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GVN Releases Circular for Fines for Food Safety Violations

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Food and Agricultural Import Regulations and
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Report Highlights:

On November 14, 2013, the Government of Vietnam issued Decree 178/2013/ND-CP to promulgate the Regulation on Administrative Penalties on Violations of Food Safety. The Decree outlines the monetary fine structure for violations of Vietnamese food safety regulations. The Decree entered into force on December 31, 2013. This report provides an un-official translation of the Decree.

Summary:

On November 14, 2013, the Government of Vietnam issued Decree 178/2013/ND-CP to promulgate the Regulation on Administrative Penalties on Violations of Food Safety. The Decree outlines the monetary fine structure for violations of Vietnamese food safety regulations. The Decree stipulates different levels of administrative penalties applied for a wide range of food safety violations such as: violation of regulations on conditions for safety of food products; violation of regulations on conditions for safety assurance of food products during production, importation, and exportation; and violation of other areas relating to food safety such as food testing, risks analysis, prevention and remedy of food safety incidents, tracing the origin of a food safety violation, and the recall and disposal of unsafe food.

The Decree stipulates different levels of financial penalty ranging from a few hundred thousand Vietnam Dong (VND) to 100 million VND (Note: exchange rate is 21,120 VND to \$1 USD as of May 9, 2014). In addition, other penalties include business license withdrawal, destruction of food products, or re-export (in the case of imported food products).

The Decree consists of four chapters covering forty articles.

Chapter II, Section 1 outlines penalties imposed on food producers and processors including: 1) utilizing products, additives, and ingredients with no expiration date or an expired date, 2) using products of unclear origin or without a certificate of origin, 3) utilizing diseased animals, 4) using banned substances or substances in excess of the Government's limit, 5) failing to obtain a conformity declaration for food packaging materials (if needed), and 6) using unsafe packaging materials. The above violations can apply to individuals and organizations and could be enforced due to violations related to imported food products.

Chapter II, Section 2 outlines penalties for violations of food safety regulations relating to producing and trading food products, including: 1) failing to have the proper health inspection certificates for workers in the food processing sector, 2) for workers that violate a number of food processing regulations, 3) misusing or adulterating aquatic, animal, or fresh food from plant products, 4) failing to assure food safety in a number of different food service outlets (including street food), and 5) violating the regulations on the use of functional, genetically modified, and irradiated food.

Chapter II, Section 3 outlines penalties for violations of food safety regulations relating to producing, trading, importing and exporting food products, including: 1) failing to comply with the import procedures for food, additives, enhancers, packaging, or instruments, 2) falsifying the content of certificates relating to food trading, and 3) failing to possess or possessing expired documentation relating to technical conformity of food products or ingredients circulated for processing or consumption.

Chapter II, Section 4 outlines fines associated with violating regulations on communicating and educating about food, including: 1) releasing false information about food safety, 2) failing to comply with Vietnamese regulations concerning the testing of food products, 3) failing to notify Vietnamese competent agencies of an incident of food safety, 4) failing to perform sufficient preventative measures against food safety violations, and 5) failing to keep adequate records on the source or origin of the ingredients or failing to notify competent authorities of unsafe product batches or failing to conduct a product recall in the manner proscribed by the competent authority.

Chapter 3 outlines the various Vietnamese authorities, ranging from the Commune to the National-level, that are able to assess fines in the enforcement of this Decree. A number of different authorities, at each level of the political structure, have the ability to fine individuals or organizations for violations proscribed in this Degree.

The Government's ability to enforce certain parts of this Decree, especially related to street food vendors and food market stalls, has already been criticized by organizations and associations within Vietnam.

The full Decree 178/2013 in Vietnamese can be found on the Vietnam Food Administration's website: www.vfa.gov.vn

Below is un-official translation of the Decree 178/2013/ND-CP.

THE GOVERNMENT SOCIALIST REPUBLIC OF VIETNAM

Independence - Freedom - Happiness

No. 178/2013/ND-CP *Hanoi, November 14, 2013*

DECREE

on dealing with administrative offenses in food safety

Pursuant to the December 25, 2001 Law on organization of Government;
Pursuant to the June 20, 2012 Law on handling of administrative breaches;
Pursuant to the June 17, 2010 Law on food safety;
At the proposal of Minister of Health,
The Government promulgates Decree on dealing with administrative offences in food safety.

CHAPTER I

GENERAL PROVISIONS

Article 1. Scope of regulation

1. This Decree provides for acts of administrative breaches, forms and levels of penalty, measures for remedying consequences, the authority to record administrative breaches and authority to impose penalties for administrative offences in food safety.
2. Administrative breaches in food safety regulated in this Decree include the followings:
 - a) Breaches of regulations on conditions for safety assurance in respect to food products;
 - b) Breaches of regulations on the conditions for food safety assurance during the food production and trading;
 - c) Breaches of regulations on safety conditions for imported and exported food;

d) Breaches of regulations on information, education, communications on food safety; testing food; analyzing risks, prevention and remedy of food safety incidents; tracing the origins, recall and disposal in respect to unsafe food.

3. Other acts of administrative breaches related to food safety which are regulated in Decrees on imposing penalties for administrative offences in veterinary, fishery, standards, measurement and quality, commerce, culture, sport, tourism and advertisement, labor and other sectors shall be dealt with administratively according to those respective Decrees.

Article 2. Subjects of application

1. Vietnamese individuals and organizations; foreign individuals and organizations committing acts of administrative breaches in food safety on Vietnam's territory.

2. Persons with authority to record, to impose penalties for administrative breaches and other relevant individuals and organizations.

Article 3. Forms of penalty and measures for remedying consequences

1. For each act of administrative breach in food safety, the individuals in breach and organizations in breach shall be subject to one of forms of principal penalties including warning or fine.

2. Depending on nature and seriousness of breaches, individuals and organizations committing administrative breaches in food safety may be subject to one or more additional forms of penalty as follows:

a) Revocation of the right to use certificate of facility eligible for food safety for a defined time or to suspend operation for a defined period of time;

b) Confiscation of material evidence in breach and means used to commit administrative breaches in food safety.

3. Apart from principal penalties, additional penalties, organizations and individuals that commit administrative breaches may also be applied one or some of measures for remedying consequences stipulated in points d, dd, e, g, and h of Clause 1, Article 28 of the Law on handling of administrative breaches and measures for remedying consequences:

a) To compulsorily inspect the veterinary hygiene of terrestrial animal products, which have not been subject to a veterinary hygiene inspection before being produced or processed into food;

b) To compulsorily change the use of goods in breach of food safety regulations;

c) To compulsorily cancel the testing results on food samples, which are fraudulently exchanged or forged, or on reports of testing results which are issued contrary to the regulations;

d) Compulsorily destroy the forged or fraudulent papers;

dd) Compulsorily bear all costs on handling food poisoning cases, cost of medical examination and treatment for persons suffering food poisoning in cases that food poisoning occurs.

Article 4. Provisions on fine levels, authority to impose penalties on individuals and organizations

1. The maximum fine level imposed for each act of administrative breach in food safety shall be 100,000,000 VND in respect to individuals and 200,000,000 VND in respect to organizations, except for cases defined in Clause 2 of this Article.
2. In case where the maximum fine level is imposed as prescribed in Clauses 4, 5 and 6 of Article 5; Clause 6 of Article 6; Clause 3 of Article 7; point d and point dd of Clause 5, points b, c and d of Clause 6 of Article 16; Clause 4 of Article 26 of this Decree, but such fine is still 3.5 times lower than the total food value in breach (in respect to individuals in breach) or 7 times lower than the total food value in breach (in respect to organizations in breach), the applicable fine level is equal to 3.5 times the total food value in breach at time the breach is committed by individuals or 7 times the total food value in breach at time the breach is committed by organizations.
3. The fine levels stipulated in Chapter II of this Decree are fine levels applicable to individuals. For the same administrative breach, the fine level applicable to an organization shall be equal to twice that of the fine level applicable to an individual.
4. The fine-imposing authority of titles stipulated in Chapter III of this Decree is the authority applied to one act of administrative breach committed by individuals. In case where a fine is imposed, the authority to impose the fine on organizations shall be equal to twice the authority to impose the fine on individuals.

CHAPTER II

ACTS OF ADMINISTRATIVE BREACHES, FORMS OF PENALTY AND LEVELS OF PENALTIES, AND MEASURES FOR REMEDYING CONSEQUENCES

SECTION 1

BREACHES OF REGULATIONS ON CONDITIONS FOR SAFETY ASSURANCE IN RESPECT TO FOOD PRODUCTS

Article 5. Breaches of regulations on use of food ingredients in producing and processing food

1. A fine from 80% to 100% of total food value in breach at time of breach for an act of using products of terrestrial animals which have not passed veterinary hygiene inspection in accordance with regulations on production or processing of food and provided that the fine does not exceed VND 100,000,000.
2. A fine from 100% to 120% of total food value in breach at time of breach for an act of using food ingredients, ingredients to make food additives, food processing enhancers which have expired or have no expiry date in respect to food ingredients and/or ingredients to make food additives, food processing

enhancers, whose the expiry date for producing or processing food ingredients, ingredients to make food additives and/or food processing enhancers must be compulsorily inscribed on its packing and provided that the fine does not exceed VND 100,000,000.

3. A fine from 120% to 150% of total food value in breach at time of breach for an act of using products of terrestrial animals which have been checked for veterinary hygiene but failed to meet requirements for producing and processing food and provided that the fine does not exceed VND 100,000,000.

