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**ORDINANCE
ON PLANT PROTECTION AND QUARANTINE**

In order to enhance State administration, increase pest management efficiency, contribute to sustainable and advanced agricultural production, protect human health and environment, and preserve ecological equilibrium;

Pursuant to the Constitution of the Socialist Republic of Vietnam of 1992;

Pursuant to the Resolution of the eighth Session of the National Assembly regarding the development of a regulatory system for 2001;

This Ordinance stipulates regulations on plant protection and quarantine.

Chapter I
GENERAL PROVISIONS

Articles 1

Plant protection and quarantine as referred to in this Ordinance include those activities relating to the prevention and management of injurious pests, plant quarantine and pesticide management.

Article 2

This Ordinance shall apply to any Vietnamese and foreign organizations and/or individuals that are involved in the production, sale and use of plant resources, and other activities related to plant protection and quarantine in the territory of Vietnam, except otherwise stipulated in international conventions and agreements to which the Socialist Republic of Vietnam is a signatory.

Article 3

For the purpose of this Ordinance, the following terms shall have the meanings hereunder assigned to them:

1. *Plant resources* include beneficial plants or plant products.
2. *Injurious pests* mean any micro-organism, insect, disease, weed, rodent or other organisms causing damage to plant resources.
3. *Beneficial organisms* mean any fungus, insect, animal and other organisms used to reduce the damage to plant resources due to injurious pests.
4. *Novel injurious organisms* are those that have not been identified on the basis of authoritative scientific evidence or not found previously in the country.
5. *Plant quarantine pests* mean any injurious organism that has potential to cause significant damage to plant resources in an area where such a pest is not present, or present but not widely distributed.
6. *Regulated articles* mean any plant, plant product, or means of production, storage or transportation that may harbour plant quarantine pests.
7. *The owner of plant resources* means any organization and/or individual that has the right to possess, use or manage such plant resources.
8. *The owner of regulated articles* means any organization and/or individual that has the right to possess, use or manage such regulated articles.
9. *Pesticides* are those products that contain chemicals, plants, animals, micro-organisms or other active ingredients used for the prevention and management of injurious pests.
10. *Plant seeds* include seeds, tubers, plants and parts thereof or other materials used for plant propagation.
11. *Imported plant seeds* are those imported from foreign countries for research or growing.

Article 4

Plant protection and quarantine are implemented according to principles that:

1. Focus on timely detection and management of pests; while ensuring pest management efficiency as well as the safety of human health and the environment;
2. Combine immediate interests with long-term ones, while ensuring common interests of the society;
3. Apply advanced technologies, combining with technologies arising from traditional experience of the people.

Article 5

The Government creates favourable conditions for domestic and foreign organizations and individuals who invest in the prevention and management of injurious pests;

The Government encourages the research, manufacturing, sale and use of less toxic biological pesticides as well as minimizing pesticide use through the application of integrated pest management measures.

Article 6

All State agencies, economic organizations, political organizations, socio-political organizations, social organizations, professional organizations and individuals shall take responsibility to implement this Ordinance.

Vietnam's Fatherland Front and its affiliates shall have responsibility to educate and mobilize people to implement and monitor the implementation of the provisions of the Ordinance on Plant Protection and Quarantine.

Article 7

Any acts causing damage to plant resources, human health, the environment and ecological systems are strictly prohibited.

Chapter II

PREVENTION AND MANAGEMENT OF PESTS INJURIOUS TO PLANT RESOURCES

Article 8

The prevention and management of injurious pests should be conducted in a regular, consistent, and timely manner with respect to research, testing, production, exploitation, processing, storage, sale, use, exportation, importation, transit and other activities related to plant resources.

Article 9

The prevention and management of injurious pests may include:

1. Survey, detection, forecasting and warning of pest occurrence, development, distribution and damage;
2. Guiding the implementation of pest prevention and management practices;
3. Guiding the application of advanced science and technologies in pest prevention and management.

