

THE GOVERNMENT

SOCIALIST REPUBLIC OF VIETNAM  
Independence - Freedom - Happiness

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## GOVERNMENTAL DECREE

### On Penalties Imposed on Administrative Violations in respect of Forest Control, Forest Protection and Forest Products Management

#### THE GOVERNMENT

Pursuant to the Law on Governmental Organization dated December 25<sup>th</sup> 2001;  
Pursuant to the Law on Forest Protection and Development dated December 3<sup>rd</sup> 2004;  
Pursuant to the Ordinance on Administrative Penalty N<sup>o</sup> 44/2002/PL-UBTVQH10 dated July 2<sup>nd</sup>  
2002;  
Regarding proposals made by the Minister of Agriculture and Rural Development;

#### DECREES:

#### Chapter I

#### GENERAL PROVISIONS

##### Article 1. Governing scope and subject matter

###### 1. Governing scope

This Decree regulates administrative penalties imposed on violations in respect of forest control, forest protection and forest product management in the territory of the Socialist Republic of Vietnam.

This Decree shall not be applied for foreign timber and other forest products legally imported to Vietnam (including the case of unequal quantity of the illegally imported timber).

Actions of importing timber un-accordant with the State existing law; using timber import documents to legalize domestic timber shall be penalized in accordance with this decree.

###### 2. Subject matter

This Decree covers administrative penalties against domestic and foreign entity, individual (*hereinafter referred to as the violator*) having unintentional or intentional actions against the State's Regulations on Forest Control, Forest Protection and Forest Product Management, which have not yet resulted in or resulted in damages against forest, forest products, forest environment, not to the extent of criminal imputation.

In case of regulations otherwise stated in the International Treaty joined by the Socialist Republic of Vietnam, regulations included in such International Treaty shall be applied.

##### Article 2. Expressions and definitions

1. Forestry products are those exploited from forest plants, wild animals, forest living beings and their products.

Wood as specified in this Decree includes round timber, lumber, and hewn timber.

2. Endangered, precious and rare wild plants listed under Group IA, IIA; endangered, precious and rare wild animals listed under Group IB, IIB are endangered, precious, and rare wild plants and animals in accordance with regulations of the Government.

3. Exhibit, vehicles of administratively illegal case include:

- a) Exhibit is forestry products damaged by violators.
- b) Vehicles are objects, tools and means of transport used by violators for their administratively illegal actions.

Means of transporting illegal forestry products may be: means of transport involving in road traffic, motorbikes, bicycles, manual carts and carts hauled by cattle; ships, boats, canoes, rafts, other means of transport involving in waterway.

4. Vehicles appropriated by illegal individual or entity are those under the ownership of legal individual or entity stolen, robbed, extorted by other illegal individual or entity who makes corrupt use of the asset owner's incapability of prevention to appropriate publicly (publicly appropriating) or causes other illegal actions to appropriate, control, and use such assets of legal owners.

5. Exhibit, vehicles deem to be illegally used by illegal individual or entities are of the following cases:

- a) The legal owner of vehicles lease such vehicles to other individual or entity, or have them driven by the other for legitimate purpose, but the lessee or the person hired to drive such vehicles has laterally used them for transport of illegal forestry products.
- b) The legal owner for their vehicles or individual, entity in legal control for vehicles leased from other individual, entity assigns such vehicles to their employees to manage, drive, use for purposes of production and business but such employees have laterally used such vehicles for transport of illegal forestry products.

6. Organizational violations are violation involving two people or more that closely cooperated with each other to carry out intentionally illegal actions.

7. Repeated violation is the case in which the person previously causing administratively illegal action in respect of forest control, forest protection and forestry products management has not yet been expired from prescription of penalty and has not yet been penalized continue to carry out administrative illegal action in respect of this area.

8. Backsliding is the case in which the person previously causing administratively illegal action has penalized in respect of administratively illegal action in respect of forest control, forest protection and forestry products management, not yet expired and deemed not to have been penalized for administratively illegal action causes such administratively illegal action in this field.

9. In this decree, maximum administrative fine given in respect of forest control, forest protection and forestry products management is 30,000,000VND as provided in Ordinance No. 44/2002/PL-UBTVQH10 dated July 2<sup>nd</sup>, 2002 issued by Standing Committee of the National Assembly on imposing administrative fines (hereby referred as ordinance on imposing administrative fines). In case that this ordinance is revised or the State issues new regulation on this field, the maximum administrative fine shall be naturally applied in accordance with the existing law.

### **Article 3. Principles of penalty**

1. Any administratively illegal actions in respect of forest control, forest protection and forestry products management must be timely discovered and immediately prevented. Administrative penalty must be transparently carried on in accordance with the laws; the violator or the guardian must bear responsibility for making good any consequences as the result of administratively illegal actions in accordance with regulations of the applicable laws.

Individual, entity shall be only given administrative fine in respect of forest control, forest protection and forestry products management when they carry out administratively illegal actions as provided in this decree.

2. Before making decision on administrative penalty, the competent person must consider personal status of the violator and subject to the nature and the extent of violation; Aggravating, mitigating circumstances as regulated at Articles 8 and 9 of the Ordinance on Administrative Penalty to decide on the mode and extent of penalty and measures to make good any consequences.

3. In the event that individual or entity causing administratively illegal action has no aggravating, mitigating circumstances, the amount of pecuniary penalty shall be the average amount of the penalty framework as regulated to impose on such action; with mitigating circumstances, the amount of pecuniary penalty may be reduced but not less than the lowest level of the pecuniary penalty framework as regulated to impose on such action; with aggravating circumstances, the amount of pecuniary penalty may be higher but not exceeding over the highest level of the pecuniary penalty framework as regulated to impose on such action.

4. An administratively illegal action shall be only penalized one time.

5. A person causing administratively illegal actions shall be penalized for each illegal action and then totalled for collective penalty.

6. Persons causing the same administratively illegal action, each of whom shall be penalized for each illegal action. It is protected to sub-divide the extent of general damage to impose penalty on each violator.

Members with the same family, if causing administratively illegal action shall not deem to be illegal organizational case, administrative penalty is only applied as an individual violator.

7. People whose age are from 14 to 16 years old causing administratively illegal actions will be given warning panalty for their intentional actions; People whose age are from 16 to 18 years old causing administratively illegal actions will be incurred administrative panalty for all of their illegal actions. The level of fine given to these people will not exceed half of the fine applied for adult people; in the event that they don't have money to pay for their fine, their parents or tutor have to pay for them.

8. The following illegal actions shall not be administratively penalized but turned to criminal imputation:

a) Evidence is wild plants and animals listed under groups IA, IB of the List of endangered, precious and rare wild plants and animals as regulated in Decree No. 32/2006/NĐ-CP dated March 30, 2006 issued by the Government on management of endangered, precious and rare plants and animals (excluding activity of rearing wild animals listed under group IB as provided in item 4 of article 20 in this decree).

b) Damage caused by illegal actions exceed over the maximum administrative penalty as regulated at Articles 11, 12, 18, and 19 of this Decree.

c) Illegal transporting and trading of timber exceed over the maximum administrative penalty as regulated at point d of item 1, item 3 of Articles 21; Article 22 of this Decree.

d) The violator encroaching many types of forests including special forest, protective forest, and productive forest or illegally exploiting, transporting, and trading two types of wood up, even though area of each type of forest, the volume of each type of wood has not yet reached to the criminal imputation, but the total penalty amount exceeds over 30,000,000 VND.

e) Repeating offence of violations as regulated in Article 175; Article 189 of Criminal Code issued in 1999.

9. Administrative illegal actions causing damage exceeding over the maximum administrative penalty in respect of forest control, forest protection and forestry products management but the Criminal Code doesn't regulate those actions as crimes, the maximum administrative fine in respect of forest control, forest protection and forestry products management shall be applied.

10. In the events that exhibits as the consequence of administratively illegal actions are of forest plants, wild animals as listed under appendixes I and II of the Convention on International Trade of Endangered Species (CITES) but not specified in the List of endangered, precious and rare forest plants and wild animals as regulated in Decree No. 32/2006/NĐ-CP dated March 30, 2006 issued by the Government on management of endangered, precious and rare plants and animals shall be solved as follows:

a) Exhibits are species as listed in appendix I solved as the same to the illegal action against endangered, precious and rare wild plants and animals of group IA, IB.

b) Exhibits are species listed in appendix II solved as the same to the illegal action against endangered, precious and rare wild plants and animals of group IIA, IIB as regulated at this Decree.

11. In the event that the violator has been criminally introduced of instance, but then suspended, and documents relating to such case are turned to administrative penalty, the violator of the case shall be incurred the maximum administrative fine as regulated correspondingly to such illegal action.

In the event that the violator has been criminally introduced of instance and exhibit of such case is of endangered, precious and rare wild plants and animals of group IA, IB but then suspended and documents relating to such case are turned to administrative penalty, it shall be applied with corresponding regulations for rare and emergency forest trees and wild animals of groups IIA, IIB for judgment.

#### **Article 4. Prescription of administrative penalty**

1. Prescription of administrative penalty in respect of forest control, forest protection and forestry products management shall be one year, as from the date the administratively *illegal action* was made. If exceeding over such prescription, administrative penalty shall not be imposed on the violator, but it is required to impose with compulsory measures to make good any consequences as regulated at Article 6 of this Decree.

For any action of illegal storage of forestry products, the prescription of administrative penalty shall be still applied as from the point of time of illegal storage of such forestry products is discovered.

2. For violators introduced of instance, prosecuted, or decided for judgment in accordance with the criminal procedure, but then decided for suspension of investigation or suspension of the case and documents relating to such case are turned to administrative penalty, the prescription of administrative penalty in this case shall be three month as from the date the competent person receives the decision on suspension and documents relating to such case.

#### **Article 5. Modes of penalty**

1. The administrative violator must bear one of administrative penalties: warning or pecuniary penalty as regulated at Chapter II of this Decree.

2. Depending on the nature and extent of violation, individual or entity causing administratively illegal action may be also imposed with one or more additional penalties such as dispossessed of license, certificate of practice; confiscated with illegal forestry products, means of action.

3. The violator who is foreigner may be bear penalty of expelling. Expelling penalty shall be applied as main penalty or additional penalty depending on each specific case.

#### **Article 6. Measures to make good consequences**

A part from penalties as specified at Article 5 of this decree, the administrative violator may be also imposed with one or more measures to make good consequences as follows:

1. Obligated to re-afforest and bear costs of reforestation according to the investment rate locally applied at point of time of administratively illegal action.

