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**Decree No. 116/2014/ND-CP dated December 04, 2014 of the Government providing detailed instructions on the implementation of several articles of the Law on plant protection and quarantine
12/4/2014**

THE GOVERNMENT

No. 116/2014/ND-CP

THE SOCIALIST REPUBLIC OF VIETNAM

Independence - Freedom - Happiness

Hanoi, December 04, 2014

DECREE

PROVIDING DETAILED INSTRUCTIONS ON THE IMPLEMENTATION OF SEVERAL ARTICLES OF THE LAW ON PLANT PROTECTION AND QUARANTINE

Pursuant to the Law on Governmental Organization dated December 25, 2001;

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

At the request of the Minister of Agriculture and Rural Development,

The Government hereby promulgates the Decree on providing detailed instructions on the implementation of several articles of the Law on Plant Protection and Quarantine

Chapter I

GENERAL PROVISIONS

Article 1. Scope of application

This Decree shall provide detailed instructions on the implementation of Article 9, 17, 21 and 35 of the Law on Plant Protection and Quarantine about the specialized agency for plant protection and quarantine; plant pest and disease announcement; pest control expenditure; import and export suspension; prohibition against exporting and importing articles subject to plant pest and disease control.

Article 2. Applicable entities

This Decree shall be applied to domestic or foreign organizations or individuals who get involved in activities pertaining to plant protection and quarantine in Vietnam.

Article 3. Network of specialized agencies for plant protection and quarantine

1. The centrally-governed specialized agency for plant protection and quarantine, affiliated to the Ministry of Agriculture and Rural Development, shall provide consultancy and assistance for the Minister of Agriculture and Rural Development in exercising the power over the state management and law enforcement in terms of plant pest and disease prevention and control; plant quarantine and pesticide management across the country.
2. The specialized agency for plant protection and quarantine at the level of a centrally-governed province or city (hereinafter referred to as provincial level), affiliated to the Ministry of Agriculture and Rural Development, shall assist the Director of Department of Agriculture and Rural Development in advising the People's Committee at the provincial level to exercise their state management power and law enforcement in the field of prevention and

control of harmful creatures on plants; indigenous plant quarantine and pesticide management throughout this province or city, and shall have their professional activities controlled by the centrally-governed specialized agency for plant protection and quarantine.

3. The specialized agency for plant protection and quarantine of a district, town or provincial city (hereinafter referred to as district level), affiliated to specialized agency for plant protection and quarantine at the provincial level, shall perform their assigned tasks in the territory of a district, and work with the Division of Agriculture and Rural Development to assist the People's Committee at district level in exercising their state management power in the field of prevention and control of harmful creatures on plants; indigenous plant quarantine and pesticide management throughout that district.

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

Chapter II

PLANT PEST AND DISEASE ANNOUNCEMENT, PEST CONTROL EXPENDITURE

Article 4. Conditions for announcement of plant pests and diseases

1. As regards plant harmful creatures that are neither quarantined subjects nor alien harmful creatures on plants, such announcement shall be made if:
 - a) Harmful creatures on plants have shown a sharp increase in the amount, extent and degree as against those reported in the past 02 (two) years immediately ahead of the time when plant pests and diseases are announced and forecast by the specialized agency for plant protection and quarantine at the provincial or higher level(s); have posed the risk of being rapidly spread on a large scale and a vast area, and caused tremendous impacts on production, environment, human lives, which is beyond the control of plant owners.
 - b) All necessary controlling measures against harmful creatures that have been applied by plant owners in accordance with guidelines from the specialized agency for plant protection and quarantine have not been effective as expected, which results in the application of urgent measures and forces plant owners, interested organizations and individuals at affected areas to strictly follow these measures for a definite period of time with the aim of quickly suppressing, containing and eradicating those harmful creatures.
2. As regards plant harmful creatures that are either quarantined subjects or alien harmful creatures on plants, such announcement shall be made if:

Such quarantined subjects or alien harmful creatures have been introduced into the territory of Vietnam, and posed the risk of establishing a pest population and spreading on a vast area, which requires urgent measures to be taken, or forces plant owners, interested organizations and individuals at affected areas to strictly follow these measures with the aim of quickly suppressing, containing and eradicating those harmful creatures.

Article 5. Process and procedure for announcement of plant pests and diseases

1. Process and procedure for announcement of plant pest and disease
 - a) Pursuant to the regulations laid down in Article 4 hereof, the centrally-governed specialized agency for plant protection and quarantine shall file a report to the Ministry of Agriculture and Rural Development; the specialized agency for plant protection and quarantine at the provincial level shall request the Director of Department of Agriculture and Rural Development to send a report to the President of the provincial People's

Committee on the current status of plant pests and diseases, facts or figures as evidence for the sufficient condition for announcement of plant pests and diseases, necessity for this announcement, proposed affected areas that should be announced as well as pest control measures;

- b) The Minister of Agriculture and Rural Development shall rely on the report submitted by the Head of the centrally-governed specialized agency for plant protection and quarantine; the President of the People's Committee at the provincial level shall rely on the report submitted by the Director of Department of Agriculture and Rural development to make their decision on plant pest and disease announcement;
- c) When necessary, the person who is authorized to announce plant pests and diseases is entitled to establish and consult with an advisory council. The Council shall be chaired by that person or his/her deputy, and vice-chaired by the Head of the centrally-governed specialized agency for plant protection and quarantine, or the Director of Department of Agriculture and Rural Development, and membered by representatives for relevant bodies or organizations as well as experienced experts in plant protection sector.

