties, plant protection and quarantine.

### **Chapter V**

## **IMPLEMENTATION**

#### **Article 41. Effect**

1. This Decree takes effect as of June 25, 2016.

2. This Decree replaces the Government's Decree No. 114/2013/ND-CP dated October 03, 2013 on penalties for administrative violations against regulations on plant varieties, plant protection and quarantine.

#### **Article 42. Transition**

The administrative violations against regulations on plant varieties, plant protection and quarantine that are committed before the effective date of this Decree and discovered afterwards or still in consideration, the regulations that are advantageous to the violators shall apply.

#### **Article 43. Responsibility for implementation**

1. Minister of Agriculture and Rural Development shall instruct and organize the implementation of this Decree.

2. Ministers, Heads of ministerial-level agencies, Heads of Government's agencies, Presidents of People's Committees of central-affiliated cities or provinces shall implement this Decision./.

**PP THE GOVERNMENT  
PRIME MINISTER**

**Nguyen Xuan Phuc**