2. Obligated to remove illegal construction works; obliged to make good or bear costs of making good consequences of the excavated forest area caused by such administratively illegal action.

3. Obligated to bear costs of forest fire – fighting; obliged to make good or bear costs of making good consequences of forest pollution.

4. Obligated to bear costs of rescue or incineration of injured or died wild animals, bear costs of releasing wild animals to the natural environment.

5. Obligated to take passengers to the coach station or bear costs of taking passengers to the coach station in case of using coach to illegally transport forestry products

#### **Article 7. Determination of damages against the forests, forestry products**

1. Unit to determine damage

- a) Forest area shall be in square metre (m<sup>2</sup>).
  - b) Wood volume shall be in cubic metre (m<sup>3</sup>) converted into round timber. Converted from hewn timber, lumber into round timber by multiplying with 1.6.
  - c) Stump, root, and timber ( except for waste after processing) belonging to endangered, precious and rare species of which shape is complicate for measuring its volume in cubic metre shall be measured in weigh that is every 1000 kg equal 1 cubic metre of round timber. Those that do not belong to endangered, precious and rare species shall be measured in ste as for firewood.
  - d) Volume of firewood of different kinds shall be in ste.
  - đ) Other forestry products shall be counted in Vietnam Dong (VND).
2. Determination of damages
- a) Determination of the damaged forest area in field.
  - b) Determination of damaged wood, firewood in accordance with the existing regulations.
  - c) The value of forestry products damaged, the value of means of action to cause administratively illegal action shall be determined according to the market price at point of time and place where such illegal action occurred.

## **Chapter II**

### **ILLEGAL ACTIONS, MODE AND EXTENT OF PENALTY**

#### **Article 8. Violating the State's General Provisions on forest protection**

People violating the State's General Provisions on forest protection shall be penalized as follows:

1. Imposing a fine of 100,000VND up to 1,000,000 VND if causing one of the following illegal actions:
  - a) Taking cattle for hauling power into the forest, bringing manual tools into forest to hunt, catch birds, animals or exploit illegally forest products.
  - b) Illegally raising, planting, and releasing non-native animal and plant species into national parks and nature reserves.
  - c) Taking into the forest with inflammable and explosive substances; burning in the protected forest; smoking, discharging burning ash in the forest.
2. Imposing a fine of over 1,000,000 VND to 2,000,000 VND if causing one of the following actions:
  - a) Illegally arranging to take man into special forest for scientific research; illegally collecting specimens in the forest.
  - b) Illegally taking into the forest mechanical instruments means of action to exploit and process forestry products.
  - c) Illegally advertising for commercial purposes in respect of forest plants and wild animals from the wild and their products.
3. Person causing illegal action as regulated at this Article that damages against the forest, forestry products shall be also penalized in accordance with Article 19 or Article 20 of this Decree.

#### **Article 9. Violating regulations on design in exploitation of wood**

People violating regulations on design in exploitation of wood shall be penalized as follows:

1. Imposing a fine of ranging from 1,000,000 VND to 3,000,000 VND on the violator of one of the following actions:
  - a) Total real volume of wood exploited from trees in the designed lot higher from over 15 to 20% in comparison with the volume included in the exploitation design documents.
  - b) Hammering for identification on trees incorrectly, out of the lot area designed for exploitation.

2. Imposing a fine ranging from 4,000,000 VND to 10,000,000 VND on the designer causing the following actions:

a) The real design in field is not correct area as designed on map or exploited area of forest lot higher 15% compared to the designed lot.

b) Total real volume of wood exploited from trees in the designed lot higher 20% in comparison with the volume included in the exploitation design documents per lot of forest.

#### **Article 10. Violating regulations on wood exploitation**

Including actions of wood exploitation that are not carried out in the right order, following procedures and technical requirements as designed.

People violating regulations on wood exploitation shall be penalized as follows:

1. Imposing a fine of ranging from 2,000,000 VND to 3,000,000 VND on person causing one of the following illegal actions:

a) Failure to carry on procedures for delivery and receipt of documents, exploitation site in accordance with the current existing regulations of the State.

b) Failure to clear liana cut before exploitation; failure to carry on sanitation after exploitation; failure to modify chopped-down stumps capable of bud regeneration; stumps are higher than the regulated level in the natural forest according to the mode of exploitation selected.

2. Imposing a fine of ranging from 4,000,000 VND to 6,000,000 VND on person causing one of the following illegal actions:

a) Failure to chop down twisted and pestilent trees that are included in the design

b) Paying the way for transport, ground to gather wood contrary to the design.

In the event that causing damage to forest or forest products shall be penalized in accordance with regulations as stipulated at Article 18 of this Decree.

3. People exploiting timber not in the designed lot, or chopping down unidentified trees in the design shall be penalized in accordance with regulations as stipulated at Article 19 of this Decree.

#### **Article 11: Violating regulations on deforestation for milpa**

People who have illegal action of deforestation for milpa shall be penalized as follows:

1. For productive forest:

a) Pecuniary penalty ranging from 1,000 VND/m<sup>2</sup> to 2,000 VND/m<sup>2</sup> if damage is caused up to 7,000 m<sup>2</sup>.

b) Pecuniary penalty ranging from 1,500 VND/m<sup>2</sup> to 2,500 VND/m<sup>2</sup> if damage is caused from over 7,000 m<sup>2</sup> to 15,000 m<sup>2</sup>.

2. For protective area:

a) Pecuniary penalty ranging from 1,400 VND/m<sup>2</sup> to 3,000 VND/m<sup>2</sup> if damage is caused up to 5,000 m<sup>2</sup>

b) Pecuniary penalty ranging from 2,000 VND/m<sup>2</sup> up to 4,000 VND/m<sup>2</sup> if damage is caused from over 5,000 m<sup>2</sup> to 10,000 m<sup>2</sup>

3. For special forest:

a) Pecuniary penalty ranging from 2,000 VND/m<sup>2</sup> to 4,000 VND/m<sup>2</sup> if damage is caused up to 3,500 m<sup>2</sup>.

b) Pecuniary penalty ranging from 3,000 VND/m<sup>2</sup> to 5,000 VND if damage is caused from over 3,500 m<sup>2</sup> to 7,500 m<sup>2</sup>.

4. Confiscation of exhibits, vehicles used for administrative violations is regulated in this Article.

5. The violator violating regulations as stipulated at this Article may be also obliged to reforest or bear costs of reforestation.

## **Article 12. Violating regulations on forest fire control**

People violating regulations on forest fire control shall be penalized as follows:

1. Pecuniary penalty ranging from 200,000 VND to 2,000,000 VND shall be imposed on the person who causes one of the following illegal actions:

- a) Fire, use flame in the protected special forest, and important protective forest area.
- b) Fire, use flame in inflammable forests, dried floristic composition in the hot and dry season
- c) Fire, use flame near timber storage area when having forest fire forecast of level from III to level V.
- d) Fire, use flame to hunt wild animals, chop down wild trees for fire to collect charcoal, bee's honey and war wastes.
- đ) Burn milpa, field illegally in the forest and edge of forest.
- e) Failure to comply with safety regulations on forest fire prevention and fighting when being allowed to use flame, heat source, inflammable and thermogenetic equipments and tools, and keep, use flammable substance in the forest and edge of forest.
- g) Direct actions result in the risk of forest fire.

2. Pecuniary penalty ranging from 2,000,000 VND to 5,000,000 VND shall be imposed on the forest owner if he or she causes one of the following illegal actions:

- a) In concentrated forests that the forest owner doesn't have fire control design and fire control works.
- b) Let water out from the water researve for fire control in the dry season
- c) In the dry season, forest patrolling is failed and it results in natural forest fire at the forest area under his or her management.

3. Pecuniary penalty ranging from 2,000 VND/m<sup>2</sup> to 4,000 VND/m<sup>2</sup> if productive forest is fired up to 10,000 m<sup>2</sup>.

4. Pecuniary penalty ranging from 3,000 VND/ m<sup>2</sup> to 5,000 VND/m<sup>2</sup> if protective forest is fired up to 7,500 m<sup>2</sup>.

5. Pecuniary penalty ranging from 5,000 VND/m<sup>2</sup> to 7,000 VND/m<sup>2</sup> if special forest is fired up to 5,000 m<sup>2</sup>.

6. For artificial forest

- a) Artificial forest in capacity of productive forest:
  - Pecuniary penalty ranging from 500 VND/m<sup>2</sup> to 1,000 VND/m<sup>2</sup> if causing damage to 40,000 m<sup>2</sup> of plants of 3 years old.
  - Pecuniary penalty ranging from 800 VND/m<sup>2</sup> to 1,200 VND/m<sup>2</sup> if causing damage to 30,000 m<sup>2</sup> of artificial forest from 3 to 7 years old.
  - Pecuniary penalty ranging from 1,000 VND/m<sup>2</sup> to 2,000 VND/m<sup>2</sup> if causing damage to 30,000 m<sup>2</sup> of artificial forest over 7 years old.
- b) Artificial forest in capacity of protective forest:
  - Pecuniary penalty ranging from 800 VND/m<sup>2</sup> to 1,200 VND/m<sup>2</sup> if causing damage to 30,000 m<sup>2</sup> of plants of 3 years old.
  - Pecuniary penalty ranging from 1,000 VND/m<sup>2</sup> to 2,000 VND/m<sup>2</sup> if causing damage to 20,000 m<sup>2</sup> of artificial forest from 3 to 7 years old.
  - Pecuniary penalty ranging from 2,000 VND/m<sup>2</sup> to 4,000 VND/m<sup>2</sup> if causing damage to 10,000 m<sup>2</sup> of artificial forest over 7 years old.
- c) Artificial forest in capacity of special forest:

- Pecuniary penalty ranging from 1,000 VND/m<sup>2</sup> to 2,000 VND/m<sup>2</sup> if causing damage to 20,000 m<sup>2</sup> of plants of 3 years old.
- Pecuniary penalty ranging from 1,600 VND/m<sup>2</sup> to 3,400 VND/m<sup>2</sup> if causing damage to 12,000 m<sup>2</sup> of artificial forest from 3 to 7 years old.
- Pecuniary penalty ranging from 5,000 VND/m<sup>2</sup> to 7,000 VND/m<sup>2</sup> if causing damage to 5,000 m<sup>2</sup> of artificial forest over 7 years old.

7. The violator violating regulations as stipulated at this Article may be also obliged to fulfill one of the following measures to make good consequences as follows:

- a) Obligated to reforest or bear costs of reforestation.
- b) Compensation on expenses for extinguishing forest fire.