4. A fine from VND 10,000,000 to VND 20,000,000 for an act of using ingredients, which fail to ensure food safety, for producing or processing food, except for acts stipulated in Clauses 1, 2, 3, 5 and 6 of this Article.

5. A fine from VND 30,000,000 to 50,000,000 for an act of using ingredients without clear origin, or certificate of origin issued by competent state agencies in accordance with regulations for producing or processing food.

6. A fine from VND 70,000,000 to 100,000,000 for one of the following acts:

a) Using ingredients, which do not fall within the categories used to make food, for producing and processing food;

b) Using animals, which have infectious diseases, dead animal that died due to diseases, epidemics, or with an unclear reason, which are subject to compulsory destruction at the request of state competent agencies, for producing or processing food;

c) Using food ingredients, which contain impurities put into without food safety assurance, for producing and processing food.

7. A fine of equal to 3.5 times of total food value in breach, which is produced from ingredients failing to ensure food safety, for acts stipulated in Clauses 4, 5 and 6 of this Article if the highest fine levels of the fine bracket stipulated in Clauses 4, 5 and 6 of this Article are lower than 3.5 times of total food value in breach at time of breach.

8. Additional forms of penalty:

a) To suspend food-producing and processing activities for 1 to 2 months for acts stipulated in Clause 2 and Clause 3 of this Article;

b) To suspend food-producing and processing activities for 2 to 3 months for acts stipulated in Clause 4 and Clause 5 of this Article;

c) To suspend food-producing and processing activities for 3 to 6 months for acts stipulated in Clause 6 of this Article.

9. Measures for remedying consequences:

a) Compulsorily conduct inspection of veterinary hygiene for acts stipulated in Clause 1 of this Article;

b) Compulsorily destroy exhibits of breaches for acts stipulated in Clauses 2, 3, 4 and 5, Point a and Point b of Clause 6 of this Article;

c) To compulsorily remove impurities in order to ensure food safety for consignment in breach but not subject to destruction for acts stipulated in point c of Clause 6 of this Article; in case the removal cannot be implemented, the compulsory destruction shall be applied.

Article 6. Breaches of regulations on use of food additives, food processing enhancers in producing and processing food

1. A fine from VND 3,000,000 to 5,000,000 for an act of using food additives and/or food processing enhancers, which fall within the list permitted to be used in accordance with regulations but used in excess of the permitted limit.

2. A fine from VND 10,000,000 to 20,000,000 for an act of using food additives and/or food processing enhancers, which fall within the list permitted to be used in accordance with regulations but have expired or have no expiry date.

3. A fine from VND 20,000,000 to 30,000,000 for an act of using food additives and/or food processing enhancers, which fail to meet the respective technical and food safety regulations.

4. A fine from VND 30,000,000 to 40,000,000 for an act of using food additives and/or food processing enhancers not listed as permitted for use.

5. A fine from VND 40,000,000 to 50,000,000 for an act of using food additives and/or food processing enhancers that cannot be traced (or of unknown origin).

6. A fine from VND 70,000,000 to 100,000,000 for an act of using food additives and/or food processing enhancers, which contain toxic substances.

7. A fine equal to 3.5 times of total food value in breach for an act stipulated in Clause 6 of this Article if the highest fine levels of the fine bracket stipulated in Clause 6 of this Article are lower than 3.5 times of total food value in breach at time of breach.

8. Additional forms of penalty:

a) To suspend food-producing or processing activities for 2 to 3 months for acts stipulated in Clauses 2, 3, 4 and 5 of this Article;

b) To suspend food-producing or processing activities for 3 to 6 months for acts stipulated in Clause 6 of this Article.

9. Measures for remedying consequences:

To compulsorily destroy exhibits of breaches for acts stipulated in Clauses 2, 3, 4, 5 and 6 of this Article.

Article 7. Breaches of regulations on use of chemicals in producing or processing food

1. A fine from VND 10,000,000 to 20,000,000 for an act of using chemicals, the use of which is permitted in food-producing and processing activities, but the chemicals are expired or have no expiry date.
2. A fine from VND 20,000,000 to 40,000,000 for an act of using chemicals, which do not fall within in the List permitted to be used, or chemicals without clear origin for producing and processing food.
3. A fine from VND 70,000,000 to 100,000,000 for an act of using chemicals, the use of which is prohibited in producing and processing food, for producing and processing food.
4. A fine equal to 3.5 times of total food value in breach for act stipulated in Clause 3 of this Article if the highest fine levels of the fine bracket stipulated in Clause 3 of this Article are lower than 3.5 times of total food value in breach at time of breach.
5. Additional forms of penalty:
 - a) To suspend food-producing or processing activities for 2 to 4 months for an act stipulated in Clause 1 of this Article;
 - b) To suspend food-producing or processing activities for 4 to 6 months for an act stipulated in Clause 2 of this Article;
 - c) To suspend food-producing or processing activities for 6 to 12 months for an act stipulated in Clause 3 of this Article.
6. Measures for remedying consequences:

Compulsory destroy exhibits of breaches for acts stipulated in Clauses 1, 2 and 3 of this Article.

Article 8. Breaches of regulations on fortifying micronutrients in food

1. A fine from VND 3,000,000 to 5,000,000 for an act of fortifying micronutrients (vitamins, minerals and trace elements) in food, which fall within the stipulated list but exceeding the permitted level in accordance with regulations.
2. A fine from VND 5,000,000 to 10,000,000 for an act of fortifying micronutrients (vitamins, minerals and trace elements) in food, not included in the list permitted for use.

Article 9. Breaches of regulations on using packaging materials, instruments in direct contact with food in food production and business

1. A fine from VND 5,000,000 to 10,000,000 for an act of using packaging materials and/or instruments in direct contact with food, and such materials and/or instruments are subject to registration of an announcement of technical-regulation conformity or announcement of conformity with regulations on food safety, but having no a receipt paper of announcement of technical-regulation conformity or

certificate of announcement of conformity with regulations on food safety or having an expired paper before such packaging materials and/or instruments in direct contact with food are produced and/or imported for producing and trading food.

2. A fine from VND 10,000,000 to 20,000,000 for an act of using the packaging materials and/or instruments in direct contact with food, which fail to meet the respective technical regulations and regulations on food safety for producing and trading food.

3. A fine from VND 20,000,000 to 40,000,000 for an act of using the packaging materials and/or instruments in direct contact with food, which contain toxic substances or are contaminated with toxic substances, for producing and trading food.

4. Additional forms of penalty:

a) To suspend food-producing and trading activities for 2 to 3 months for acts stipulated in Clause 2 of this Article;

b) To suspend food-producing and trading activities for 3 to 6 months for acts stipulated in Clause 3 of this Article;

5. Measures for remedying consequences:

Compulsorily change use purpose or to compulsorily destroy exhibits of breaches for acts stipulated in Clause 3 of this Article.

SECTION 2

BREACHES OF REGULATIONS ON THE CONDITIONS FOR FOOD SAFETY ASSURANCE IN PRODUCING AND TRADING FOOD

Article 10. Breaches of regulations on health standards in producing and trading food, food additives, food processing enhancers, food-containing and-packing instruments and materials

1. To impose penalties for acts of performing periodical health examination for objects subject to periodical health examination but failing to perform adequate tests in accordance with the regulations or using expired certificates of health eligibility in accordance with one of the following levels:

a) A warning or fine from VND 300,000 to 500,000 for a breach related to less than 10 persons;

b) A fine from VND 500,000 to 1,000,000 for a breach related to 10 to less than 20 persons;

c) A fine from VND 1,000,000 to 2,000,000 for a breach related to 20 to less than 100 persons;

d) A fine from VND 3,000,000 to 5,000,000 for a breach related to 100 to less than 500 persons;

dd) A fine from VND 5,000,000 to 10,000,000 for a breach related to 500 or more.

2. To impose penalties for acts of failing to perform periodical health examination for objects subject to periodical health examination in accordance with one of the following levels:

- a) A fine from VND 500,000 to 1,000,000 for a breach related to less than 10 persons;
- b) A fine from VND 1,000,000 to 2,000,000 for a breach related to 10 to less than 20 persons;
- c) A fine from VND 3,000,000 to 5,000,000 for a breach related to 20 to less than 100 persons;
- d) A fine from VND 5,000,000 to 10,000,000 for a breach related to 100 to less than 500 persons;
- dd) A fine from VND 10,000,000 to 20,000,000 for a breach related to 500 persons or more.

3. A fine from VND 3,000,000 to 5,000,000 for an act of modifying, erasing and/or falsifying the content of certificate of health eligibility.

4. A fine from VND 3,000,000 to 7,000,000 for an act of using a counterfeit certificate of health eligibility.

5. A fine from VND 7,000,000 to 10,000,000 for an act of using persons, who have diseases or clinical signs of diseases falling within the list of infectious diseases or clinical signs of diseases, for which [the persons are] not permitted to directly participate in process of producing and/or processing food.

6. Measures for remedying consequences:

Compulsorily destroy the counterfeit certificate of health eligibility for acts stipulated in Clause 4 of this Article.