Article 10

Owners of plant resources have the following rights and obligations:

1. Request the authorized plant protection and quarantine agencies to inform them of the current status of pest infestation and assist in the prevention and management of pests;
2. Actively develop and implement plans for the prevention and management of injurious pests;
3. Notify the authorized plant protection and quarantine agency when any injurious pest has been found to cause significant damage to plant resources;
4. Apply appropriate measures to prevent and control injurious pests, avoiding the spread of such pests to plant resources of other people;
5. Apply timely pest prevention and management practices in order to protect plant resources, as requested by the authorized plant protection and quarantine agencies.

Article 11

1. When a sign of pest outbreak is reported, the authorized plant protection and quarantine agency must inspect promptly and assist the owners of plant resources in pest prevention and management.
2. When a pest develops strongly on a large scale, posing a high risk of significant damage to plant resources within the territory of a province or city under the Central Government, the Chairman of the People's Committee of the respective province or city shall evaluate and announce the outbreak, and report to the Minister of Agriculture and Rural Development. In cases where the pest outbreak occurs in two or more provinces, the Minister of Agriculture and Rural Development shall evaluate and announce the outbreak, and report to the Prime Minister.

Article 12

Responsibilities of State agencies, organizations and individuals when the outbreak is announced:

1. The Minister of Agriculture and Rural Development shall give instructions to localities concerned to control the pest and prevent it from spreading to other areas; decide, or request the Prime Minister to decide, appropriate measures to control the outbreak taking into account its seriousness.

2. Chairmen of People's Committees at all levels in the outbreak areas shall direct concerned agencies and social organizations to mobilize local people for taking appropriate measures to control the pest and prevent the spread of the pest to other areas. Depending on pest significance and distribution, the Chairman of the local People's Committee of the outbreak area shall notify his/her superior of appropriate measures taken to suppress the outbreak, mitigate the damage and prevent pest resurgence.

3. The owners of plant resources, organizations and individuals involved shall take necessary measures for pest management, under the direction of authorized plant protection and quarantine agencies.

When the outbreak is suppressed, the authority that announced the pest outbreak shall annul or cancel the announcement of pest outbreak.

Article 13

The following offence is strictly prohibited:

1. Use of plant protection practices that may pose danger to humans or beneficial organisms, and damage to the environment and ecosystems;

2. Being able to apply, but refusing to implement, preventive measures, which may result in the occurrence of a pest outbreak, destroying plant resources;

3. Sale or use of agricultural products that contain pesticide residues greater than the permitted maximum residue levels.

4. Importation, exportation, production, transportation, storage, sale and use of plant seeds that are seriously infested with pests or infested with dangerous pests.

Chapter III

PLANT QUARANTINE

Article 14

1. Plant quarantine activities aim to detect plant quarantine pests and determine their status of infestation in a precise and timely manner;

2. Plant quarantine activities include:

- a) Inspection of regulated articles;
- b) Determination of appropriate phytosanitary measures for treatment of the articles infected with plant quarantine pests;
- c) Supervision and certification of the implementation of phytosanitary treatments;
- d) Surveillance and monitoring of pest status on imported plant seeds and stored plant products;
- e) Assistance in the detection and identification of plant quarantine pests, as well as in the implementation of phytosanitary measures.

Article 15

Periodically, the Minister of Agriculture and Rural Development shall evaluate and publish the list of plant quarantine pests that must be prevented from entering Vietnam or spreading within the country.

Article 16

The owners of regulated articles are responsible for monitoring pest status in those regulated articles.

When a plant quarantine pest or novel injurious organism is intercepted or suspected, the owner of the regulated articles shall immediately take appropriate phytosanitary measures to eradicate and prevent its spread, at the same time notifying the nearest plant protection and quarantine authority or local government.

Article 17

1. When a plant quarantine pest or a novel injurious organism is detected, the authorized plant protection and quarantine agency shall decide phytosanitary measures in order to delimit and eradicate said pest, and request the owner of the regulated articles to take those measures immediately.