### **Article 13: Grazing livestock in restricted forests**

People who grazes livestock in restricted forests will be fined as followings:

1. Warning or pecuniary penalty ranging from 5,000VND to 100,000VND for following violations:

- a) Grazing livestock in restricted area of special use forests.

- b) Grazing livestock in sapling newly integrated forest, newly forested area under 3 years, and localized reforested area that have been stipulated with restrictions on grazing livestock (excluding actions as provided in item 2 of this Article).

2. Pecuniary penalty from VND 4,000/tree to VND 6,000/tree if the livestock caused damages to 25 newly added trees, newly planted trees under 3 years and maximum fine is not over 30.000.000VND.

3. The violator of the regulations of this Article may also be forced to conduct the reforestation or cover the expenses for reforestation.

### **Article 14. Violating regulations on preventing and eliminating pestilent organism**

1. Warning or pecuniary penalty ranging from 5,000VND to 500,000 upon the forest owner not carrying out one of the measures on preventing and eliminating pestilent insects in accordance with the regulations on forest protection.

2. Pecuniary penalty from VND 1,000,000 to VND 2,000,000 for using pesticides that is not in complying with list of insecticides permitted to be used in Vietnam or failure to comply with quarantine regulations.

3. Pecuniary penalty from above VND 2,000,000 to VND 10,000,000 upon the forest owners who fail to timely inform nearest Fauna and Flora Conservation and Quarantine Agency for its guidance, support and pestilent insect treatment that leads to the spread of the epidemic of up to 3 ha or so.

4. Confiscation of **the illegal insecticide**.

5. Violators of regulations as stipulated in this Article may also be forced to make good over the consequences or cover the expenses for making good over the consequences caused by the pestilent insects.

### **Article 15. Illegal encroachment of the forests**

Illegal encroachment is the illegal act on moving boundary, or withholding an area of the forest owned by other individuals, organizations.

Violators of illegally encroaching the forest will be fined as follows:

1. Pecuniary penalty from VND 1,200/m<sup>2</sup> to VND 1,800/m<sup>2</sup> upon the illegal encroachment up to 5,000 m<sup>2</sup> of important protective forest and special forest, or up to 7,500 m<sup>2</sup> of production forest.

2. Pecuniary penalty from VND 2,000/m<sup>2</sup> to VND 4,000/m<sup>2</sup> upon the illegal encroachment up to 5,000 m<sup>2</sup> of very important protective forest and special use forest or from above 7,500 m<sup>2</sup> of production forest.

3. Besides the above-mentioned pecuniary penalty, the violator of the regulations stated in items 1 and 2 of this Article shall be also reclaimed the illegal encroached area.

Illegal encroachment and deforestation shall be panalized in accordance with regulations as stipulated in Article 18 of this Decree; Illegal encroachment and exploitation of forest shall be panalized in accordance with regulations as stipulated in Article 19 of this Decree.

4. Violator of regulations as stipulated in this Article is also forced to conduct the movement or cover the expenses for the movement of any constructions illegally built on the illegal encroached area.

#### **Article 16. Sabotage of constructions used for forest protection and development**

Sabotage of constructions used for forest protection and development is an act damaging the constructions used for forest protection and development such as: Station, sentry box for forest-fire, sign board, and convention board; tank and water reservoir for extinguishing forest-fire; and means of communication and supporting tools used for forest protection and development or the acts on changing or damaging the actuality of the constructions.

Violators of sabotaging constructions used for forest protection and development shall be panalized as follows:

1. Pecuniary penalty from VND 200,000 to VND 500,000 upon following actions: writing and drawing on sign-boards and convention boards on forest protection; deleting and erasing information of images on the sign-boards and convention boards on forest protection.

2. Pecuniary penalty from above VND 500,000 to VND 2,000,000 upon acting on discharging water reserved for extinguishing forest-fire, removing sign-boards of forest protection.

3. Pecuniary penalty from above VND 2,000,000 to VND 5,000,000 for the acts on digging and demolishing roads in the forest, obstructing forest patrolling & conserving activities and cleaning up deforesters, and demolishing boundary used for preventing fire.

4. Pecuniary penalty from above VND 5,000,000 to VND 10,000,000 for the acts on demolishing convention board on forest protection, sentry box, station, assets and other tools used for patrolling and protecting the forest.

5. The violator shall be also forced to make good the consequences caused by illegal actions.

In the event that violations make consequences as compared to criminal prosecution, the documents of the case shall be transferred to Investigation Authorities for settlement in accordance with regulations as stipulated in Criminal Code.

#### **Article 17. Illegal exploitation on forest scenery, environment, and forestry services.**

Illegal exploitation on forestry scenery, environment, and forestry services is an action of using forestry scenery, forest environment, and forestry services for producing, providing services, trading and building cemetery without permission by functional authorities or not conducted in accordance with the regulations specified in permission paper.

People who illegally exploits forestry scenery, environment and forestry services will be given following punishments:

1. Impose financial fine of 200,000 VND to 500,000 VND upon those people who have action of illegal trade.

2. Impose financial fine of over 200,000 VND to 2,000,000 VND upon those people who have action of illegally establishing sightseeing points.
3. Impose financial fine of above 2,000,000 VND to 3,000,000 VND upon those people who have action of illegally building production workshops, or aquaculturing, breeding livestock and poultry breeding facilities.
4. Violators are also forced to conduct the restoration back to initial condition or pay for expenses on making good the consequences caused by violator.

## **Article 18. Illegal deforestation**

Illegal deforestation is the action of cutting and destroying forest trees (not under regulation of article 11 of this Decree), deliberately burning forest trees (not under regulation of article 12 of this Decree), digging, bulldozing, exploding a mine, excavating, damming up against tide, releasing poisons and other actions that cause damage to the forest for any purposes without permission by functional authorities or with permission but their implementation is not in compliance with the regulations.

People who commit crimes of illegal deforestation will be fined as follows:

### 1. For production forests which are wild forests:

- a) Imposing financial fine of 1,000 VND/m<sup>2</sup> to 3,000 VND/m<sup>2</sup> if causing damage up to 2,500 m<sup>2</sup>
- b) Imposing financial fine of 2,000 VND/m<sup>2</sup> to 4,000 VND/m<sup>2</sup> if causing damage to over 2,500 m<sup>2</sup> to 5,000 m<sup>2</sup>.
- c) Imposing financial fine of 3,000 VND/m<sup>2</sup> to 4,500 VND/m<sup>2</sup> if causing damage to over 5,000 m<sup>2</sup> to 8,000 m<sup>2</sup>.

### 2. For protective forests which are wild forests:

- a) Imposing financial fine of from 2,000 VND/m<sup>2</sup> to 4,000 VND/m<sup>2</sup> if causing damage up to 2,000 m<sup>2</sup>.
- b) Imposing financial fine of from 3,000 VND/m<sup>2</sup> to 5,000 VND/m<sup>2</sup> if causing damage to over 2,000 m<sup>2</sup> to 4,000 m<sup>2</sup>.
- c) Imposing financial fine of from 4,000 VND/m<sup>2</sup> to 6,000 VND/m<sup>2</sup> if causing damage to over 4,000 m<sup>2</sup> to 6,000 m<sup>2</sup>.

### 3. For special use forests which are wild forests, mangrove forests, breeding-based forests, forests for scientific research and experiments:

- a) Imposing financial fine of 3,000 VND/m<sup>2</sup> to 5,000 VND/m<sup>2</sup> if causing damage up to 1,500 m<sup>2</sup>.
- b) Imposing financial fine of 4,000 VND/m<sup>2</sup> to 6,000 VND/m<sup>2</sup> if causing damage to over 1,500 m<sup>2</sup> to 2,500 m<sup>2</sup>.
- c) Imposing financial fine of 5,000 VND/m<sup>2</sup> to 10,000 VND/m<sup>2</sup> if causing damage to over 2,500 m<sup>2</sup> to 4,000 m<sup>2</sup>.

### **4. For planted forests:**

#### a) Production forests are planted forests

- Imposing financial fine of 500 VND/m<sup>2</sup> to 1,100 VND/m<sup>2</sup> if causing damage to 37,500 m<sup>2</sup> of a plant that is up to 3 years old.
- Imposing financial fine of 900 VND/m<sup>2</sup> to 1,500 VND/m<sup>2</sup> if causing damage to 25,000 m<sup>2</sup> of a planted forest that is from over 3 to 7 years old.

- Imposing financial fine of from 1,000 VND/m<sup>2</sup> to 2,200 VND/m<sup>2</sup> if causing damage to 18,750 m<sup>2</sup> of a planted forest that is over 7 years old.

b) Protective forests are planted forests

- Imposing financial fine of from 900 VND/m<sup>2</sup> to 1,500 VND/m<sup>2</sup> if causing damage to 25,000 m<sup>2</sup> of a plant that is up to 3 years old.
- Imposing financial fine of from 1,000 VND/m<sup>2</sup> to 2,200 VND/m<sup>2</sup> if causing damage to 18,750 m<sup>2</sup> of a planted forest that is from over 3 to 7 years old.
- Imposing financial fine of from 3,000 VND/m<sup>2</sup> to 4,500 VND/m<sup>2</sup> if causing damage to 8,000 m<sup>2</sup> of a planted forest that is over 7 years old.

c) Planted forests are special use forests

- Imposing financial fine of from 1,000 VND/m<sup>2</sup> to 2,200 VND/m<sup>2</sup> if causing damage to 18,750 m<sup>2</sup> of a plant that is up to 3 years old.
- Imposing financial fine of from 2,000 VND/m<sup>2</sup> to 4,000 VND/m<sup>2</sup> if causing damage to 10,000 m<sup>2</sup> of a planted forest that is from over 3 to 7 years old.
- Imposing financial fine of from 5,000 VND/m<sup>2</sup> to 10,000 VND/m<sup>2</sup> if causing damage to 4,000 m<sup>2</sup> of a planted forest that is over 7 years old.

5. People who have actions of site clearance, preparation of land, cultivation, and production on the forest area that has been illegally deforested will be fined up to 5,000,000 VND; if he is an employee of the one involving in such actions will be fined up to VND 2,000,000; people who commit crimes of taking forest products on the forest that has been exploited will be given punishment regulated in Article 19 of the Decree.

6. The violator will have his forest products confiscated, or have to re-plant the forested areas or pay for the expense on re-planting the forested areas.

7. Individuals who are awarded an area of wild forest or planted forest with state budget or non-refundable aid, on the understanding that they will manage, protect and use it for forestry purposes, will be fined in accordance with regulations in this article if they are found to have acted irresponsibly, in a way that results in illegal deforestation

### **Article 19. Illegal exploitation of the forest**

Illegal exploitation of the forest is an action of any individual or organization taking forestry products from forest without permission by functional authorities (if the law states that a license is necessary to extract forest products) or with permission but its implementation is not in compliance with the regulations.