The advisory council shall be responsible for considering the report sent by specialized agencies for plant protection and quarantine, submit the proposal for announcement of plant pests and diseases, affected areas that should be announced as well as pest control measures to the competent person.

2. Decision on plant pest and disease announcement

- a) Contents of the decision on plant pest and disease announcement consist of: Harmful creatures on plants, affected subjects, areas, pest control measures and validity of the decision;
- b) Within a period of 24 hours from the date on which the announcement is made, such decision must be publicly announced through central and local mass media; the local authority of the affected area must inform plant owners, interested organizations and individuals throughout that area for the purpose of raising their awareness and enforcing the decision.

Article 6. Process and procedure for announcement of successful pest control

1. Whenever plant pests have been successfully suppressed and have posed no risk of causing serious harm any longer, the centrally-governed specialized agency for plant protection and quarantine shall send a report on the result of pest control and a request for an announcement of successful pest control to the Minister of Agriculture and Rural Development; the specialized agency for plant protection and quarantine at the provincial level shall submit the result of pest control and a request for an announcement of successful pest control to the President of the provincial People's Committee.

2. Contents of the report on the result of pest control and the request for announcement of successful pest control shall comprise: Overview of plant pest and disease status, forecast of tendency for the growth of harmful creatures on plants; remedial measures to be applied to mitigate harmful effects caused by plant pests, stabilize human lives and restore production to normal condition; sustainable pest control measures; legal, scientific and practical foundations for the request for announcement of successful pest control.

3. The Minister of Agriculture and Rural Development shall rely on the report submitted by the Head of the centrally-governed specialized agency for plant protection and quarantine; the President of the People's Committee at the provincial level shall rely on the report submitted

by the Director of Department of Agriculture and Rural development to make their decision to make the announcement of successful pest control.

4. Within a period of 24 hours from the date on which the competent person grants the Decision to make the announcement of successful pest control, this Decision shall be publicly announced through central and local mass media.

Article 7. Pest control expenditure

1. Pest control shall be funded by

- a) State budget allocated at current decentralized levels;
- b) Organizations or individuals who hold the right to own, use or directly manage plant owners;
- c) Contributions, aids from domestic or overseas organizations, individuals, or international organizations as well as other legal financial sources.

2. Beneficiaries of the financial support from the state budget for their pest control shall include:

- a) Those whose plants are harmed by pests or diseases, or those who are forced to apply pest control measures requested by the competent authority;
- b) Those who get involved in the pest control activities.

3. The following expenses incurred from the pest control shall be covered:

- a) Communication, training and pest control preparation;
- b) Equipment, devices and plant protection products;
- c) Losses incurred by plant pests or diseases;
- d) Losses incurred by the application of plant disinfection measures in accordance with the request made by the competent authority and any costs incurred.

4. Grants for plant pest control

- a) With regard to grants within regulated amounts or limits, expenditures shall be paid under applicable laws;
- b) With regard to grants without regulated amounts or limits, the Minister of Finance shall take charge of cooperating with the Minister of Agriculture and Rural Development in sending a request to the Prime Minister for his decision on the permitted amount of grants allocated from the central budget; the President of the People's Committee at the provincial level shall decide to determine the permitted amount of grants allocated from the local government's budget.

5. Use of the state expenditures for plant pest and disease control

- a) Expenditure for plant pest and disease control at localities shall be decided by the People's Committee at all administrative levels, which is derived from the reserve fund of each locality in accordance with the Law on State Budget.

In case the expenditure on plant pest and disease control is higher than or exceeds the local budget, the People's Committee at the provincial level shall submit a report to the Ministry of Finance and the Ministry of Agriculture and Rural Development for the purpose of requesting the Prime Minister to consider and make his decision;

b) Expenditures for the pest control task of the central bodies, allocated from the central budget, shall conform to the Law on State Budget.

6. Use of plant owners' expenditures for the plant pest and disease control

Different expenditures on the plant pest and disease control other than those derived from the state budget, aids from domestic or overseas organizations, individuals and international institutions (if any).

7. c) Use of pest control expenditures coming from contributions and aids from domestic or overseas organizations, individuals, or international organizations as well as other legal financial sources.

a) The state expenditures coming from contributions, aids from domestic or overseas organizations for the purpose of plant pest and disease control shall conform to the regulations laid down in the Law on State Budget;

b) As regards other legal contributions and aids, all of requirements set out by the sponsors shall be followed.

Chapter III

REGULATIONS ON EXPORT AND IMPORT SUSPENSION; PROHIBITION AGAINST EXPORTING AND IMPORTING ARTICLES SUBJECT TO PLANT QUARANTINE

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

1. Suspension of export of articles shall become effective if:

a) These articles pose high risk of carrying quarantined subjects from importing countries and there has not been any measures to be applied to eradicate them;

b) These articles have infringed upon regulations laid down by importing countries without any possible measures to be taken to eliminate causes for such infringements as well as imposed the risk of losing exporting markets.