2. In case of an outbreak of a plant quarantine pest or a novel injurious organism, the authorized plant protection and quarantine agency shall immediately notify the competent authorities, in order to announce the outbreak as stipulated in Article 11 of this Ordinance.

Article 18

1. All regulated articles for import, re-export and re-import must undergo plant quarantine inspection.

2. In cases where a plant quarantine pest is intercepted:

a) If the pest is not present in the territory of Vietnam and is included in the list of plant quarantine pests of Vietnam, the infested articles shall not be imported, and shall be returned to the place of origin or destroyed;

b) If the pest is not widely distributed in the territory of Vietnam and is included in the list of plant quarantine pests of Vietnam or other novel injurious organisms, the infested articles shall be subject to complete treatments decided by the authorized plant protection and quarantine agencies before being imported;

3. In cases where scientific evidence is not sufficient to determine the plant quarantine pest status of regulated articles, those articles must be strictly kept in a designated place. Within a period specified by the Government, the authorized plant protection and quarantine agencies shall notify to release those articles without treatment, or to treat the articles under the provisions of Item a or b of this Article before release.

Article 19

1. Beneficial organisms and plant resources imported for propagation or likely to be used for propagation shall be liable to strict inspection and monitoring by the authorized plant protection and quarantine agencies, in accordance with provisions on plant protection and quarantine.

2. Once beneficial organisms or plant resources imported for propagation or likely to be used for propagation are moved to other localities, the owner shall inform the local authorized plant protection and quarantine agency to arrange inspection and monitoring.

3. New plant seeds which are imported for the first time shall be grown in a designated place for pest screening. Those seeds will be released for growing only after the authorized plant protection and quarantine agency has certified that they are free from plant quarantine pests of Vietnam.

Article 20

1. Plant quarantine inspection for export shall be made on regulated articles provided that commercial contracts or international agreements, to which Vietnam adheres, require export certification.

2. In case of non-compliance with plant quarantine standards, the authorized plant protection and quarantine agency shall refuse to issue the phytosanitary certificate, and shall request the owner of the articles to implement treatments.

Article 21

Regulated articles in transit through the territory of Vietnam shall be approved by the authorized plant protection and quarantine agency, and subject to phytosanitary measures to prevent injurious pests from entering Vietnam. In case of spreading pest infestation, the owner shall immediately inform the nearest authorized plant protection and quarantine agency of Vietnam, and take phytosanitary measures according to provisions of Vietnam's law.

Article 22

1. Any organizations and individuals who own regulated articles for import, export, re-import, re-export, and transit as specified in Item 1, Article 18, Item 1 Article 20 and Article 21 of this Ordinance, shall submit an application for phytosanitary certification to the authorized plant protection and quarantine agency of Vietnam located at the relevant land borderport, railway station, riverport, seaport, airport or post office.

2. Upon receipt of the application, the authorized plant protection and quarantine agency shall, depending on the nature, type and amount of the commodity, decide and notify the owner of the site and date of inspection.

3. Phytosanitary inspection shall be made immediately after the regulated articles are transferred to the inspection site designated by the authorized plant protection and quarantine agency.

4. The Government specifies procedures for inspection of regulated articles for export, import, re-export, re-import and transit.

Article 23

In case regulated articles from a foreign country are found to be distributed or discarded in Vietnam, the owner or discoverer must notify the nearest authorized plant protection and quarantine agency of Vietnam immediately, in order to arrange appropriate phytosanitary treatment.

Article 24

Organizations and individuals who conduct phytosanitary disinfestation or fumigation must obtain an official license and meet other requirements in accordance with provisions of law.

Article 25

Plant quarantine officers on duty shall wear the uniform, badge and plant quarantine identity card as stipulated by the Government.

Article 26

The owner of the regulated articles shall be liable for plant protection and quarantine charges and fees according to provisions of law.

Article 27

It is strictly prohibited to bring into Vietnam or distribute within the country the following items:

1. Pests included in the plant quarantine pest list;
2. Novel injurious organisms; and
3. Soil infected with injurious pests.