Violators of illegally exploiting the forest will be fined as follows:

1. Illegal exploitation of production forest.

a) Non-endangered, rare and precious timber of Group IV to Group VIII:

- Imposing financial fine of 500,000 VND/m<sup>3</sup> to 700,000 VND/m<sup>3</sup> if illegally exploiting up to 6 m<sup>3</sup> of the timber.
- Imposing financial fine of 700,000 VND/m<sup>3</sup> to 1,000,000 VND/m<sup>3</sup> if illegally exploiting from over 6 m<sup>3</sup> to 15 m<sup>3</sup> of the timber.
- Imposing financial fine of 1,000,000 VND/m<sup>3</sup> to 2,000,000 VND/m<sup>3</sup> if illegally exploiting from over 15 m<sup>3</sup> to 20 m<sup>3</sup> of the timber.

b) Non-endangered, rare and precious timber of Group I to Group III:

- Imposing financial fine of 700,000 VND/m<sup>3</sup> to 1,000,000 VND/m<sup>3</sup> if illegally exploiting up to 4 m<sup>3</sup> of the timber.
  - Imposing financial fine of 1,000,000 VND/m<sup>3</sup> to 1,500,000 VND/m<sup>3</sup> if illegally exploiting from over 4 m<sup>3</sup> to 10 m<sup>3</sup> of the timber.
  - Imposing financial fine of 1,500,000 VND/m<sup>3</sup> to 2,500,000 VND/m<sup>3</sup> if illegally exploiting from over 10 m<sup>3</sup> to 15 m<sup>3</sup> of the timber.
- c) Endangered, rare and precious timber of Group IIA:
- Imposing financial fine of 1,500,000 VND/m<sup>3</sup> to 2,000,000 VND/m<sup>3</sup> if illegally exploiting up to 3 m<sup>3</sup> of the timber.
  - Imposing financial fine of 2,000,000 VND/m<sup>3</sup> to 2,500,000 VND/m<sup>3</sup> if illegally exploiting from over 3 m<sup>3</sup> to 6 m<sup>3</sup> of the timber.
  - Imposing financial fine of 2,500,000 VND/m<sup>3</sup> to 3,000,000 VND/m<sup>3</sup> if illegally exploiting from over 6 m<sup>3</sup> to 10 m<sup>3</sup> of the timber.
- d) Firewood:
- Imposing financial fine of 100,000 VND/stere to 200,000 VND/stere if illegally exploiting up to 20 steres.
  - Imposing financial fine of 200,000 VND/stere to 500,000 VND/stere if illegally exploiting from over 20 steres to 30 steres of the firewood.
  - Imposing financial fine of 500,000 VND/stere to 700,000 VND/stere if illegally exploiting from over 30 steres to 50 steres of the firewood.
- đ) For wild plants and their non-wood and non-firewood parts:
- Imposing financial fine of from 0.8 to 1.2 times of the value of illegally exploited forest products if causing damage to the forest products that are not listed as endangered, rare and precious species of Group IIA and worth up to 30,000,000 VND;
  - Imposing financial fine of from 1.2 to 1.8 times of the value of illegally exploited forest products if causing damage to the forest products that are listed as endangered, rare and precious species of Group IIA and worth up to 20,000,000 VND.
2. Illegal exploitation of protective forest
- a) Non-endangered, rare and precious timber of Group IV to Group VIII:
- Imposing financial fine of 700,000 VND/m<sup>3</sup> to 1,000,000 VND/m<sup>3</sup> if illegally exploiting up to 5 m<sup>3</sup> of the timber.
  - Imposing financial fine of 1,000,000 VND/m<sup>3</sup> to 1,500,000 VND/m<sup>3</sup> if illegally exploiting from over 5 m<sup>3</sup> to 10 m<sup>3</sup> of the timber.
  - Imposing financial fine of 1,500,000 VND/m<sup>3</sup> to 2,500,000 VND/m<sup>3</sup> if illegally exploiting from over 10 m<sup>3</sup> to 15 m<sup>3</sup> of the timber.
- b) Non-endangered, rare and precious timber of Group I to Group III:
- Imposing financial fine of 1,000,000 VND/m<sup>3</sup> to 1,500,000 VND/m<sup>3</sup> if illegally exploiting up to 3 m<sup>3</sup> of the timber.
  - Imposing financial fine of 1,500,000 VND/m<sup>3</sup> to 2,000,000 VND/m<sup>3</sup> if illegally exploiting from over 3 m<sup>3</sup> to 7 m<sup>3</sup> of the timber.
  - Imposing financial fine of 2,000,000 VND/m<sup>3</sup> to 4,000,000 VND/m<sup>3</sup> if illegally exploiting from over 7 m<sup>3</sup> to 10 m<sup>3</sup> of the timber.
- c) Endangered, rare and precious timber of Group IIA:
- Imposing financial fine of 2,000,000 VND/m<sup>3</sup> to 3,000,000 VND/m<sup>3</sup> if illegally exploiting up to 2 m<sup>3</sup> of the timber.
  - Imposing financial fine of 3,000,000 VND/m<sup>3</sup> to 3,500,000 VND/m<sup>3</sup> if illegally exploiting from over 2 m<sup>3</sup> to 4 m<sup>3</sup> of the timber.

- Imposing financial fine of 3,500,000 VND/m<sup>3</sup> to 4,500,000 VND/m<sup>3</sup> if illegally exploiting from over 4 m<sup>3</sup> to 7.5 m<sup>3</sup> of the timber.
- d) Firewood:
- Imposing financial fine of 200,000 VND/stere to 300,000 VND/stere if illegally exploiting up to 15 steres of the firewood.
  - Imposing financial fine of 300,000 VND/stere to 500,000 VND/stere if illegally exploiting from over 15 steres to 25 steres of the firewood.
  - Imposing financial fine of 500,000 VND/stere to 1,000,000 VND/stere if illegally exploiting from over 25 steres to 40 steres of the firewood.
- đ) For wild plants and their non-wood and non-firewood parts:
- Imposing financial fine of from 1 to 1.4 times of the value of illegally exploited forest products if causing damage to the forest products that are not listed as endangered, rare and precious species and worth up to 25,000,000 VND;
  - Imposing financial fine of from 1.5 to 2.5 times of the value of illegally exploited forest products if causing damage to the forest products that are listed as endangered, rare and precious species of Group IIA and worth up to 15,000,000 VND.
3. Illegal exploitation of special use forest:
- a) Non-endangered, rare and precious timber of Group IV to Group VIII:
- Imposing financial fine of 1,000,000 VND/m<sup>3</sup> to 1,500,000 VND/m<sup>3</sup> if illegally exploiting up to 3 m<sup>3</sup> of the timber.
  - Imposing financial fine of 1,500,000 VND/m<sup>3</sup> to 2,000,000 VND/m<sup>3</sup> if illegally exploiting from over 3 m<sup>3</sup> to 7 m<sup>3</sup> of the timber.
  - Imposing financial fine of 2,000,000 VND/m<sup>3</sup> to 4,000,000 VND/m<sup>3</sup> if illegally exploiting from over 7 m<sup>3</sup> to 10 m<sup>3</sup> of the timber.
- b) Non-endangered, rare and precious timber of Group I to Group III:
- Imposing financial fine of 2,000,000 VND/m<sup>3</sup> to 3,000,000 VND/m<sup>3</sup> if illegally exploiting up to 2 m<sup>3</sup> of the timber.
  - Imposing financial fine of 3,000,000 VND/m<sup>3</sup> to 3,500,000 VND/m<sup>3</sup> if illegally exploiting from over 2 m<sup>3</sup> to 4 m<sup>3</sup> of the timber.
  - Imposing financial fine of 3,500,000 VND/m<sup>3</sup> to 4,500,000 VND/m<sup>3</sup> if illegally exploiting from over 4 m<sup>3</sup> to 7.5 m<sup>3</sup> of the timber.
- c) Endangered, rare and precious timber of Group IIA:
- Imposing financial fine of 3,000,000 VND/m<sup>3</sup> to 4,000,000 VND/m<sup>3</sup> if illegally exploiting up to 1.5 m<sup>3</sup> of the timber.
  - Imposing financial fine of 4,000,000 VND/m<sup>3</sup> to 5,000,000 VND/m<sup>3</sup> if illegally exploiting from over 1.5 m<sup>3</sup> to 3 m<sup>3</sup> of the timber.
  - Imposing financial fine of 5,000,000 VND/m<sup>3</sup> to 7,000,000 VND/m<sup>3</sup> if illegally exploiting from over 3 m<sup>3</sup> to 5 m<sup>3</sup> of the timber.
- d) Firewood:
- Imposing financial fine of 300,000 VND/stere to 400,000 VND/stere if illegally exploiting up to 10 steres of the firewood.
  - Imposing financial fine of 400,000 VND/stere to 800,000 VND/stere if illegally exploiting from over 10 steres to 20 steres of the firewood.
  - Imposing financial fine of 800,000 VND/stere to 1,200,000 VND/stere if illegally exploiting from over 20 steres to 30 steres of the firewood.
- đ) For wild plants and their non-wood and non-firewood parts:
- Imposing financial fine of from 1.2 to 1.8 times of the value of illegally exploited forest products if causing damage to the forest products that are not listed as endangered, rare and precious species and worth up to 20,000,000 VND;

- Imposing financial fine of from twice to 4 times of the value of illegally exploited forest products if causing damage to the forest products that are listed as endangered, rare and precious species of Group IIA and worth up to 10,000,000 VND.
4. In case young trees are exploited and the volume of the trees cannot be defined, it is necessary to measure the area where the young trees are destroyed to impose fine in accordance with the article 18 of the decree. If the exploitation is scattered, which makes it impossible to measure the area, it is recommended to impose fine in accordance with the section 2 of the article 13 of the decree.
  5. In case there occurs exploitation of scatteredly planted trees or planted trees that concentrate in a specific area but there are not enough criteria to check and take over the timber, it is required to apply the point d in section 1 of this article.
  6. In case of illegally exploiting timber that left scatteredly on kaingins, or illegally collecting timber on the agriculture land, illegally collecting lying timber, this will be settled in accordance with regulations of sections 1 of this article.
  7. People who violate the regulations of the article also have to endure one of following supplemental punishments:
    - a) Have evidence and every tool and vehicle that is used for the violation confiscated.
    - b) Have the right to use exploitation permit withdrawn.
  8. The violator may also have to re-plant the forest or pay for the expenses on re-planting the exploited forest.
  9. Individuals who are awarded an area of wild forest or planted forest with state budget or non-refundable aid, on the understanding that they will manage, protect and use it for forestry purposes, will be fined in accordance with regulations in this article if they are found to have acted irresponsibly, in a way that results in illegal deforestation.