Article 11. Breaches of regulations on coaching of the knowledge in food safety, technical officers, staff in producing and trading food, food additives, food processing enhancers, instruments, materials packaging and/or containing food

1. To impose penalties for an act of failing to perform the update of knowledge in food safety in accordance with regulations for objects, who must update knowledge, according to one of the following levels:

- a) A warning or fine from VND 300,000 to 500,000 for a breach related to less than 10 persons;
- b) A fine from VND 500,000 to 1,000,000 for a breach related to 10 to less than 20 persons;
- c) A fine from VND 1,000,000 to 2,000,000 for a breach related to 20 to less than 100 persons;
- d) A fine from VND 3,000,000 to 5,000,000 for a breach related to 100 to less than 500 persons;
- dd) A fine from VND 5,000,000 to 10,000,000 for a breach related to 500 persons or more.

2. To impose penalties for an act of using persons, who must be coached of the knowledge in food safety in accordance with regulations, while they do not possess certificate of coaching the knowledge of food safety according to one of the following levels:

- a) A fine from VND 500,000 to 1,000,000 for a breach related to less than 10 persons;
- b) A fine from VND 1,000,000 to 2,000,000 for a breach related to 10 to less than 20 persons;
- c) A fine from VND 3,000,000 to 5,000,000 for a breach related to 20 to less than 100 persons;
- d) A fine from VND 5,000,000 to 10,000,000 for a breach related to 100 to less than 500 persons;
- dd) A fine from VND 10,000,000 to 20,000,000 for a breach related to 500 persons or more.

3. A fine from VND 3,000,000 to 5,000,000 for one of the following acts:

- a) Producing and/or trading food, food additives, food-processing enhancers, instruments, materials packaging and containing food in case where it compulsorily has technical officers or staff but fails to have technical officers or staff in accordance with the regulations;
- b) Modifying, erasing and/or falsifying the content of certificate of coaching the knowledge in food safety or papers proving the update of knowledge in food safety.

4. A fine from VND 5,000,000 to 7,000,000 for an act of using the certificates of coaching the knowledge in food safety or papers proving the update of knowledge of food safety, which are counterfeit.

5. Measures for remedying consequences:

To compulsorily destroy the counterfeit certificate for acts stipulated in Clause 4 of this Article.

Article 12. Breaches of regulations on practicing food safety in producing and trading food, food additives, food processing enhancers, instruments, materials packaging and/or containing food

1. To impose penalties for an act of using employees, who have been equipped and worn the protective labor clothes, but not sufficiently as requested by the regulations, according to one of the following levels:

- a) A warning or fine from VND 300,000 to 500,000 for a breach related to less than 10 persons;
- b) A fine from VND 500,000 to 1,000,000 for a breach related to 10 to less than 20 persons;
- c) A fine from VND 1,000,000 to 2,000,000 for a breach related to 20 to less than 100 persons;
- d) A fine from VND 3,000,000 to 5,000,000 for a breach related to 100 to less than 500 persons;
- dd) A fine from VND 5,000,000 to 10,000,000 for a breach related to 500 persons or more.

2. To impose penalties for an act of using employees, who fail to be equipped and wearing labor protection clothes in accordance with regulations, according to one of the following levels:

- a) A fine from VND 500,000 to 1,000,000 for a breach related to less than 10 persons;
- b) A fine from VND 1,000,000 to 2,000,000 for a breach related to 10 to less than 20 persons;
- c) A fine from VND 3,000,000 to 5,000,000 for a breach related to 20 to less than 100 persons;
- d) A fine from VND 5,000,000 to 10,000,000 for a breach related to 100 to less than 500 persons;
- dd) A fine from VND 10,000,000 to 20,000,000 for a breach related to 500 persons or more.

3. To impose penalties for breaches of regulations on practicing food safety in producing and trading food according to one of the following levels:

- a) A warning or fine from VND 300,000 to 500,000 for a breach related to less than 10 persons;
- b) A fine from VND 500,000 to 1,000,000 for a breach related to 10 to less than 20 persons;
- c) A fine from VND 1,000,000 to 2,000,000 for a breach related to 20 to less than 100 persons;
- d) A fine from VND 3,000,000 to 5,000,000 for a breach related to 100 to less than 500 persons;
- dd) A fine from VND 5,000,000 to 10,000,000 for a breach related to 500 persons or more.

Article 13. Breaches of regulations on general conditions for food safety assurance in producing and trading food, food additives, food processing enhancers, instruments, materials packaging and/or containing food

1. A fine from VND 1,000,000 to 3,000,000 for one of the following acts:

- a) Failing to ensure regulations on safe location or distance for toxic and pollution sources as well as other harmful elements;
- b) Failing to equip fully devices and/or failing to take measures to prevent and fight harmful insects and animals in accordance with regulations.

2. A fine from VND 3,000,000 to 5,000,000 for one of the following acts:

- a) Failing to equip sufficiently the suitable devices and instruments in accordance with regulations for the processing of ingredients, processing, packing, preserving and transporting various kinds of food, food additives, food processing enhancers, food-packaging and/or -containing instruments and/or materials;
- b) Failing to equip sufficiently the suitable devices, instruments, facilities for washing and sterilizing, antiseptic water in accordance with regulations;

c) Failing to ensure the food safety in producing and trading food, food additives, food processing enhancers, instruments, food-packaging and/or -containing instruments and/or materials in accordance with regulations, except for acts stipulated in Clause 1, Point a and Point b of Clause 2 and Clause 3 of this Article.

3. A fine from VND 5,000,000 to 10,000,000 for one of the following acts:

a) Using water which fails to meet the technical regulations for producing and trading food, food additives and food processing enhancers;

b) The process of preliminary processing and/or processing food, food additives, food processing enhancers, food-packaging and/or containing instruments and/or materials fail to ensure food safety or food in contact with the pollution and toxic elements;

c) Failing to have the suitable waste-managing measures in the zone of producing and trading food, food additives, food processing enhancers, food-packaging and/or containing instruments and/or materials, causing environmental pollution;

d) Using detergent and antiseptic chemicals in producing and trading food contrary to regulations.

4. A fine for act of failing to set up and apply the systems of good manufacturing practice (GMP), good hygiene practice (GHP, SSOP), good agricultural practice (GAP, VietGAP), hazard analysis and critical control point (HACCP) and other advanced systems of food safety management for the producing and trading facilities, which are compulsorily applied in accordance with regulations of competent state agencies, according to the following levels:

a) A fine from VND 5,000,000 to 10,000,000 for the initial production operation;

b) A fine from VND 10,000,000 to 20,000,000 for the production operation, which includes preliminarily processing, processing and preservation;

Article 14. Breaches of regulations on conditions for food safety assurance in preserving food, food additives, food processing enhancers, food-packaging and/or -containing instruments and/or materials

1. A fine from VND 1,000,000 to 3,000,000 for one of the following acts:

a) Failing to preserve separately each category of food, food additives, food processing enhancers, food-packaging and/or containing instruments and/or materials, leading to risk of cross-pollution;

b) Failing to equip specialized-use devices to control temperature, humidity, air ventilation and other special preservation conditions at the requirement of each category of food, food additives, food processing enhancers;

c) Failing to have books recording temperature, humidity, air ventilation and other conditions for food ingredients, food additives, food processing enhancers and/or food products, which have special requirements for preservation;

2. A fine from VND 3,000,000 to 5,000,000 for one of the following acts:

a) Using places of preservation and/or means for food preservation, which fail to ensure hygiene;

b) Failing to comply with the regulations on preservation of food, food additives, food processing enhancers, food-packaging and/or containing instruments and/or materials, as announced by the producing and/or processing individuals and/or organizations;

c) Using places with harmful insects or animals as places for preservation of food, food additives, food processing enhancers, food-packaging and/or -containing instruments and/or materials.

3. A fine from VND 5,000,000 to 10,000,000 for act of preserving food, food additives, food processing enhancers, food-packaging and/or containing instruments and/or materials together with toxic substances.

4. Measures for remedying consequences:

a) To compulsorily destroy exhibits of breaches being food, food additives and/or food processing enhancers, which are preserved together with toxic substances for breaches stipulated in Clause 3 of this Article;

b) To compulsorily change use purpose or to compulsorily destroy exhibits of breaches being food-packaging and/or containing instruments and/or materials, which are preserved together with toxic substances for breaches stipulated in Clause 3 of this Article.

Article 15. Breaches of regulations on conditions for food safety assurance during transport of food, food additives, food processing enhancers, food-packaging and/or -containing instruments and/or materials

1. A fine from VND 3,000,000 to 5,000,000 for one of the following acts:

a) Using means to transport food, food additives, food processing enhancers, food-packaging and/or -containing instruments and/or materials, which are made by materials contaminating food, food additives, food processing enhancers, food-packaging and/or -containing instruments and/or materials;

b) Transporting food, which have been packaged or in the containing tools, but the package or containing tools fail to ensure safety or are broken, torn, deformed during transport contaminating food;

c) Failing to ensure conditions for preservation during transport; transporting food, food additives, food processing enhancers, food-packaging and/or -containing instruments and/or materials together with other goods, which have risk of contaminating food.

2. A fine from VND 5,000,000 to 10,000,000 for one of the following acts:

a) Using means of transport which contaminate food, food additives, food processing enhancers, food-packaging and/or containing instruments and/or materials, means of transport which transported harmful

substances, but have not been bleached and washed cleanly to transport food, food additives, food processing enhancers, food-packaging and/or -containing instruments and/or materials;

b) Transporting food together with harmful substances.