Chapter IV

PESTICIDE MANAGEMENT

Article 28

Pesticides are restricted to trade and conditionally traded products. The State conducts the management of manufacturing, exportation, importation, storage, distribution, transportation, sale and use of pesticides in accordance with provisions of law.

The State gives preferential treatments to the research, investment, manufacturing, sale, and use of biological pesticides which are less hazardous.

Article 29

The Ministry of Agriculture and Rural Development takes responsibility to:

1. Regulate the testing and registration of new pesticides for use in Vietnam;
2. Grant testing permit and pesticide registration certificate in Vietnam;
3. Announce detailed list of pesticides permitted for use, pesticides restricted for use, and pesticides banned for use in Vietnam.

Article 30

1. The manufacturing, formulation, bottling, packaging, storage, distribution, transportation, sale, use and disposal of pesticides must be safe to the health of humans, plants, animals and the environment.

2. The person who has caused the leakage of pesticides, must timely carry out treatment measures according to provisions of law. In case of leakage in a large scale and causing serious consequences, that one must immediately inform the plant protection and quarantine authority, environmental protection agency, local authorities or other relevant agencies for treatment and must be liable in accordance with provisions of law.

3. Any person who has found the leakage of pesticides, shall have responsibility to inform immediately the plant protection and quarantine authority or the nearest People's Committee.

Article 31

1. Any person directly involved in the management and trading of pesticides in the areas of production, formulation, bottling, packaging and sale of pesticides, must obtain an official license and meet other requirements according to provisions of law.

2. The granting of permit for foreign investment in the areas of production, formulation, bottling and packaging of pesticides in Vietnam must obtain the consent of the Ministry of Agriculture and Rural Development.

3. The import of any pesticide which is outside the list of permitted pesticides and is used for a foreign investment project, and the import of any pesticide which is included in the list of restricted pesticides, must obtain a permit from the Ministry of Agriculture and Rural Development.

Article 32.

1. Any organization and/or individual involved in the importation, production, formulation, bottling, packaging and sale of pesticides must assure quality and standards as registered with the plant protection and quarantine authority. Labels must be provided in accordance with provisions of law.

2. Any organization and/or individual using pesticides must follow the instructions with regard to target, type, dosage, concentration, timing, post harvest interval, expiry date and scope of use.

3. Any organization and/or individual using pesticides must ensure safety to humans, crops, animals, food and the environment, and be liable for using pesticides not in compliance with Point 2 of this Article.

Article 33

1. Pesticides shall be destroyed or returned to the place of origin may include:

- a) Pesticides banned for use in Vietnam;
- b) Counterfeit pesticides;
- c) Obsolete pesticides;
- d) Pesticides without clear origin;
- e) Pesticides falling outside the list of pesticides permitted for use in Vietnam.

The Government specifies pesticides that will be destroyed or returned to the place of origin.

2. The disposal of pesticides and/or package must be conducted in accordance with provisions of law and must be supervised and certified by the plant protection and quarantine authority, environmental protection agency and local authorities.

3. In case of a pesticide to be destroyed or returned to the place of origin, all related costs and expenses shall be borne by the organization and/or individual involved in the importation, production and sale of that pesticide.

Article 34

The reservation of pesticides is stipulated as follows:

1. National pesticide reserves shall be established at the central level;
2. Local pesticide reserves shall be established at the provincial level;

The Government shall decide the establishment, management and use of pesticide reserves.

Article 35

The following activities are strictly prohibited:

1. The manufacturing, formulation, bottling, packaging, storage, importation, distribution, transportation, sale and use of banned pesticides; counterfeit pesticides; pesticide without clear origin; pesticides with labels not in compliance with provisions of law; pesticides falling outside the list of pesticides restricted and

permitted for use in Vietnam, unless otherwise stipulated in Point 3, Article 30 of this Ordinance.

2. Importation, sale and use of obsolete pesticides.

3. Advertisement of pesticides that are banned and restricted for use, not in the list of permitted pesticides and not consistent with those that have already been registered.