## **Article 20: Violations of regulations on wildlife management and protection**

Violations of regulations on wildlife management and protection are actions of hunting, shooting, trapping, catching, keeping and slaughtering wild animals without permission given by authority or implementation that is not in conformity with regulations specified in permission.

People who violate the regulations on management and protection of wild animals shall be subject to the following punishments:

1. Censure or impose financial fine of from 5,000 VND to 100,000 VND upon violators who do one of the following acts:
  - a) Hunting wild animals during the breeding season.
  - b) Using the hunting devices or methods which are prohibited.
  - c) Hunting wild animals in the area that is prohibited from hunting
2. For wild animals that are not listed as endangered, rare and precious species:
  - a) Imposing financial fine of from once to 1.5 times of the evidence value of wild animals or their parts that are worth up to 2,000,000 VND.
  - b) Imposing financial fine of from 1.6 to 2.0 times of the evidence value of wild animals or their parts that are worth from over 2,000,000 VND to 5,000,000 VND.
  - c) Imposing financial fine of from 2.1 to 2.5 times of the evidence value of wild animals or their parts that are worth over 5,000,000 VND; the maximum financial fine is not more than 30,000,000 VND.
3. For endangered, rare and precious wild animals listed under Group IIB:

- a) Imposing financial fine of from 1.6 to 2 times of the evidence value of wild animals or their parts that are worth up to 1,000,000 VND.
  - b) Imposing financial fine of from 2.1 to 2.5 times of the evidence value of wild animals or their parts that are worth from over 1,000,000 VND to 2,000,000 VND.
  - c) Imposing financial fine of from 2.6 to 3 times of the evidence value of wild animals or their parts that are worth over 2,000,000 VND; the maximum financial fine is not more than 30,000,000 VND
4. Imposing financial fine of 1 to 2 times of value of captive animals upon people who illegally keep endangered, rare and precious wild animals listed under Group 1B; the total financial fine doesn't exceed 30,000,000 VND.
5. Apart from being financially fined and having the violation evidence and vehicles confiscated, violators of this article also may have to have their permit of using hunting rifles withdrawn; have their certificates of registration of breeding wild animals withdrawn for a year; have their permit to do restaurant, hotel, fine art shop and souvenir shop withdrawn for two years.
6. Violators of this article also may have to pay for the spending on the settlement of the pollution they caused.

#### **Article 21: Illegal transportation of forest products**

Illegal transportation of forest products are actions of people who drive the vehicles, owners of the vehicles, owners of the forest products use kinds of vehicles and man power for transportation of forest products without any lawful papers or with lawful papers but their acts are not in accordance with the papers.

People who have crime of illegally transporting forest products will be fined as follows:

- 1. For people who drive the vehicles:
  - a) Censure or impose financial fine of 5,000 VND to 500,000 VND upon the violators who don't use vehicles or use rudimentary vehicles, bicycles, carts pulled by cattle for illegally transporting forest products.
  - b) Impose financial fine of 500,000 VND to 2,500,000 VND upon the violators who drive such vehicles as motorbikes, motorcycles, pedicabs drawn by bicycles or motorbikes for illegally transporting forest products.
  - c) In case drivers of the vehicles illegally transport forest products that are not regulated in item a, b of section 1 of this article will be fined as follows:
    - For the wild animals not listed as endangered, rare and precious species:
      - + Imposing financial fine of from 0.5 to 0.7 times of the evidence value of wild animals or their parts that are worth up to 2,000,000 VND.
      - + Imposing financial fine of from 0.8 to 1 times of the evidence value of wild animals or their parts that are worth over 2,000,000 VND to 5,000,000 VND.
      - + Imposing financial fine of from once to 1.2 times of the evidence value of wild animals or their parts that are worth over 5,000,000 VND; the maximum financial fine is not more than 30,000,000 VND.
    - For endangered, rare and precious wild animals listed under Group IIB:
      - + Imposing financial fine of from 0.8 to 1 times of the evidence value of wild animals or their parts that are worth up to 1,000,000 VND.
      - + Imposing financial fine of from 1 to 1.2 times of the evidence value of wild animals or their parts that are worth from over 1,000,000 VND to 2,000,000 VND.

- + Imposing financial fine of from 1.3 to 1.5 times of the evidence value of wild animals or their parts that are worth over 2,000,000 VND; the maximum financial fine is not more than 30,000,000 VND.
- For non-endangered, rare and precious timber of Group IV to Group VIII:
  - + Imposing financial fine of 250,000 VND/m<sup>3</sup> to 350,000 VND/m<sup>3</sup> if violating up to 6 m<sup>3</sup> of the timber.
  - + Imposing financial fine of 350,000 VND/m<sup>3</sup> to 550,000 VND/m<sup>3</sup> if violating from over 6 m<sup>3</sup> to 15 m<sup>3</sup> of the timber.
  - + Imposing financial fine of 500,000 VND/m<sup>3</sup> to 1,000,000 VND/m<sup>3</sup> if violating over 15 m<sup>3</sup>; the maximum financial fine is not more than 30,000,000 VND.
- For non-endangered, rare and precious timber of Group I to Group III:
  - + Imposing financial fine of 300,000 VND/m<sup>3</sup> to 500,000 VND/m<sup>3</sup> if violating up to 4 m<sup>3</sup> of the timber.
  - + Imposing financial fine of 500,000 VND/m<sup>3</sup> to 700,000 VND/m<sup>3</sup> if violating from over 4 m<sup>3</sup> to 10 m<sup>3</sup> of the timber.
  - + Imposing financial fine of 700,000 VND/m<sup>3</sup> to 1,300,000 VND/m<sup>3</sup> if violating over 10 m<sup>3</sup>; the maximum financial fine is not more than 30,000,000 VND.
- For endangered, rare and precious timber of Group IIA:
  - + Imposing financial fine of 700,000 VND/m<sup>3</sup> to 1,000,000 VND/m<sup>3</sup> if violating up to 3 m<sup>3</sup> of the timber.
  - + Imposing financial fine of 1,000,000 VND/m<sup>3</sup> to 1,400,000 VND/m<sup>3</sup> if violating from over 3 m<sup>3</sup> to 6 m<sup>3</sup> of the timber.
  - + Imposing financial fine of 1,200,000 VND/m<sup>3</sup> to 1,800,000 VND/m<sup>3</sup> if violating over 6 m<sup>3</sup>; the maximum financial fine is not more than 30,000,000 VND
- For wild plants and their non-wood parts that are listed as endangered, rare and precious species of Group IIA, the violators will be imposed a financial fine of one or two times of evidence value; the maximum financial fine is not more than 30,000,000 VND.

d) In case drivers of the vehicles which are used for illegally transporting forest products are the owners of the forest products at the same time or don't have grounds to identify the forest products belonged to other people, they will be fined in accordance with the item a or item b or item c of this section and also fined in accordance with regulations on section 3 of the article.

## 2. For owners of vehicles

The owners of the vehicles will be fined in accordance with regulations on section 1 of this article (unless the vehicles are appropriated or illegally used).

## 3. For owners of forest products

a) The owners of the forest products who transport the forest products without any lawful papers showing that the forest products are legal will be settled as follows:

- For wild animals or their parts that are not listed as endangered, rare and precious species, the owners will be fined in accordance with the regulations specified in section 2 of article 20 of the decree.
- For wild animals or their parts that are listed as endangered, rare and precious species of Group IIB, the owners will be fined in accordance with the regulations specified in section 3 of article 20 of the decree.
- For wild plants that are not listed as endangered, rare and precious species of Group IV to Group VIII, the owners will be fined in accordance with the regulations specified in section 1 of article 22 of the decree.

- For wild plants that are not listed as endangered, rare and precious species of Group I to Group III, the owners will be fined in accordance with the regulations specified in section 2 of article 22 of the decree.
  - For endangered, rare and precious species wild plants of Group IIA, the owners will be fined in accordance with the regulations specified in section 3 of article 22 of the decree.
  - For wild plants and their parts are listed as endangered, rare and precious species of Group IIA, the owners will be imposed a financial fine of 1.5 to 2.5 times of evidence value; the maximum financial fine is not more than 30,000,000 VND.
- b) In case people transport timber with lawful papers and legal origin but the amount of transported timber exceeds the the error margin permitted, the individual will be fined depending on the amount by which the error margin is exceeded, in accordance with the section 1 of this article.
- c) The owners of the forest products transport forest products legally but don't conform to existing regulations of government on management procedures will be fined in accordance with the Article 23 of the decree.
4. People who violate regulations specified in sections of 1, 2, 3 of this article will also be administered additional fine which is:
- a) Have their right to use permit, CITES Certificate, special permit to transport wildlife taken away; have their right to use driving licenses taken away in the duration of 6 months.
  - b) Have the violation exhibit confiscated for the violation regulated in section 1 and items of a, b of section 3 of this article.
  - c) Have the vehicles illegally transported forest products confiscated (except the vehicles are appropriated, illegally used) for one of following actions:
    - Organizational violations
    - Violate many times or repeat violation
    - Violators fight with law enforcers
    - Use double-booted vehicles, double-floored vehicles, vehicles with no registration number issued by authorities, vehicles with false registration number plate or change cars into the vehicles for illegally transporting forest products.
    - Consequence of the violation measured in quantity or value of forest products measured in money is as follows:
      - + For non-endangered, rare and precious timber of Group IV to Group VIII: the quantity is 1.5 m<sup>3</sup> of the timber upwards; for Group I to Group III, the quantity is 1 m<sup>3</sup> of timber upwards.
      - + For endangered, rare and precious timber of Group IIA: the quantity is 0.5 m<sup>3</sup> of the timber upwards; for endangered, rare and precious timber of Group IA (in the case where the violator has already been prosecuted but whose crime is later determined to be punishable instead with a financial fine): the quantity is 0.3 m<sup>3</sup> of the timber upwards.
      - + For endangered, rare and precious wild plants and their non-wood parts of Group IIA that are worth up to 15,000,000 VND upwards; Group IA are worth up to 10,000,000 VND upwards.
      - + For non-endangered, rare and precious wild animals and their parts that are worth up to 2,000,000 VND upwards; endangered, rare and precious wild animals of Group IIB or their parts that are worth up to 1,500,000 VND upwards; endangered, rare and precious wild animals of Group IB or their parts (in the case where the violator has already been prosecuted but whose crime is later determined to be punishable instead with a financial fine) that are worth up to 1,000,000 VND upwards.
5. People who violate the regulations of this article will be also applied one of following solutions of tackling the consequences:

- a) Pay for the spending on rescuing or incinerating dead or wounded wild animals, and spending on releasing wild animals into the wild.
- b) Take passengers to the scheduled destination or pay for the spending on transporting the passengers to the destination if using the buses for illegally transporting forest products.