3. Measures for remedying consequences:

a) To compulsorily remove the contaminated elements for food, food additives, food processing enhancers, food-packaging and/or containing instruments and/or materials, for acts stipulated in Clause 1 and Clause 2 of this Article; in case that it fails to remove them, compulsory destruction is applied;

b) To compulsorily change the use purpose of means of transport, for acts stipulated in point a of Clause 1, point a of Clause 2 of this Article;

c) To compulsorily change of use purpose or to compulsorily destroy the contaminated food-packaging and/or -containing instruments and/or materials, for acts stipulated in Clause 1 and Clause 2 of this Article.

Article 16. Breaches of regulations on the conditions for food safety assurance in producing and trading fresh food derived from aquatic products

1. A fine from VND 3,000,000 to 5,000,000 for an act of preserving, transporting, exploiting aquatic species derived from rearing establishments which are prohibited from harvest and/or from the aquatic breeding zones which are prohibited from harvest.

2. A fine from VND 5,000,000 to 7,000,000 for an act of collecting and/or preliminarily processing aquatic species derived from rearing establishments which are prohibited from harvest and/or from the aquatic breeding zones which are prohibited from harvest.

3. A fine from VND 10,000,000 to 15,000,000 for an act of hiring other person(s) to transport or exploit aquatic species derived from rearing establishments which are prohibited from harvest and/or from the aquatic breeding zones which are prohibited from harvest.

4. A fine from VND 30,000,000 to 50,000,000 for acts of processing aquatic species derived from rearing establishments which are prohibited from harvest and/or from the aquatic breeding zones which are prohibited from harvest.

5. To impose penalties for an act of putting impurities into aquatic products, collecting, preliminarily processing, preserving, processing and/or trading aquatic products with impurities according to one of the following levels:

a) A fine from VND 300,000 to 500,000 for an act of directly putting impurities into aquatic products;

b) A fine from VND 5,000,000 to 10,000,000 for an act of transporting aquatic products with impurities, unless permitted by competent state agencies;

c) A fine from VND 10,000,000 to 20,000,000 for an act of hiring other persons to transport aquatic products with impurities, unless permitted by competent state agencies;

d) A fine from VND 30,000,000 to 50,000,000 for an act of collecting, preserving, trading aquatic products with impurities;

dd) A fine from VND 70,000,000 to 100,000,000 for an act organizing putting impurities into aquatic products or preliminary processing, or to process aquatic products with impurities.

6. To impose penalties for an act of exploiting, collecting, preliminarily processing, preserving, processing, trading aquatic species with natural toxicity according to one of the following levels:

a) A fine from VND 20,000,000 to 30,000,000 for an act deliberately exploiting aquatic species with natural toxicity, which are harmful to human health and prohibited to be used as food in accordance with regulations.

b) A fine from VND 30,000,000 to 40,000,000 for an act of transporting aquatic products with natural toxicity, which are harmful to human health, unless permitted by competent state agencies;

c) A fine from VND 40,000,000 to 50,000,000 for an act of hiring other persons to transport aquatic products with natural toxicity, which are harmful to human health, unless permitted by competent state agencies;

d) A fine from VND 70,000,000 to 100,000,000 for an act of collecting, preliminarily processing, processing, trading aquatic species with natural toxicity, which are harmful to human health, to be used to make food, unless permitted by competent state agencies;

7. A fine equal to 3.5 times of total food value in breach for an act stipulated in point d and point dd of Clause 5, and Points b, c, and d of Clause 6 of this Article if the highest fine levels of the fine bracket stipulated in Clause 5 and Clause 6 of this Article are lower than 3.5 times of total food value in breach at time of breach.

8. Additional forms of penalty:

a) To deprive the right to use certificate of facilities eligible for food safety for 3 to 6 months for acts of preliminarily processing aquatic products stipulated in Clause 2, acts stipulated in Clause 4 of this Article; activities of preserving and/or trading aquatic products stipulated in point d, Clause 5 of this Article; activities of preliminarily processing, preserving, processing, trading aquatic products stipulated in point d Clause 6 of this Article;

b) To suspend operation for 1 to 3 months for an act stipulated in point dd, Clause 5 of this Article; activities of collection stipulated in point d, Clause 6 of this Article;

c) To confiscate aquatic product consignments in breach stipulated in Clauses 1, 2, and 4 of this Article;

d) To confiscate means, instruments used to commit breaches for acts stipulated in Point d and Point dd of Clause 5 of this Article.

9. Measures for remedying consequences:

- a) To compulsorily destroy aquatic product consignments, which fail to ensure food safety, for acts stipulated in Clauses 2, 3 and 4 of this Article;
- b) To compulsorily remove impurities for consignments in breach, which are not subject to destruction, for acts stipulated in Clause 5 of this Article; in case that it is not able to remove impurities, the compulsory destruction will be applied.
- c) To compulsorily destroy aquatic product consignments, which contain natural toxicity harming to the human health, for acts stipulated in Clause 6 of this Article.

Article 17. Breaches of regulations on the conditions for food safety assurance in producing and trading animals and fresh products of animals used to make food

1. A fine from 80% to 100% of total food value in breach at time of breach for one of the following acts, but the maximum fine does not exceed VND 100,000,000:

- a) Trading products of animals having been inoculated with vaccine for duration, which is not sufficient as stipulated;
- b) Trading products of animals, which have used veterinary medicines but not yet had sufficient duration necessary to stop medicine in accordance with guidelines of producers.

2. A fine from 100% to 120% of total food value in breach at time of breach for one of the following acts, but the maximum fine does not exceed VND 100,000,000:

- a) Trading fresh food derived from terrestrial animals which are putrid or have change in color and smell;
- b) Trading fresh food derived from terrestrial animals, which are adulterated with impurities but have not affected the food safety.

3. A fine from 120% to 150% of total food value in breach at time of breach for acts of trading fresh products of animals, which are infected or contain residues in excess of the permitted limit, but the maximum fine does not exceed VND 100,000,000:

4. Measures for remedying consequences:

To compulsorily destroy exhibits of breaches for acts stipulated in Point a of Clause 2 and Clause 3 of this Article.

Article 18. Breaches of regulations on the conditions for food safety assurance in producing and trading fresh food derived from plants

1. A fine from VND 500,000 to 1,500,000 for an act of producing, preliminarily processing, and processing, trading fresh food derived from plants, which are in breach of one of conditions on food safety assurance in accordance with regulations.
2. A fine from 40% to 60% of total food value in breach at time of breach for an act of producing, trading fresh food derived from plants with one of criteria in excess of limit in food safety in accordance with regulations, but the maximum fine does not exceed VND 100,000,000.
3. A fine from 60% to 80% of total food value in breach at time of breach for an act of producing fresh food derived from plants with use of chemicals and preparations, which are not included in the list allowed to used in planting, but the maximum fine does not exceed VND 100,000,000.
4. A fine from 80% to 100% of total food value in breach at time of breach for an act of producing, trading fresh food derived from plants with use of chemicals, which is prohibited to be used in planting, but the maximum fine does not exceed VND 100,000,000.
5. Measures for remedying consequences:

To compulsorily destroy exhibits of breaches for acts stipulated in Clauses 2, 3, and 4 of this Article.

Article 19. Breaches of regulations on the conditions for food safety assurance in trading already-processed food

1. A fine from VND 500,000 to 1,000,000 for one of the following acts in trading already-processed food which have not been packaged:
 - a) Failing to apply assurance measures to prevent food from being spoiled, getting mold, contacting with insects, animals, dust or other contaminating elements;
 - b) Failing to provide information on origin and day of production of food.
2. A fine from VND 1,000,000 to 3,000,000 for one of the following acts in trading already-processed food which has been packaged:
 - a) Failing to comply with conditions on safety assurance for food-packaging and/or -containing instruments and/or materials, conditions on food safety assurance in preserving food in accordance with regulations;
 - b) Failing to ensure and maintain the hygiene of business place;
 - c) Failing to preserve food in accordance with guidelines of producers.
3. Measures for remedying consequences:

Compulsory change of use purpose or destruction of food which is spoiled, gets mould, is polluted, for acts stipulated in Point a of Clause 1 of this Article.

Article 20. Breaches of regulations on the conditions for food safety assurance in trading service of catering of kinds of canteens, stores providing fast food, cooked food

1. A fine from VND 500,000,000 to 1,000,000 for one of the following acts:

- a) To arrange the fast food, the cooked food for sale without hygienic preservation instruments, without tables or shelves with a distance higher than ground in accordance with the regulations;
- b) Failing to arrange separately fresh food and cooked food;
- c) Using zones for processing, preservation, dining rooms which fail to ensure hygiene or have harmful insects or animals;
- d) Using instruments to divide or contain food and eating utensils which fail to ensure hygiene;
- dd) Failing to equip tools to contain garbage and wastes in accordance with regulation or equip but not ensure hygiene; failing to collect and clean up garbage and wastes every day.

2. A fine from VND 1,000,000 to 3,000,000 for one of the following acts:

- a) Using water failing to meet technical regulations for processing food;
- b) Using ingredients without papers proving source, origin; or ingredients which are expired for use, fail to ensure safety for processing food;
- c) Using food additives, which are without source, origin; or expired for use, not be stated in the list of food additives permitted to be used in accordance with regulations, fail to ensure safety for processing food;
- d) Processing food which fails to ensure safety;
- dd) Trading service of catering failing to ensure food safety leading to food poisoning.

3. Additional forms of penalty:

To suspense operation of trading service of catering for from 1 to 3 months in case of repeating the acts stipulated in point dd Clause 2 of this Article.