2. Suspension of import of articles shall become effective if:

a) These articles are imported from countries or territories that pose high risk of carrying quarantined subjects into Vietnam and there has not been any measures to be applied to eradicate them;

b) These articles imported from countries or territories have been infected with quarantined subjects or alien harmful creatures, and have been subject to the notification of their failure to comply with the regulations on plant quarantine sent by the centrally-governed specialized agency for plant protection and quarantine in Vietnam;

c) These articles imported from countries or territories have been subject to the official information about the outbreak of such quarantined subjects in Vietnam.

Article 9. Requirements that should be met to continue to import and export quarantined articles

1. Requirements for continuation in export of quarantined articles:

a) These articles have been subject to application of measures in accordance with instructions provided by the competent specialized agency for plant protection and quarantine;

b) These articles have been subject to inspection, supervision and confirmation of effective application of measures to mitigate risks as prescribed in Clause 1 Article 8 hereof.

2. Requirements for continuation in import of quarantined articles

a) These articles have been reported by the exporting country's plant quarantine agency in order to determine the cause for being infected with quarantined subjects and have been subject to controlling measures to have them eradicated;

b) These articles have been subject to inspection, supervision and confirmation of effective application of measures to mitigate risks as prescribed in Clause 2 Article 8 hereof.

Article 10. Prohibition against exporting and importing quarantined articles

1. Articles shall be prohibited from being exported if:

a) Articles are specified in the list of prohibited articles in importing countries;

b) Articles have not been subject to any controlling measure which conforms to regulations set out in importing countries.

2. Articles shall be prohibited from being imported if:

a) These articles are imported from countries or territories that pose high risk of carrying quarantined subjects into Vietnam, threat to domestic agricultural production, national food security without being subject to any controlling measures to have them eradicated;

b) These articles have been subject to the suspension of import without applying any remedial measures or have undergone the application of these measures but still not conform to regulations on imported plant quarantine in Vietnam.

Article 11. Authority to suspend or prohibit export and import of plants or continue to permit export and import of quarantined articles

The Minister of Agriculture and Rural Development shall be vested with the power to suspend or prohibit export and import of plants or continue to permit export and import of quarantined articles in accordance with the regulations laid down in this Decree.

Article 12. Process and procedure for suspending or prohibiting export and import of quarantined articles

1. Pursuant to regulations enshrined in Article 8 and 10 hereof, the centrally-governed specialized agency for plant protection and quarantine shall specify kinds of articles subject to suspending or prohibiting export and import; the cause for this suspension or prohibition against export and import in a single country or territory, and submit a report to the Minister of Agriculture and Rural Development.

2. The Minister of Agriculture and Rural Development shall rely on the report sent by the centrally-governed specialized agency for plant protection and quarantine to consider any decision. When necessary, the Minister shall consult with relevant Ministries and departments before granting the decision to suspend or prohibit import and export of such articles.

3. Decision to suspend or prohibit export and import of articles must provide specific contents as follows:

a) Generic name of articles (scientific name included);

b) Name of the country or territory where such articles are exported to Vietnam or imported from Vietnam;

- c) Cause for such suspension or prohibition in which the legal grounds and scientific bases must be clearly stated;
- d) The Decision shall take effect after 02 months (60 days) from the signing date and, within 24 hours, must be publicly announced through mass media and shall be dispatched to the competent authority for plant quarantine in exporting countries or territories.

Article 13. Process and procedure for continuing to permit export and import of quarantined articles

1. Pursuant to regulations enshrined in Article 9 hereof, the centrally-governed specialized agency for plant protection and quarantine shall conduct the inspection, supervision and confirmation of effective application of remedial measures, which shall be then reported to the Minister of Agriculture and Rural Development.
2. The Minister of Agriculture and Rural Development shall rely on the report sent by the centrally-governed specialized agency for plant protection and quarantine to consider deciding whether the continuation in export and import of such articles is permitted.
3. The Decision to continue to permit export and import of such articles shall take effect from the signing date and, within 24 hours, must be publicly announced through mass media and shall be dispatched to the competent authority for plant quarantine in exporting countries or territories.

**Chapter IV
IMPLEMENTARY PROVISIONS**

Article 14. Effect

1. This Decree shall take effect from January 18, 2015.
2. Statutory regulations on plant protection, rules and statutes on pesticide management issued together with the Government's Decree No. 58/2002/ND-CP dated June 03, 2002; the Government's Decree No. 02/2007/ND-CP dated January 05, 2007 on providing regulations on plant quarantine shall become defunct from the effective date of this Decree.

Article 15. Implementation

Ministers, quasi-ministerial bodies, Heads of Governmental agencies, the President of the People's Committees of centrally-affiliated cities and provinces, relevant organs and organizations shall be responsible for enforcing this Decree./.

**PP. THE GOVERNMENT
THE PRIME MINISTER**
(Signed and sealed)

Nguyen Tan Dung
(This translation is for reference only)