**Article 22: Illegal trade, storage, process and business of forest products**

The illegal trade, storage, process and business of forest products is defined as undertaking any of these actions either without lawful papers or with lawful papers but not in a manner that accords with the content of the documentation, or without permission in a situation where the law stipulates that it is necessary to obtain permission.

People who commit crimes of illegal trade, storage, process and business of forest products will be fined as follows:

1. For the crimes of trade, storage, process and business of non-endangered, rare and precious timber of Group IV to Group VIII:
  - a) Impose financial fine of 500,000 VND/m<sup>3</sup> to 700,000 VND/m<sup>3</sup> if violating up to 6 m<sup>3</sup> of the timber.
  - b) Impose financial fine of 700,000 VND/m<sup>3</sup> to 1,000,000 VND/m<sup>3</sup> if violating over 6 m<sup>3</sup> to 15 m<sup>3</sup> of the timber.
  - c) Impose financial fine of 1,000,000 VND/m<sup>3</sup> to 2,000,000 VND/m<sup>3</sup> if violating over 15 m<sup>3</sup> to 20 m<sup>3</sup> of the timber.
2. For the crimes of trade, storage, process and business of non-endangered, rare and precious timber of Group I to Group III:
  - a) Impose financial fine of 700,000 VND/m<sup>3</sup> to 1,000,000 VND/m<sup>3</sup> if violating up to 4 m<sup>3</sup> of the timber.
  - b) Impose financial fine of 1,000,000 VND/m<sup>3</sup> to 1,500,000 VND/m<sup>3</sup> if violating over 4 m<sup>3</sup> to 10 m<sup>3</sup> of the timber.
  - c) Impose financial fine of 1,500,000 VND/m<sup>3</sup> to 2,500,000 VND/m<sup>3</sup> if violating over 10 m<sup>3</sup> to 15 m<sup>3</sup> of the timber.
3. For the crimes of trade, storage, process and business of endangered, rare and precious timber of Group IIA:
  - a) Impose financial fine of 1,500,000 VND/m<sup>3</sup> to 2,000,000 VND/m<sup>3</sup> if violating up to 3 m<sup>3</sup> of the timber.
  - b) Impose financial fine of 2,000,000 VND/m<sup>3</sup> to 2,500,000 VND/m<sup>3</sup> if violating over 3 m<sup>3</sup> to 6 m<sup>3</sup> of the timber.
  - c) Impose financial fine of 2,500,000 VND/m<sup>3</sup> to 3,500,000 VND/m<sup>3</sup> if violating over 6 m<sup>3</sup> to 10 m<sup>3</sup> of the timber.
4. For the crimes of trade, storage, process and business of wild animals or their parts, the violators will be fined as regulations stipulated in article 20 of the decree.
5. In addition to being financially fined, violators of this article will have their forest products confiscated.

**Article 23. Violating administrative procedures in the purchase, sale, shipments, process, trade and storage of forest products.**

1. Impose financial fine of 500,000 VND to 2,000,000 VND upon owners of enterprises that process, trade, buy and sell forest products without input or output records as the law regulates.
2. Impose financial fine of 100,000 VND/m<sup>3</sup> to 200,000 VND/m<sup>3</sup> but the maximum fine does not exceed 10,000,000 VND upon owners of forest products that transport, buy, sell, store natural forest timber with legal origins but do not conform to the existing regulations on management procedures issued by government.
3. Impose financial fine of 30,000 VND/m<sup>3</sup> to 50,000 VND/m<sup>3</sup> but the maximum fine does not exceed 5,000,000 VND upon violators in case the timber is from planted forests or gardens and has legal origins but do not conform to the existing regulations on management procedures issued by government.
4. Impose financial fine of 0.1 to 0.2 times of value of forest products, but the maximum fine does not exceed 5,000,000 VND upon the owners of forest products who process, trade, transport, buy, sell endangered, rare and precious wild plants and their non-wood parts of Group IIA (???), wild animals and their parts with legal origins from breeding farms but do not conform to the existing regulations on management procedures issued by government.

### **Chapter III**

#### **Authority to Impose Financial Fine**

##### **Article 24. The authority to impose financial fine by forest rangers**

1. Rangers who are executing assigned missions have the right to censure or impose financial fine of maximal 100,000 VND upon violators.
2. Heads of Ranger Stations have the right to impose censure or financial fine of up to 2,000,000 VND upon violators and confiscate the violation evidence and vehicles which are worth up to 10,000,000 VND.
3. Heads of Forest Protection Departments of district level, special use forests, protective forests, heads of Mobile Ranger Teams, Forest Fire Prevention and Fighting Teams have the right to impose censure or financial fine of up to 10,000,000 VND; confiscate violation evidence and vehicles which are worth up to 20,000,000 VND, and apply the solutions for settling the consequences they have caused that are regulated in sections of 2 and 5 of article 6 of the decree.
4. Heads of City and Provincial Forest Protection Departments have the right to impose censure or financial fine of maximal 20,000,000 VND; withdraw the right to use permit from the violators in accordance with the heading a of the section 7 of the article 19, section 5 of article 20 and heading a of the section 4 of article 21 of the decree; confiscate violation evidence and vehicles, apply the solutions for settling the consequences they have caused that are regulated in article 6 of the decree.
5. Head of the National Forest Protection Department have the right to right to impose censure or financial fine of maximal 30,000,000 VND; withdraw the right to use permit from the violators in accordance with the heading b of the section 7 of the article 19, section 5 of article 20 and heading a of the section 4 of article 21 of the decree of the decree; confiscate violation evidence and vehicles, and oblige the violators to tackle the consequences they have caused that are regulated in article 6 of the decree.

## **Article 25. Authority of chairmen of People's Committee of all levels**

1. Chairmen of Communal People's Committees have the right to impose censure fine or financial fine of up to 500,000 VND; confiscate violation evidence and vehicles which are worth up to 500,000 VND and apply the solutions for settling the consequences they have caused that are regulated in sections of 2 and 5 of article 6 of the decree.
2. Chairmen of District People's Committees have the right to impose censure fine or financial fine of up to 20,000,000 VND; withdraw the right to use permit from violators in accordance with the heading b of the section 7 of the article 19, section 5 of article 20 and heading a of the section 4 of article 21 of the decree; confiscate violation evidence and vehicles, apply the solutions for settling the consequences they have caused that are regulated in article 6 of the decree.
3. The chairman of the provincial People's Committee is entitled to decide a precaution punishment or pecuniary penalty of 30 000000 VND; confiscate license as specified in Paragraph b, Item 7 of Article 19, Item 5 of Article 20, Paragraph a, Item 4 of Article 21, under this Decree; deprive of exhibit, medium of administrative violation; apply measures for tackle consequence.
4. Local Forest Management Department are responsible for assisting People's Committee of different levels in making decision on fining administrative violation in accordance to the their authority stipulated under this Decree.

## **Article 26. Delegation of power to fine an administrative violation**

1. In case of absence of the authority person to fine an administrative violation as specified in Items 3, 4, 5 of Article 24 and Article 25 under this Decree, his/her deputy shall be authorized to make decision. Authorized person is responsible to perform assignment and takes full responsibility to the law for his/her decision on administrative fine.
2. Delegation of authority must be made in writing; authority may be granted for individual case or for a period of time.

## **Article 27. Determination of jurisdiction to fine an administrative violation**

1. A power to impose an administrative fine as specified in Article 24, 25 under this Decree is the competence applicable to one administrative violation case.
2. Jurisdiction to fine is determined by the maximum amount of pecuniary penalty applicable for each action of administrative violation.
3. The jurisdiction to administer fine to a person who commits more than one administrative violation is determined as follows:
  - a) If the form and amount of fine applied to each individual violation is under the competence of a title, then jurisdiction to fine belongs to the title.
  - b) If the form and amount of fine applied to one of the violations is beyond the competence of the authority person, then the case shall be decided by higher level person.
  - c) If actions of administrative violation are under competence of punishment of various persons of different sectors, the documents of the case must be sent to People's Committee of authority level of the place in which the violation occurs.
4. Concerning agencies like police, border soldier, customs, taxation, market management, special inspection have responsibility for close cooperation with Forest Protection Department in investigating, preventing actions of administrative violation regarding to forest management, protection and forest product management. When a case is discovered, minutes should be made in accordance to the regulation; document and exhibit of the case, within five days since the day the minutes are made, must

be transferred to Forest Protection Department of same level for their decision on fine. If the case is beyond its competence of judgment, the Forest Protection Department has to transfer the document of case to authority agency as specified by Article 24 and Article 25 under this Decree. If there is no provincial or district Forest Protection Department, the violation found by the authorities should be transferred to the provincial or district People's Committee so that the Chief of People's Committee of these levels would decide the fines in compliance with his or her power. The agencies that deal with the violation are responsible for refunding the agency that has transferred the case document for arisen charges during capture and preservation of exhibit.

**Article 28. Dealing with cases beyond competence to fine an administrative violation**

1. In case of pecuniary penalty for violation, exhibit, medium of violation with value beyond the competence to fine of one level, the case document must be transferred to authority agency within the period as specified by Article 37 of this Decree. The transfer of document is specified as follows:

a) If the case beyond the competence of ranger, the case should be decided by the Chief of the agency.

b. If the violation is beyond the competence of the chief of the Forest Protection Station, Chairman of the communal People's Committee, then the case should be transferred to the Chief of the district Forest Protection Department or Chief of the Forest Protection Agency of the special-use forests; Chief of the Forest Protection Department of the preventive forest is responsible to manage the site (hereby commonly called the district Forest Protection Department).

c. If the violation is beyond the competence of Chief of the district Forest Protection Department, then the case should be decided by the Chairman of the district People's Committee of the violation case.

d. If the violation is beyond the competence of chief of the forest protection mobile team, forest fire prevention and fighting department, then the case should be decided by the Chief of the provincial Forest Protection Department.

e. If the violation is beyond the competence of the Chairman of district People's Committee, Chief of the provincial Forest Protection Department, then it should be decided by the Provincial People's Committee.

f. If necessary, the supervisor could take the administrative violation case of lower level to his/her level for settlement.