4. Measures for remedying consequences:

- a) To compulsory destroy food ingredients, which are without source and origin; are expired, spoiled, putrid stipulated in point b Clause 2 of this Article; food additives in breach of provision in Point c of Clause 2 of this Article; the spoiled or putrid food stipulated in point d of Clause 2 of this Article;
- b) To compulsorily bear all costs to handle food poisoning, costs for medical examination and treatment for persons suffer food poisoning, for acts stipulated in Point dd of Clause 2 of this Article.

Article 21. Breaches of regulations on the conditions for food safety assurance in trading service of catering of kinds such as processing the ready-to-eat food rations; canteens trading food and beverage, collective cooking-stoves; cooking-stoves, restaurants of hotels, resorts; restaurants

1. A fine from VND 1,000,000 to 3,000,000 for one of the following acts:

- a) Using cooking-stoves failing to be designed and arranged in the one-direction principle;
- b) Arranging and/or selling food on the unsanitary preservation instruments, tables or shelves are not higher than ground in accordance with regulations;
- c) Failing to have tools for process, preservation and use, which are separated between fresh food and already-processed food;
- d) Failing to apply measures to prevent harmful insects and animals.

2. A fine from VND 3,000,000 to 5,000,000 for one of the following acts:

- a) Failing to ensure conditions for environmental hygiene, failing to separate from toilets and other contaminated sources;
- b) Using eating utensils made of unsafe materials;
- c) Using detergent and antiseptic chemicals in contrary to regulations.
- d) Dining rooms, dining tables, food-processing tables, warehouses or food-preserving places fail to ensure safety and hygiene;
- dd) Failing to have book(s) to record implementation of regime of 3-step food examination according to guidelines of the Ministry of Health or have [book(s)] but fail to record fully contents in accordance with regulations;
- e) Failing to equip tools to collect and contain garbage, wastes in accordance with regulations or equip [tools] but not ensure hygiene;
- g) Failing to collect and clean up garbage, wastes every day; sewers in zone of stores, kitchen rooms causing choke, stagnancy;
- h) Failing to have toilets, hand-washing places;
- i) Failing to keep food sample or keep sample in contrary to regulations.

3. A fine from VND 5,000,000 to 10,000,000 for one of the following acts:

- a) Using water failing to meet the technical regulations for processing and trading food;
- b) Failing to conduct the periodical water test in accordance with regulations;

c) Using ingredients without papers proving source, origin; or ingredients which are expired for use, fail to ensure safety for processing food;

d) Using food additives without source, origin; or expired for use, not be stated in the list of food additives permitted to be used in accordance with the regulations, failing to ensure safety for processing food;

dd) Processing food which fails to ensure safety;

e) Production and trading facilities, which have units processing ready-to-eat food rations, canteens trading food and beverage, the collective cooking-stoves; cooking-stoves, restaurants of hotels, resorts; restaurants which occur food poisoning.

4. A fine from VND 10,000,000 to 15,000,000 for trading service of catering which fails to ensure food safety leading to food poisoning.

5. Additional forms of penalty:

To suspend operation of trading service of catering for 1 to 3 months in case of repeating the acts stipulated in Clause 4 of this Article.

6. Measures for remedying consequences:

a) To destroy food ingredients, which are without source, origin; are expired, spoiled, putrid as stipulated in point c of Clause 3 of this Article; food additives in breach of provision in Point d of Clause 3 of this Article; the spoiled or putrid food stipulated in point dd of Clause 3 of this Article;

b) To compulsorily bear all costs to handle food poisoning, costs for medical examination and treatment for persons suffer food poisoning, for acts stipulated in Clause 4 of this Article.

Article 22. Breaches of regulations on the conditions for food safety assurance in trading the street- food

1. A warning or fine of VND 300,000 to 500,000 for one of the following acts:

a) Arranging food for sale without tables, shelves, or means which ensure the food safety;

b) Failing to have tools to shield sunlight, rain, dust, harmful insects and animals;

c) Using places of arrangement and sale which are not separated from the toxicity- and pollution-causing sources;

d) Failing to equip instruments to preserve food in accordance with regulations;

dd) Using eating utensils, instruments for processing, containing, preserving food which fail to ensure food safety;

e) Using hands in direct contact with food.

2. A fine from VND 500,000 to 1,000,000 for one of the following acts:

- a) Using water failing to meet technical regulations for processing and trading food;
- b) Using ingredients to process food, which have no source, origin, are expired for use, fail to ensure safety;
- c) Using food additives, which are without source, origin; or expired for use, not be stated in the list of food additives permitted to be used in accordance with regulations, failing to ensure safety;
- d) Using packages, bags to contain food not ensuring food safety;
- dd) Trading food, which fails to ensure safety.

3. A fine from VND 1,000,000 to 2,000,000 for trading street-food, which fails to ensure food safety leading to food poisoning.

4. Measures for remedying consequences:

- a) To compulsorily destroy food ingredients, which are without source, origin; are expired, spoiled, putrid as stipulated in point b of Clause 2 of this Article; food additives in breach of provision in Point c of Clause 2 of this Article; the spoiled or putrid food stipulated in point dd of Clause 2 of this Article;
- b) To compulsorily bear all costs to handle food poisoning, costs for medical examination and treatment for persons suffer food poisoning, for acts stipulated in Clause 3 of this Article.

Article 23. Breaches of regulations on conditions for food safety assurance involving functional food, genetically-modified food, irradiated food

1. A fine from VND 10,000,000 to 20,000,000 for one of the following acts:

- a) Producing and trading functional food, on which experiments regarding efficiency of utilities must be reported, but failing to report in accordance with regulations;
- b) Failing from comply with regulations on transport, storage of genetically-modified food, genetically-modified organisms used to make food.

2. A fine of VND 30,000,000 to 50,000,000 for one of the following acts:

- a) Producing, trading food from genetically-modified organisms and/or products of genetically modified organisms, whose names are specified in list of genetically modified organisms issued with certificates of eligibility for using to make food, but having no certificate of genetically modified organisms eligible for use to make food in accordance with regulations;
- b) Producing, trading food from genetically-modified organisms, products of genetically modified organisms, whose names are specified in list of genetically modified organisms issued with certificates of eligibility for using to make food, but having no certificate of genetically modified organisms eligible for using to make food in accordance with regulations;

c) Producing, trading food, which has been preserved by irradiation method, although [the food] does not fall within list of food groups permitted to be irradiated;

d) Producing, trading food which is preserved by irradiation method, but failing to comply with regulations on irradiation dose;

3. Measures for remedying consequences:

a) To compulsorily withdraw the goods in breach for acts stipulated in Point a of Clause 1 and point a of Clause 2 of this Article;

b) To compulsorily withdraw for destruction in respect to goods in breach for acts stipulated in Points b, c and d of Clause 2 of this Article.

Article 24. Breaches of regulations on certificate of facilities eligible for food safety

1. To impose penalties for act of trading service of catering in breach of regulations on certificate of facilities eligible for food safety under the management scope of communal level, according to one of the following levels:

a) A warning for act of using certificate of facility eligible for food safety which was expired less than 1 month ago;

b) A fine from VND 300,000 to 500,000 for an act of using certificate of facility eligible for food safety which was expired from 1 to 3 months ago;

c) A fine from VND 500,000 to 1,000,000 for an act of possessing no certificate of facility eligible for food safety in accordance with regulations or possessing a certificate which was expired more than 3 months ago;

d) A fine from VND 1,000,000 to 2,000,000 for an act of modifying, erasing, falsifying content of certificate of facility eligible for food safety;

dd) A fine from VND 2,000,000 to 3,000,000 for an act of using a counterfeit certificate of facility eligible for food safety.

2. To impose penalties for an act of producing, trading, preserving food, trading service of catering in breach of regulations on certificate of facilities eligible for food safety under the management scope of district level, according to one of the following levels:

a) A warning for an act of using certificate of facility eligible for food safety which was expired less than 1 month ago;

b) A fine from VND 1,000,000 to 3,000,000 for an act of using certificate of facility eligible for food safety which was expired from 1 to 3 months ago;

c) A fine from VND 3,000,000 to 5,000,000 for an act of possessing no certificate of facility eligible for food safety in accordance with regulations or possessing a certificate which was expired more than 3 months ago;

d) A fine from VND 5,000,000 to 7,000,000 for an act of modifying, erasing, falsifying content of certificate of facility eligible for food safety;

dd) A fine from VND 7,000,000 to 10,000,000 for an act of using a counterfeit certificate of facility eligible for food safety.

3. To impose penalties for an act of producing, trading, preserving food, trading service of catering in breach of regulations on certificate of facilities eligible for food safety under the management scope of provincial level or higher, according to one of the following levels:

a) A warning for an act of using certificate of facility eligible for food safety which was expired less than 1 month ago;

b) A fine from VND 4,000,000 to 6,000,000 for an act of using certificate of facility eligible for food safety which was expired from 1 to 3 months ago;

c) A fine from VND 10,000,000 to 15,000,000 for an act of possessing no certificate of facility eligible for food safety in accordance with regulations or possessing a certificate which expired more than 3 months ago;

d) A fine from VND 15,000,000 to 20,000,000 for an act of modifying, erasing, falsifying content of certificate of facility eligible for food safety;

dd) A fine from VND 20,000,000 to 25,000,000 for an act of using a counterfeit certificate of facility eligible for food safety.