Chapter V

STATE MANAGEMENT OF PLANT PROTECTION AND QUARANTINE

Article 36

State management of plant protection and quarantine may include:

1. Developing and implementing plans related to pest management, plant quarantine and pesticides;

2. Issuing and arranging the implementation of legal documents related to plant protection and quarantine;

3. Arranging the monitoring, inspection and detection of injurious pests; giving instructions to prevent and suppress injurious pests;

4. Arranging the implementation of plant quarantine activities;

5. Arranging the registration, control and trial of pesticides;

6. Granting and revoking the permit to conduct field trial of new pesticide, the permit to import restricted or non-permitted pesticides, phytosanitary certificate, pesticide registration certificate, pesticide sale license, and disinfestation license;

7. Arranging the studies, training in the field of plant protection and quarantine;

8. Disseminating information and knowledge related to plant protection and quarantine;

9. Inspecting and addressing all grievances in the field of plant protection and quarantine;

10. Maintaining international cooperation in the field of plant protection and quarantine.

Article 37

1. The Government conduct State management over plant protection and quarantine in the whole country.

2. The Ministry of Agriculture and Rural Development takes responsibility to carry out State management activities related to plant protection and quarantine in the whole country.

3. Other ministries, ministerial-level and government agencies shall, under their jurisdiction, conduct state management of plant protection and quarantine.

4. People's Committees at all levels shall conduct state management of implementation of plant protection and quarantine activities in conjunction with agricultural extension activities at local levels.

5. Plant protection and quarantine system is established from the central to grassroots levels. The Government specifies the structure, duties and power of all plant protection and quarantine agencies.

Article 38

The inspection of plant protection and quarantine is specialized inspection.

The inspection of plant protection and quarantine is responsible for inspecting the enforcement of law on pest management, plant quarantine and pesticide management, recommending appropriate measures to prevent any violations of plant protection and quarantine regulations.

The Government specifies structure and activities of the plant protection and quarantine inspection system .

Article 39

Any organization and/or individual have the right to complain to the competent government agencies about any violations of regulations on plant protection and quarantine.

Any individual has the right to denounce to the competent government agencies any violations of plant protection and quarantine regulations.

The settlement of complaint and denunciation of violations in the field plant protection and quarantine shall be made according to the provision of Laws on Complaint and Denunciation.

Chapter VI

REWARD AND HANDLING OF VIOLATIONS

Article 40

Any organization and/or individual making contributions to the protection of plant resources, pest management or detection and prevention of any violations in the field of plant protection and quarantine, shall be rewarded according to provisions of law.

Article 41

Any person who violates the provisions of this Ordinance, counterfeits permits, licenses and certificates of all kinds in the field of plant protection and quarantine and violates other related provisions shall, depending on the nature and seriousness of the violation, be either sanctioned administratively or examined for penal liability according to provisions of law.

Article 42

Any person who abuses power in granting and revoking permits, licenses and certificates related to plant protection and quarantine not in compliance with law; lack of responsibility to implement plant protection and quarantine law; covers up for the offender or violates other provisions related to plant protection and quarantine shall, depending on the nature and seriousness of the violation, be either sanctioned administratively or examined for penal liability according to provisions of law.

Article 43

Any person who violates the regulations on plant protection and quarantine causes damage to the government, organization and/or individual, besides being punished in accordance with Article 41 or Article 42 of this Ordinance, shall be liable for compensation according to provisions of law.

Chapter VII

IMPLEMENTATION PROVISION

Article 44

This Ordinance takes effect from the 1st January 2002.

This Ordinance replaces the former Ordinance on Plant Protection and Quarantine, which was approved by the Executive Committee of the National Assembly on the 4th February 1993.

All provisions contrary to this Ordinance shall be annulled.

Article 45

The Government shall guide the implementation of this Ordinance.

Hanoi, 25 July 2001

ON BEHALF OF THE EXECUTIVE COMMITTEE
OF THE NATIONAL ASSEMBLY

Chairman

(signed)

Nguyen Van An