2. The document of case is transferred to authorized agency through the Forest Protection network. Forest produce, medium of violation which are in custody shall be preserved by the agency who decided custody until a decision from authority agency is given.

**Chapter IV**  
**Application of preventive measures**

**Article 29. Implementation of body search, custody in accordance to administrative procedures**

1. Body search in accordance to administrative procedures shall be performed as specified by Article 47 under Ordinance on Settlement of Administrative Violation.

2. Custody as in accordance to administrative procedures is made in accordance with articles 44, 45, under ordinance on settlement of administrative violation and Decree No. 162/2004/ND-CP dated 07/09/2004 issued by the Government.

**Article 30. Search of transportation medium, objects**

When it is evidential that transportation medium, bags, containers...carry illegal forest produce, Chief of the district Forest Protection Department or chief of Mobile Forest Protection team is entitled to

guide his staffs to carry out examination, investigation, using pennant, signal board, signal horn or torch (when it is dark) to give a signal requiring the controller of transportation medium on road, by waterway to stop for investigation of forest products. Searching medium, objects is done in accordance with Article 48 under the Ordinance on Settlement of Administrative Violation.

#### **Article 31. Search of hiding place of exhibit, medium of administrative violation**

To whom it specified in Article 45 of Ordinance on Settlement of Administrative Violation under force of Forest Protection Department and other concerning agencies as specified by Item 4 Article 27 of this Decree, in performance of inspection, investigation regarding to forest management, protection and forest product management is entitled to make decision on searching the scene in forest, hiding place scene of forest product, medium of administrative violation as specified in Article 49 under Ordinance on Settlement of Administrative Violation.

In case the searching hiding place of exhibit, medium of administrative violation is the living place, then decision on searching must be approved by the chairman of the district People's Committee. Under the regulation of this article, living place is a place in which an individual or household dwells regularly with permanently registered residence or temporarily registered residence; in case the vehicle is the dwelling place for individual, household, it must be registered.

#### **Article 32. Custody of exhibit, medium of administrative violation**

1. Custody of exhibit, medium of administrative violation is implemented in accordance to Article 46 of Ordinance on Settlement of Administrative Violation.

2. Period of custody of medium of administrative violation

a. In case the violation is simple, clear without any need to carry out further investigation, the medium of administrative violation would be kept within 10 days at maximum.

b. In case the violation is complicated that is required to carry out further investigation, the time period of medium of administrative violation in custody can be prolonged but not beyond 60 days since it is temporarily kept.

The time of keeping medium of administrative violation specified in Paragraph a, b of Item 2 of this Article is calculated according to the working days with exclusion of days off in accordance to the law.

### **Chapter V**

#### **Procedures of settlement of administrative violation And execution of decision**

#### **Article 33. Suspension of action of administrative violation**

Once an administrative violation under Article 8 to Article 23 of this Decree or activities of individual, organization being prone to forest fire, damages, forest is discovered, authority person must give decision on suspension of such action. Depending on the actual situation, decision on suspension may be expressed in writing, or by oral form, horn, signal or other forms. After a decision on suspension is given, the ranger should give notice to his/her superior.

#### **Article 34. Settlement of administrative violation with simple procedures**

That case is fined by authority person on field without minutes.

1. Cases to be settled with simple procedures:

a) Action of administrative violation that falls into precaution punishment or pecuniary penalty up to 100 000 VND

b) Multiple action of administrative caused by the same person with individual action falling into a precaution punishment or pecuniary penalty up to 100 000 VND.

2. Decision on settlement of administrative violation must be made in writing of standard form. Individual, organization of settlement may pay for pecuniary penalty on field with decision maker and take a receipt issued by Ministry of Finance.

### **Article 35. Drawing up minutes of administrative violation**

1. A person who has authority to fine administrative violation, on mission finds action of law breaking shall have to draw up minutes in conformity with article 55 of Ordinance on Settlement Administrative Violation except for case of simple procedures in accordance with Article 54 under the Ordinance on Settlement of Administrative Violation. In case a person drawing up minutes has no authority to fine, his/her superior of authority has to sign the minutes. If necessary, verification of minutes should be done before signing.

2. Concerning agency under Item 4, Article 27 of this Decree shall have to draw up minutes for inspection, custody of exhibit, and medium of administrative violation, transfer them to Forest Protection Agency as specified when a action of violation is found regarding to forest management, protection and forest product management. Such minutes set up and transferred by forest management agency shall be basis for settlement of administrative violation.

3. When owner of forest catches individual, organization in action of forest administrative violation within his/her area, he/she is entitled to arrest, draw up minutes, extradite violator and transfer document, violator to the Forest Protection Department, People's Committee of commune, ward, township of the case as specified by laws. Such minutes prepared by the owner of forest shall be basis for settlement.

4. In case exhibit, medium of violation are discovered without owner, or with the absence of owner, the persons as specified in item 1, 2 of this Article shall have to draw up minutes, keep the exhibit, medium of violation in custody and carry out investigation, verification and search for violator as specified by laws.

The owner of forest shall have to provide cooperation with local Forest Protection Department to draw up minutes and examine the exhibit and vehicle without owner in his forestry areas. Forest product without owner shall be handled by the owner of forest in accordance to Article 43 of this Decree.

### **Article 36. Making decision on administrative violation**

1. After action of violation is verified, the competent person has to make a reasonable decision on the form and amount of fine imposed to the administrative violation based on regulations of Article 3 under this Decree.

2. How to determine pecuniary penalty.

a) When fining, its specific fine level for the administrative violation without any aggravating and extenuating circumstances is the average level of fine frame regulated for that violation. This average level is calculated by sharing alike the total of the minimum and maximum.

b. In case the fine level of administrative violation is based on  $m^2$ ,  $m^3$ , tree, value of forest product, the calculation will be similar to the Paragraph a, Item 2 of this Article, then multiplied by area or weight or number of trees or violated forest product value.

c. If the violator possesses aggravating or extenuating circumstances, the average amount of fine should be determined as specified under Paragraph a and b of Item 2 of this Article; then basing on the specific case, the fine can be increased or decreased as compared with the average level, but not less than the minimum level of the framework of financial fines multiplied by area or weight or number of trees or violated forest product value or not more than the maximum level of the framework of financial fines multiplied by area or weight or number of trees or violated forest product value and not exceeding 30,000,000 VND.

3. Decision on punishing the administrative violation shall comply with its competence, order, procedure and form as stipulated. The content of punishment shall be in accordance with Article 56, 57 of Ordinance for Settlement of Administrative Violation. If the settlement is applied in accordance to Item 4, Article 45 of this Decree, it should be clearly specified in the Decision on fine.

**Article 37. Period for making decision on fining administrative violation.**

1. Period of making decision for fining

a) For simple cases or visible violation, the period shall be within 10 days, since the day of making minute for administrative breach.

b) For complex cases requiring evidence, appraising or others, the period shall be within 30 days since the day of making minute for administrative breach

If it requires more time for gathering evidences, within 10 days before the deadline, the authorized punisher shall submit the reporting minute to one of higher level with the power of extending for the extension; the extension is not allowed to exceed 30 *days*.

c. Period for making penalizing decision shall be based on working days, not including holidays according to regulations of Labor Code.

2. The extension shall be carried out as follow:

a) Chief of district Forest Protection Department extends the violation that chief of the Forest Protection Station has competence to impose fine.

b) Chief of provincial Forest Protection Department extends the violation of competence to impose fine of chief of Mobile Forest Protection Team, Forest Fire Prevention and Fighting Team, chief of district Forest Protection Department, Chief of Forest Protection Department of special-use forest, preventive forest.

c) Chairman of District People's Committee extends the violation that Chairman of communal People's Committee has competence to impose fine.

d) Chairman of Provincial People's Committee extends the violation that of competence to fine of Chief of Provincial Forest Protection Department and Chairman of District People's Committee.

e) Chief of the National Forest Protection Department extends the violation of his competence to impose fine.

3. Cases which are not allowed to make punishing decision for:

a) Reaching the expiry according to regulation of paragraph a, Term 1 of this Article

b) Reaching the deadline for making punishing decision as stipulated in point b, term 1 of this Article without any application for extension or with unproved extending application by the authorized levels

c) Reaching the expiry for approving extending application by the authorized levels

4. In case of no punishing decision, the authorized one can still make the decision applied with measures for overcoming the consequences as stipulated at Article 6 of this Decree and confiscate forest products considered as the evidence of administrative violation.

**Article 38. Decision on compulsorily overcoming consequences; confiscating evidence of administrative violation in case of no decision on punishing administrative violation**

1. In case of exceeding the period of punishment as stipulated at Article 4 of the Decree of exceeding the period of making decision on punishing administrative violation as stipulated at Item 3, Article 37 of this Decree, authorized one for punishing shall not be allowed to make the punishing decision, but still allowed to decide on applying measures for overcoming the aftermaths in accordance with Chapter II of this Decree.

Decision on compulsorily overcoming consequences shall be made in writing based on the approved form.

2. In the event that the authorized one does not make decision on imposing fine due to the fact of exceeding deadline of applying punishment, he/she still be allowed to confiscate the forest products as the evidence of administrative violation.

Decision on seizing the evidence of administrative violation in the event of passing the deadline shall be made in writing in accordance with the approved form.

**Article 39. Valuation on evidence, tools of administrative violation.**

1. After the holding in custody the evidence and tool of administrative violation, in case of necessarily confiscating, the one who makes the decision on holding in custody shall invite the representative from financial agency of the same level for considering and valuating the evidence and tools of administrative violation. If those evidence and tools create difficulty on the valuation or there is no agreement between the decision maker and the representative, the decision maker shall set the valuating council participated by the Auction Center of Province level and representatives from relevant agencies for supporting the valuation.

If the evidences are the forest products under the list whose price is regulated by People's Committee of Province level, the application of that price regulation shall be the substitution for the valuation.

2. Value of evidence and tools of administrative violation defined according to the regulation of the Term 1, this Article shall be the foundation for determining the competence of confiscating evidence and tools of administrative violation.

**Article 40. Signing and sealing the decision on punishing administrative violation.**

1. Decision on punishing administrative violation shall be directly signed by the authorized one, not allow for on-behalf signing.

2. Sealing the decision on punishing administrative violation.

a) Person authorized for punishing administrative violation and entrustee for punishing administrative violation have right to make agency stamp of the one authorized for punishing administrative violation. The seal shall be put on the left one third of the signature.

b) In case the one authorized for punishing administrative violation is not allowed to seal directly, his or her decision shall ask for being sealed by the agency of decision maker, and the seal shall be put on the left top of the decision paper, where appears the name of the punishing agency, N<sup>o</sup>, code of the decision.