4. Measures for remedying consequences:

To compulsorily destroy the counterfeit certificate for an act stipulated in point dd of Clause 1, point dd of Clause 2 and point dd of Clause 3 of this Article.

SECTION 3

BREACHES OF REGULATIONS ON THE CONDITIONS FOR FOOD SAFETY ASSURANCE IN PRODUCING, TRADING, IMPORTING AND EXPORTING FOOD

Article 25. Breaches of regulations on conditions for food safety assurance applicable to imported and exported food

1. A fine from VND 10,000,000 to 15,000,000 for an act of importing food, food additives, food processing enhancers, food-packaging and/or containing instruments and/or materials, which are subject to state examination of import food safety, in case where the examination has been implemented but

competent examination agencies have not yet issued notification on result of certifying on satisfying requirements of import in respect to each consignment.

2. A fine from VND 15,000,000 to 20,000,000 for one of the following acts:

a) Failing to perform examination on food safety for import and export food, food additives, food processing enhancers, food-packaging and/or containing instruments and/or materials, which are subject to compulsory examination in accordance with regulations;

b) Importing functional food, food fortified with micronutrients, genetically-modified food, irradiated food without certificate of free circulation or medical certificate in accordance with regulations.

3. A fine from VND 20,000,000 to 30,000,000 for an act of modifying, erasing, falsifying content of one of kinds of papers: Certificate of free circulation or medical certificate or notification on result of certifying on satisfying requirement of import for each import consignment; certificate of origin; certificate of quality, food safety issued for food consignment in respect to export food.

4. A fine from VND 30,000,000 to 40,000,000 for an act of using one of the following counterfeit papers: Certificate of free circulation or medical certificate or notification on result of certifying on satisfying requirement of import for each import consignment; certificate of origin; certificate of quality, food safety issued for export food consignment.

5. Measures for remedying consequences:

a) Compulsory recall of import food, food additives, food processing enhancers, food-packaging and/or containing instruments and/or materials, which have been examined by state for food safety but not yet had notification on result of certifying on satisfying requirement of import for acts stipulated in Clause 1 of this Article; recall of import food, food additives, food processing enhancers, instruments, materials packaging or containing food which are not examined by state agencies for food safety in respect to acts stipulated in Point a of Clause 2 of this Article;

b) Compulsory re-export or destruction or change of use purpose of import goods in breach, for acts stipulated in Point b of Clause 2 of this Article;

c) Compulsory destruction of the counterfeit paper for acts stipulated in Clause 4 of this Article.

Article 26. Breaches of other regulations on food safety assurance during the food production, business and import

1. To impose penalties for act of selling already-processed and already-packaged food, food ingredients, food additives, food processing enhancers, food-packaging and/or containing instruments and/or materials, which are subject to announcement of technical regulation conformity, announcement of conformity with regulations on food safety, but failing to possess a receipt paper of such announcement or possessing [receipt paper of such announcement] but such announcements were expired before those goods are produced or imported; wholesale, retail of food, food ingredients, food additives, food processing enhancers, food-packaging and/or containing instruments and/or materials, which circulate in

the market but not conform with technical regulations or regulations on food safety, according to one of the following levels:

- a) A warning or fine from VND 100,000 to 200,000 for a case where the consignment in breach is valued up to VND 5,000,000;
- b) A fine from VND 300,000 to 500,000 for a case where the consignment in breach is valued from VND 5,000,000 to 10,000,000;
- c) A fine from VND 1,000,000 to 2,000,000 for a case where the consignment in breach is valued from VND 10,000,000 to 20,000,000;
- d) A fine from VND 3,000,000 to 6,000,000 for a case where the consignment in breach is valued from VND 20,000,000 to 40,000,000;
- dd) A fine from VND 7,500,000 to 15,000,000 for a case where the consignment in breach is valued from VND 40,000,000 to 80,000,000;
- e) A fine from VND 20,000,000 to 30,000,000 for a case where the consignment in breach is valued from VND 80,000,000 to 200,000,000;
- g) A fine from VND 40,000,000 to 50,000,000 for a case where the consignment in breach is valued more than VND 200,000,000.

2. A fine for an act of producing, importing, selling out market food, food ingredients, food additives, food processing enhancers, food-packaging and/or containing instruments and/or materials, which fail to conform with technical regulations or regulations on food safety, according to one of the following levels:

- a) A fine from VND 500,000 to 1,000,000 for a case where the consignment in breach is valued up to VND 5,000,000;
- b) A fine from VND 1,000,000 to 2,500,000 for a case where the consignment in breach is valued from VND 5,000,000 to 10,000,000;
- c) A fine from VND 2,500,000 to 5,000,000 for a case where the consignment in breach is valued from VND 10,000,000 to 20,000,000;
- d) A fine from VND 5,000,000 to 10,000,000 for a case where the consignment in breach is valued from VND 20,000,000 to 40,000,000;
- dd) A fine from VND 10,000,000 to 20,000,000 for a case where the consignment in breach is valued from VND 40,000,000 to 80,000,000;
- e) A fine from VND 20,000,000 to 40,000,000 for a case where the consignment in breach is valued from VND 80,000,000 to 160,000,000;

g) A fine from VND 40,000,000 to 80,000,000 for a case where the consignment in breach is valued from VND 160,000,000 to 320,000,000;

h) A fine from VND 80,000,000 to 100,000,000 for a case where the consignment in breach is valued more than VND 320,000,000.

3. A fine from VND 10,000,000 to 15,000,000 for one of the following acts:

a) Producing or importing food, food ingredients, food additives, food processing enhancers, food-packaging and/or -containing instruments and/or materials, which are subject to announcement of technical regulation conformity, announcement of conformity with regulations on food safety, but failing to possess a receipt paper of such announcement or possessing [receipt paper of such announcement] but such announcements were expired;

b) Failing to maintain the periodical quality control and product test in accordance with regulations;

c) Failing to timely perform preventive measures upon detecting that goods, which is circulating or has been put into use, do not conform with announcement of technical regulation conformity or announcement of conformity with regulations on food safety or do not conform with the respective regulations on food safety.

4. A fine from VND 30,000,000 to 50,000,000 for an act of producing, importing, selling out market food, food additives, food processing enhancers containing toxic substances or being contaminated with toxic substances, except for acts stipulated in Clauses 1, 2 and 3 of this Article.

5. A fine on breaches of regulations on use of the announcement of technical-regulation conformity, announcement of conformity with regulations on food safety applicable to food, food additives, food processing enhancers, food-packaging and/or containing instruments and/or materials, which are subject to registration of such announcement, according to one of the following levels:

a) A fine from VND 5,000,000 to 7,000,000 for an act of modifying, erasing, falsifying content of the detailed information of products in dossier of registration for announcement of technical regulation conformity or announcement of conformity with regulations on food safety already certified by competent state agencies;

b) A fine from VND 7,000,000 to 10,000,000 for an act of using the detailed information of products, which is counterfeit papers in dossier of registration for announcement of technical regulation conformity or announcement of conformity with regulations on food safety already certified by competent state agencies;

c) A fine from VND 10,000,000 to 15,000,000 for an act of modifying, erasing, falsifying content of the receipt paper of announcement of technical regulation conformity or announcement of conformity with regulations on food safety;

d) A fine from VND 15,000,000 to 20,000,000 for an act of using the receipt paper of announcement of technical regulation conformity or announcement of conformity with regulations on food safety which is counterfeit;

6. A fine from VND 5,000,000 to 10,000,000 for one of the following acts:

a) Failing to store dossier of announcement of technical regulation conformity, the receipt paper of announcement of technical regulation conformity or dossier of announcement of conformity with regulations on food safety, the receipt paper of announcement of conformity with regulations on food safety;

b) Failing to provide copy of the receipt paper of announcement of technical regulation conformity, the confirmation paper of announcement of conformity with regulations on food safety for individuals and organizations selling goods and/or products being food, food ingredients, food additives, and food processing enhancers, food-packaging and/or containing instruments and/or materials.

7. A fine equal to 3.5 times of total food value in breach for an act stipulated in Clause 4 of this Article if the highest fine levels of the fine bracket stipulated in Clause 4 of this Article are lower than 3.5 times of total food value in breach at time of breach.

8. A fine from VND 5,000,000 to 10,000,000 for an act of operating in time of requesting for delaying examination, inspection due to stopping or temporarily stopping the food-producing, -trading and/or -importing activities.

9. Additional forms of penalty:

To suspend activities for 3 to 6 months for acts stipulated in Clause 4 of this Article.

10. Measures for remedying consequences:

a) Compulsory recall of goods products in breach, which are circulating in market in order to change use purpose or re-process, for acts stipulated in Clause 2 of this Article; in case of failing to reprocess, compulsory destruction is applied.

b) Compulsory re-export or destruction of import goods, for acts stipulated in Clause 2 of this Article;

c) Compulsory withdrawal of the goods in breach, for acts stipulated in Point c Clause 3 of this Article;

d) Compulsory recall for destruction of the goods in breach, for acts stipulated in Clause 4 of this Article;

dd) Compulsory destruction of the counterfeit papers, for acts stipulated in point b and point d of Clause 5 of this Article.