**Article 41. Collecting and paying fine**

1. Collecting fine

a. The State Treasury is responsible for organizing the collection of financial fine, facilitating the person who pays fine. The fine should be collected according to the decision on imposing financial fine issued by the authorized person as specified in the Ordinance of Settlement of Administrative Violation.

b. The authorized person for punishing administrative violation is allowed to collect money at the place of administrative violation in cases as follow:

- The financial fine ranges from 5,000 VND to 100,000 VND;
- The financial fine is imposed out of the working hours;
- The assigned place for collecting fine is located in remote areas, on the river, by the sea or those of difficult traveling.

c. In case violating individuals, organizations can not pay fine at the place of administrative violation, they should be required to pay fine directly to the State Treasury in accordance to the regulation. The authorized person of imposing financial fine should be responsible to give the Decision on financial fine to those who are punished, and to the State Treasury where the fine should be collected within 3 days since the day of issuing the Decision.

## 2. Period of paying fine

a. Individuals, organizations who collect onsite financial fine, when submitting the money to the State Treasury, should ensure that the submitted money is equal to that written in the fine receipts and Decision on financial fine issued by the competent agencies and the submission should be made within two days since the day of collecting fine.

b. In case the fining is carried in remote areas or those of difficult traveling, the authorized person of punishing administrative violation should be allowed to collect onsite fine and be responsible to submit the fine to the State Treasury within seven days since the day the fine is collected. If the violator can not pay onsite fine, the fining should be carried out in accordance to Item 3 of this Article.

c. If the place of collecting fine is located on the river, the sea, the authorized person of imposing financial fine should be allowed to collect onsite fine and be responsible to add the money to the State Treasury not exceeding two days since the day of reaching the mainland. In case the violators do not pay onsite fine, they must pay the fine to the State Treasury within two working days since the day of reaching the mainland.

3. If the onsite fine collection is not applied (except for regulations under point c, item 2 of this Article), punished individuals, organizations shall be required to pay the fine in the State Treasury mentioned in the decision on administrative fine within 10 days since the day of receiving the decision.

The State Treasury is responsible to timely inform the agencies of deciding fine of the cases in which the punished individuals, organizations do not execute the decision on punishing administrative violation, though the deadline exceeds, so that those they will apply coercion to the violators in accordance to the law.

## 4. Management and use of the money collected from the administrative fine

a) All the money collected from the administrative fine should be contributed to the State Budget through the account opened in the State Treasury.

b) The use of the financial fine contributed to the State Budget in supporting the agencies, organizations that carry out the administrative punishment should be performed in accordance to the law on State Budget.

## **Article 42. Revoking license use right, working certificate**

1. Depriving license use right, working certificate is the additional punishment, attached to main punishment in following cases:

a) Any behaviors that violate the regulation under Article 19 of this Decree that is applied the average fine of more than 10,000,000 VND.

b) Any behaviors that violate the regulation under Article 20, 21 of this Decree that receive the average fine of 5,000,000 VND.

2. The authorized person of punishing administrative violation is the one who is granted with power to deprive the license use right, working certificate of the violator. Within three days since the day of decision on the financial fine, the decision maker must send a written report on the depriving of license and working certificate to the agencies who grant the license and working certificate.

3. The procedures to deprive the license use right, working certificate shall be performed in accordance to regulations under Article 59 of the Ordinance on Settlement of Administrative Violation.

## **Article 43. Settlement of violation made minute by the forest owner**

1. People who carry out illegal exploitation of forest shall be punished in accordance to Article 19 of this Decree.

2. The confiscated forest products shall be returned to the forest owner in following cases:

a) The forest owner catches the violator in the act in his forestry area.

b) The forest owner does not catch the violator in the act, but has sufficient clue to prove that the forest products are exploited from the planted forest, the generative forest rừng khoanh nuôi tái sinh that he is planting and protecting with his own money.

**Article 44. Settling evidence, tools of administrative violation**

1. Evidence, tools of administrative violation held in custody:

For the evidence, which is fresh and live products, weak or injured wild animals listed under group IB or other fresh forest products out of IA group, the authorized person shall make the minute and carry out the sale at the price defined by the provincial People's Committee. The money of its will be sent to the account opened in the State Treasury. If then the evidence is confiscate under the decision of the authorized one, the rest after deducting expenses as stipulated by law shall be put into the State budget; in case that evidence is not confiscated, the collected money should be returned to the legal owner, manager or user.

2. For confiscated evidence, medium of administrative violation:

a) The Ministry of Agriculture and Rural Development instructs the settlement of evidences that are confiscated forest animals.

b) If the violator is willing to pay fine equal to the value of the confiscated forest products (the value is calculated according to the price speculated by the Provincial People's Committee), the authorized person shall collect the fine and then turn over to the State Treasury and return the confiscated forest products, except for rare and precious ones listed under Group IA, IB and those that should be settled in accordance to Point a, Item 2 of this Article.

c) ) If the confiscated medium of violation are considered poor and over-date as specified in the law, the provincial Forest Protection Department shall preside and cooperate with counterpart financial agency to make minute for selling or destroying them as waste.

d) Confiscated evidence, medium of administrative violation used for doing administrative violation which are not regulated in term 1; point a, b, term 2 of this Article shall be settled as follow:

- To the evidence and medium of administrative violation, within 05 days, since confiscated into State fund, decision-making agency shall send the seizing decision and inform the counterpart financial agency.

- Within 10 working days, since the confiscating decision, Forest Managing Branch should preside and cooperate with counterpart financial agency and relevant sectors to carry out the auction for one month. Exceeding this deadline, the invited may not come or not come all, Forest Managing Branch shall carry out the auction, then contribute the money to the treasury and inform the counter financial agency.

e) Provinces, districts of no Forest Protection Agencies, whenever confiscate forest products, should transfer to the counterpart financial agency for organizing the auction in accordance to the existing regulations.

**Article 45. Executing decision on punishing administrative violation**

1. Having made the punishing decision, the authorized person shall send the decision to the punisher. If after one year the authorized one cannot send the punishing decision to the one who has to receive the punishment, decision maker shall decide on suspending the performance of punishment, except for confiscating evidence and tool of administrative violation.

2. The decision on punishing administrative violation should be performed within 10 days since the date the violator received the decision, except for the case decision on financial fine is suspended in accordance to regulations under Article 65 of the Odinance on Settlemt of Administrative Violation.

3. In the event of the fact that the place in which the administrative violation occurs is not the permanent residence of the violator; the punishing decision shall be transferred to the counterpart agency located in the violator's resident area for performing the decision. In case the violator's resident area does not include the counterpart agency, the punishing decision shall be submitted to People's Committee of District level for its performance.

If the violation occurs in district-level area belonging to mountainous and islandish province or remote areas which create no favorable condition for violated individual or organization to fulfill the punishment at the violation-happening place, the decision shall be submitted to counterpart agency located in the violator's resident area for its performance.

4. In case of applying fine to the violator without confiscating violating tool, the authorized punisher shall be entitled to hold on custody the operating license of the tool, driving license and other required documents or keep temporarily violating tool until the full performance of individual and organization to the punishing decision.

Temporarily keeping administrative violating tool is for ensuring the performance of punishing decision without any temporary keeping decision, but it is required to make the temporary keeping minute, including the reason of holding in custody. Period of holding in custody shall be applied until the full performance by punished violators. As soon as the full performance by the punishees, the authorized punisher shall make minute for returning tool for them.

#### **Article 46. Coercing into performing administrative violating punishment**

1. Exceeding the period of executing the decision on punishing administrative violation, if the punishee is not self-aware to comply with punishing decision specified in Item 2, Article 45 of this Decree, he will be coerced into the performance

2. Coercion into performance is under the regulation of Article 66, 67 of Ordinance on Administrative Violation Treatment and Decree No 37/2005/MD-CP by the Government dated March 18th, 2005 regulating procedures for applying methods of coercing into performing administrative violating decision.

#### **Article 47. Transferring documents of administrative violation containing criminal sign for tracking down criminal responsibility**

1. In case the violation includes the criminal sign, the authorized one shall immediately submit the document to authorized criminal agency

It is not allowed to retain the document of violation characterized with crime for administrative punishment

2. In case of already making administrative violating decision is followed by discovering criminal sign which still happens in the period of tracking down criminal responsibility, the decision maker shall stop that decision and within 03 days since the stopping date the decision maker shall submit all the documents to authorized criminal agency.

3. The authorized criminal agency is not allowed to refuse the documents as stipulated in term 1, 2 of this Article. And if the consideration for those documents by the authorized criminal agency says that it is not sufficient to be considered as crime, the authorized criminal agency shall fulfill the whole procedures as stipulated in Article 63, Ordinance on Settlement of Administrative Violation and other legal regulations as well as send back the documents for the authorized agency for punishing administrative violation.

### **Chapter VI**

#### **COMPLAINT, ACCUSATION, SETTLEMENT OF VIOLATIONS**

#### **Article 48. Complaint, accusation:**

The complaint, accusation, and settlement of complaint and accusation should be carried out in accordance to regulations of the Law on Complaint and Accusation.

#### **Article 49. Dealing with violation caused by one authorized for dealing with administrative violation.**

If one authorized for dealing with administrative violation is one of unqualified in solving violation, bureaucratic, event illegally using violated money, evidence and tool, creating obstacle for producing and circulating forest products, he shall be tracked down on criminal responsibility based on the violating level; in case of material loss, he shall be responsible to make the compensation for it as stipulated by Law.

## **Chapter VII** **TERM OF PERFORMANCE**

**Article 50.** The effectiveness of this Decree shall be valid after 15 days as from the date of publishing on the Official Gazette and replace Decree 139/2004/ND-CP issued on June 25, 2004 by the Government on Administrative Penalties Imposed on Violations in respect of Forest Control, Forest Protection and Forestry Products Management

To any violations that occurred, discovered and written in minute before the effectiveness of this Decree but has not been settled, the punishment should be imposed in accordance to regulations of this Decree.

The violation whose decision on imposing fine has been come into effectiveness but not been performed or finished its performance, the punishment applied to that violation should still be applied.

**Article 51.** The Minister of Agriculture and Rural Development shall be responsible to arrange, monitor and follow up this Decree. If there is any problem arising during the performance of this Decree, it shall be instructed to fulfill consistently in accordance with regulations of the applicable laws.

**Article 52.** Ministers, Heads of agencies at ministerial level, Heads of Governmental Agencies, Chairmen of People's Committee of Provinces, Cities under the Central Government shall be responsible to fulfill this Decree./.

On behalf of the Government  
Prime Minister

Nguyen Tan Dung