SECTION 4

**BREACHES OF REGULATIONS ON INFORMATION, EDUCATION, COMMUNICATIONS
ON FOOD SAFETY; TESTING FOOD; ANALYZING RISKS, PREVENTION AND REMEDY
OF FOOD SAFETY INCIDENTS; TRACING THE ORIGINS OF UNSAFE FOOD**

Article 27. Breaches of regulations on information, education, communications of food safety

1. A fine from VND 500,000 to 1,000,000 for one of the following acts:

- a) Failing to supply information of food safety at the request of competent state agencies;
- b) Providing information of food safety, which is not accurate, right with the truth.

2. A fine from VND 5,000,000 to 10,000,000 for an act of releasing documents, publications for information, education, communications of food safety which are not accurate, right with the truth.

3. Measures for remedying consequences:

Compulsory recall for destruction of the documents and/or publications in breach, for acts stipulated in Clause 2 of this Article;

Article 28. Breaches of regulations on testing food

1. A fine from VND 3,000,000 to 5,000,000 for one of the following acts:

- a) Providing wrong information of the testing capability or the scope already recognized, appointed for the testing in serve of state management on food safety of experiment rooms;
- b) Failing to perform the test and the reporting regime in accordance with regulations.

2. A fine from VND 5,000,000 to 10,000,000 for act of providing an experiment result which is untrue.

3. A fine from VND 10,000,000 to 20,000,000 for one of the following acts:

- a) Exchanging fraudulently or forging food sample used for test in serve of the state management work;
- b) Failing to implement the experiment but still providing certificate of the analysis result, sheet of testing result;
- c) Modifying, erasing, falsifying content of certificate of the analysis result, sheet of experiment result or other paper relating to the food testing;
- d) Using the counterfeit certificate of the analysis result, sheet of testing result;
- dd) Deliberately falsifying the testing result.

4. Measures for remedying consequences:

- a) Compulsory correction of false information, for acts stipulated in Point a of Clause 1 of this Article;

b) Compulsory cancellation of the testing result, for acts stipulated in Points a, b, and dd of Clause 3 of this Article;

c) Compulsory destruction of the counterfeit papers, for acts stipulated in Point d of Clause 3 of this Article.

Article 29. Breaches of regulations on prevention, fighting, and remedy of incidents in food safety and implementation of solutions to restrict risks of unsafe food

1. A fine from VND 1,000,000 to 3,000,000 for an act of failing to notify competent state agencies upon detecting the incidents in food safety.

2. A fine from VND 3,000,000 to 5,000,000 for an act of failing to perform or performing insufficiently measures of prevention against incidents in food safety at the request of competent state agencies.

3. A fine from VND 5,000,000 to 10,000,000 for an act of failing to perform or performing insufficiently solutions to restrain risk of unsafe food at the request of competent state agencies.

Article 30. Breaches of regulations on tracing source of unsafe food

1. A fine from VND 3,000,000 to 5,000,000 for an act of failing to keep or keeping insufficiently dossier of source, origin of ingredients, food additives, food processing enhancers, packaging materials, instruments in direct contact with food and other documents of the process of food production and business.

2. A fine from VND 5,000,000 to 10,000,000 for one of the following acts:

a) Failing to notify of the unsafe product batches;

b) Failing to report on quantity of products of the unsafe product batches which remains in warehouse in reality and quantity which is circulating in the market; plan of recall and the handling measures.

3. A fine from VND 10,000,000 to 20,000,000 for an act of conducting recall, handling not strictly according to requirements of competent state agencies for the unsafe food.

4. A fine from VND 20,000,000 to 30,000,000 for an act of failing to conduct the recall, perform necessary handling measures at the request of competent state agencies for the unsafe food.

CHAPTER III

THE AUTHORITY TO MAKE MINUTES OF ADMINISTRATIVE BREACHES, AND IMPOSING PENALTIES FOR ADMINISTRATIVE BREACHES IN FOOD SAFETY

Article 31. The authority to make minutes of administrative breaches

Persons with authority to make minutes of administrative breaches in food safety include:

1. Titles with authority to impose penalties stipulated in Articles 32, 33, 34, 35 and 36, Clause 1 of Article 37 of this Decree.

2. Civil servants and public employees in sectors of: Health, Agriculture and Rural Development, Industry and Trade, who are on duty, task, have the authority to make minutes on administrative breaches for breaches under their assigned scope of duties and tasks. The minutes, after being made, must be transferred to persons with authority to impose penalties in order to conduct imposition of penalties in accordance with regulations.

Article 32. The penalty-imposing authority of chairpersons of People's Committees

1. Chairpersons of the Commune People's Committees have the following rights:

a) To impose a warning;

b) To fine up to VND 5,000,000;

c) To confiscate material evidence, means used to commit administrative breaches with value not exceeding the fine levels stipulated in point b this clause;

d) To apply measures for remedying consequences stipulated in Point dd of Clause 1 of Article 28 of the Law on handling of administrative breaches.

2. Chairpersons of the District People's Committees have the right:

a) To impose a warning;

b) To fine up to VND 50,000,000;

c) To deprive the right to use certificate of facility eligible for food safety for a defined time or suspend operation for a defined time;

d) To confiscate material evidence and means used to commit administrative breaches with value not exceeding the fine level stipulated in point b of this Clause;

dd) To apply measures for remedying consequences stipulated in Points dd, e and h of Clause 1 of Article 28 of the Law on handling of administrative breaches and measures for remedying consequences stipulated in points a, b, c, d and dd of Clause 3 of Article 3 of this Decree.

3. Chairpersons of the Provincial People's Committees have the right:

a) To impose a warning;

b) To fine up to the maximum levels as prescribed in this Decree;

c) To deprive the right to use certificate of facility eligible for food safety for a defined time or suspend operation for a defined time;

- d) To confiscate material evidence and means used to commit administrative breaches;
- dd) To apply measures for remedying consequences stipulated in Clause 3 of Article 3 of this Decree.

Article 33. The penalty-imposing authority of the Inspectorate

1. Inspectors, persons assigned to implement task of specialized inspection on food safety, and fields related to food safety under sectors of: Health, Agriculture and Rural Development, Industry and Trade who are on duty have the following rights:

- a) To impose a warning;
- b) To fine up to VND 500,000;
- c) To confiscate material evidence and means used to commit administrative breaches with value not exceeding the fine level stipulated in point b of this Clause;
- d) To apply measures for remedying consequences stipulated in Point dd of Clause 1 of Article 28 of the Law on handling of administrative breaches.

2. The Chief Inspectors of the Provincial Health Departments, the Provincial Departments of Agriculture and Rural Development, the Provincial Departments of Industry and Trade; heads of agencies assigned implementation of the specialized inspection function on food safety and sectors related to food safety of the Provincial Health Departments, the Provincial Departments of Agriculture and Rural Development, the Provincial Departments of Industry and Trade; heads of the specialized inspection teams at Provincial department level, heads of the specialized inspection teams of agencies assigned implementation of the specialized inspection function on food safety and sectors related to food safety under the sectors of: Health, Agriculture and Rural Development, Industry and Trade have the following rights:

- a) To impose a warning;
- b) To fine up to VND 50,000,000;
- c) To deprive the right to use certificate of facility eligible for food safety for a defined time or suspend operation for a defined time;
- d) To confiscate material evidence and means used to commit administrative breaches with value not exceeding the fine level stipulated in point b of this Clause;
- dd) To apply measures for remedying consequences stipulated in Clause 3 of Article 3 of this Decree.

3. Heads of the specialized inspection teams at Ministerial level of the Ministries of: Health, Agriculture and Rural Development, Industry and Trade have the following rights:

- a) To impose a warning;
- b) To fine up to VND 70,000,000;

c) To deprive the right to use certificate of facility eligible for food safety for a defined time or suspend operation for a defined time;

d) To confiscate material evidence and means used to commit administrative breaches with value not exceeding the fine level stipulated in point b of this Clause;

dd) To apply measures for remedying consequences stipulated in Clause 3 Article 3 of this Decree.

4. The Chief Inspectors of the Health Ministry, the Ministry of Agriculture and Rural Development, the Ministry of Industry and Trade; heads of agencies assigned implementation of the specialized inspection function on food safety and sectors related to food safety under the Health Ministry, the Ministry of Agriculture and Rural Development, the Ministry of Industry and Trade have the following rights:

a) To impose a warning;

b) To fine up to the maximum levels as stipulated in this Decree;

c) To deprive the right to use certificate of facility eligible for food safety for a defined time or suspend operation for a defined time;

d) To confiscate material evidence and means used to commit administrative breaches;

dd) To apply measures for remedying consequences stipulated in Clause 3 Article 3 of this Decree.

Article 34. The penalty-imposing authority of People's Public Security

1. Soldiers of People's Public Security on duty have the following rights:

a) To impose a warning;

b) To fine up to VND 500,000;

2. Heads of station, heads of team of persons defined at Clause 1 of this Article have the following rights:

a) To impose a warning;

b) To fine up to VND 1,500,000;

3. Heads of Commune-level police offices, heads of police station, heads of police stations of border gates or the processing-and-exporting zones have the following rights:

a) To impose a warning;

b) To fine up to VND 2,500,000;

c) To confiscate material evidence, means used to commit administrative breaches with value not exceeding the fine levels stipulated in point b this clause;

d) To apply measures for remedying consequences stipulated in Point dd of Clause 1 of Article 28 of the Law on handling of administrative breaches.

4. Heads of the district Police offices, heads of specialized Divisions of the Traffic Police Department for roadway, railway, heads of specialized Divisions of Waterway Police Department; heads of Police Divisions at provincial level including heads of Police Offices for investigation of crimes on Economic and Position Management Order, heads of Traffic Police Offices for roadway, railway, heads of waterway Traffic Police Offices, heads of Police Offices for prevention and fighting of crimes on environment, have the following rights:

a) To impose a warning;

b) To fine up to VND 20,000,000;

c) To deprive the right to use certificate of facility eligible for food safety for a defined time or suspend operation for a defined time;

d) To confiscate material evidence and means used to commit administrative breaches with value not exceeding the fine level stipulated in point b of this Clause;

dd) To apply measures for remedying consequences stipulated in Point dd of Clause 1 of Article 28 of the Law on handling of administrative breaches and measures for remedying consequences stipulated in points a, b, c, d, and dd of Clause 3 of Article 3 of this Decree.

5. Directors of the Provincial Public Security Offices have the following rights:

a) To impose a warning;

b) To fine up to VND 50,000,000;

c) To deprive the right to use certificate of facility eligible for food safety for a defined time or suspend operation for a defined time;

d) To confiscate material evidence and means used to commit administrative breaches with value not exceeding the fine level stipulated in point b of this Clause;

dd) To apply measures for remedying consequences stipulated in Point dd of Clause 1 of Article 28 of the Law on handling of administrative breaches and measures for remedying consequences stipulated in points a, b, c, d and dd of Clause 3 of Article 3 of this Decree.

6. Director of the Police Department for Investigating Crimes on Economic and Position Management Order, Director of the Traffic Police Department for roadway, railway, Director of the Waterway Traffic Police Department, Director of the Police Department for prevention and fighting of Crimes on environment, have the following rights:

a) To impose a warning;

- b) To fine up to the maximum levels as prescribed in this Decree;
- c) To deprive the right to use certificate of facility eligible for food safety for a defined time or suspend operation for a defined time;
- d) To confiscate material evidences and means used to commit administrative breaches;
- dd) To apply measures for remedying consequences stipulated in Point dd of Clause 1 of Article 28 of the Law on handling of administrative breaches and measures for remedying consequences stipulated in points a, b, c, d and dd of Clause 3 of Article 3 of this Decree.

Article 35. The penalty-imposing authority of Border Guard

1. Soldiers of Border Guard on duty have the following rights:

- a) To impose a warning;
- b) To fine up to VND 500,000;

2. Heads of station, heads of team of persons defined at Clause 1 of this Article have the following rights:

- a) To impose a warning;
- b) To fine up to VND 2,500,000.

3. Heads of border guard stations, captains of border marine groups, commanders of border sub-zones, commanders of border station at border gates of ports, have following rights:

- a) To impose a warning;
- b) To fine up to VND 20,000,000.
- c) To confiscate material evidence, means used to commit administrative breaches with value not exceeding the fine levels stipulated in point b this clause;
- d) To apply measures for remedying consequences stipulated in Point dd of Clause 1 of Article 28 of the Law on handling of administrative breaches and measures for remedying consequences stipulated in points a, b, c, d and dd of Clause 3 of Article 3 of this Decree.

4. Heads of the provincial border guard, captains of border marine regiments affiliated the command of border guards, have the following rights:

- a) To impose a warning;
- b) To fine up to the maximum levels as stipulated in this Decree;
- c) To deprive the right to use certificate of facility eligible for food safety for a defined time or suspend operation for a defined time;

d) To confiscate material evidence and means used to commit administrative breaches;

dd) To apply measures for remedying consequences stipulated in Point dd of Clause 1 of Article 28 of the Law on handling of administrative breaches and measures for remedying consequences stipulated in points a, b, c, d and dd of Clause 3 of Article 3 of this Decree.

Article 36. The penalty-imposing authority of Coast Guard

1. Policemen of Coast Guard on duty have the following rights:

a) To impose a warning;

b) To fine up to VND 1,500,000.

2. Heads of professional teams of Coast Guard have the following rights:

a) To impose a warning;

b) To fine up to VND 5,000,000.

3. Heads of professional squads of Coast Guard, heads of Coast Guard Stations have the following rights:

a) To impose a warning;

b) To fine up to VND 10,000,000.

c) To apply measures for remedying consequences stipulated in Point dd Clause 1 Article 28 of the Law on handling of administrative breaches.

4. Heads of Coast Guard flotillas have the following rights:

a) To impose a warning;

b) To fine up to VND 20,000,000.

c) To confiscate material evidence and means used to commit administrative breaches with value not exceeding the fine level stipulated in point b of this Clause;

d) To apply measures for remedying consequences stipulated in Point d and Point dd, Clause 1 of Article 28 of the Law on handling of administrative breaches and measures for remedying consequences stipulated in points a, b, c, d and dd of Clause 3 of Article 3 of this Decree.

5. Heads of Coast Guard regiments have the following rights:

a) To impose a warning;

b) To fine up to VND 30,000,000;

c) To confiscate material evidence and means used to commit administrative breaches with value not exceeding the fine level stipulated in point b of this Clause;

d) To apply measures for remedying consequences stipulated in Point d and Point dd of Clause 1 of Article 28 of the Law on handling of administrative breaches and measures for remedying consequences stipulated in points a, b, c, d and dd of Clause 3 of Article 3 of this Decree.

6. Heads of Regional Coast Guard have the following rights:

a) To impose a warning;

b) To fine up to VND 50,000,000;

c) To confiscate material evidence and means used to commit administrative breaches with value not exceeding the fine level stipulated in point b of this Clause;

d) To apply measures for remedying consequences stipulated in Point d and Point dd, Clause 1 Article 28 of the Law on handling of administrative breaches and measures for remedying consequences stipulated in points a, b, c, d and dd of Clause 3 of Article 3 of this Decree.

7. Heads of Coast Guard Departments have the following rights:

a) To impose a warning;

b) To fine up the maximum levels as prescribed in this Decree;

c) To deprive the right to use certificate of facility eligible for food safety for a defined time or suspend operation for a defined time;

d) To confiscate material evidence and means used to commit administrative breaches;

dd) To apply measures for remedying consequences stipulated in Point d and Point dd of Clause 1 of Article 28 of the Law on handling of administrative breaches and measures for remedying consequences stipulated in points a, b, c, d and dd of Clause 3 of Article 3 of this Decree.

Article 37. The penalty-imposing authority of other agencies and determination of the penalty-imposing authority in food safety

1. Persons with penalty-imposing authority of agencies including: Market management agencies, public security agencies (except for titles stipulated in Clause 4 of this Article), other specialized inspection agencies, customs offices, border guard, coast guard and other agencies with penalty-imposing authority as prescribed in the Law on handling of administrative breaches shall have the authority to impose penalties for administrative breaches and apply measures for remedying consequences for acts stipulated in this Decree under the assigned fields and geographical areas and under their assigned functions and tasks.

2. Chairpersons of People’s Committees at all levels shall have the authority to impose penalties for administrative breaches and apply measures for remedying consequences for acts stipulated in this Decree and within their management localities.
3. The specialized inspection agencies of: Health, Agriculture and Rural Development, Industry and Trade shall have the authority to impose penalties for administrative breaches and apply measures for remedying consequences for acts stipulated in this Decree and within their assigned management scope and tasks.
4. Policemen of Commune-level, District-level, Provincial police offices, Police posts, border-gate and processing and exporting zone police stations, heads of Commune-level police offices, heads of border-gate and processing and exporting zone police stations, heads of District-level police offices, Directors of the Provincial Public Security Department shall have the authority to impose penalties for administrative breaches and apply measures for remedying consequences for acts stipulated in this Decree in localities managed by them.

CHAPTER IV

PROVISIONS OF IMPLEMENTATION

Article 38. Effect of implementation

1. This Decree is of full force and effect from December 31, 2013.
2. The Government’s Decree 91/2012/ND-CP, dated November 8, 2012, on dealing with administrative breaches in food safety ceases to be effective on the effective date of this Decree.

Article 39. Transitional provisions

Administrative breaches in food safety which have occur before the effective day of this Decree, and have been detected after that date or are being considered and settled, provisions beneficial for the organizations and individuals in breach are applied.

Article 40. Responsibilities for guiding and implementing

1. The Minister of Health shall guide, organize and examine implementation of this Decree.
2. Ministers, Heads of Ministerial-level agencies, Heads of Governmental agencies, Chairpersons of People’s Committees at all levels and relevant agencies, organizations and individuals shall implement this Decree.

Recipients:

- *The Secretariat of the Party Central Committee;*
- *The Prime Minister, Deputy Prime Ministers;*
- *Ministries, ministerial-level agencies, the agencies attached Government;*
- *People’s Councils, People's Committees of centrally-run provinces and cities;*

**ON BEHALF OF THE
GOVERNMENT
PRIME MINISTER**

- *The Central Office and the Committees of the Party;*
- *The Office of the General Secretary;*
- *The Office of the President;*
- *The Ethnic Council and Committees of the National Assembly;*
- *The Office of the National Assembly;*
- *The Supreme People's Court;*
- *The Supreme People's Procuracy;*
- *The State Auditor;*
- *National Financial Supervisory Committee;*
- *The Bank for Social Policies;*
- *Vietnam Development Bank;*
- *The Central Committee of the Vietnam Fatherland Front;*
- *Central offices of the unions;*
- *The Government Office: Minister-Chairman, Vice Chairmen, Prime Minister's Assistant, E-portal, departments, division, subordinate units, the Gazette;*
- *Keep as archives: at Office, KGVX (3b).KN300.*

(signed)

Nguyen Tan Dung