

Socialist Republic of Vietnam
Independence - Freedom - Happiness

Decree No. 104 /2006/ND-CP on detailed regulations to implement some articles in the Intellectual Property Law, chapters on Plant Variety Rights

the Government

Pursuant to the December 25, 2001 Law on Organization of the Government;

Pursuant to the Law on Intellectual Property no. 50/2005/QH 11 which was passed by the 11th National Assembly in November, 2005;

At the proposal of the Minister of Agriculture and Rural Development

DECREES:

Chapter 1

General provisions

Article 1: Scope of application

This decree provides detailed regulations and guidelines for the execution of some articles on Plant Variety Rights in the Intellectual Property Law including responsibility for State administration, the order & procedures for establishing plant variety rights; rights and obligation of the plant variety certificate holder & breeder; transfer and assignment of rights of protected plant varieties.

Article 2: Applicable subjects

This Decree applies to:

1. Vietnamese organizations and individuals;
2. Foreign organizations and individuals having their registered residence address or business production unit in plant varieties in Vietnam;
3. Organizations and individuals who are nationals of Contracting Parties with Vietnam on the protection of plant varieties;
4. Foreign organizations and individuals who are not nationals of a Contracting Party with Vietnam but have their permanent residence address or a registered legal office in a country which is a Contracting Party with Vietnam on the protection of plant varieties.

Article 3: Interpretation of terminology

In this Decree, the following terminologies shall be understood as follows:

1. “*Plant varieties*” covered by this Decree include whole plants or seed, propagating and harvested materials of the plant variety of agricultural, forestry, aquaculture, medicinal, mushroom species which have been recently bred, or discovered and developed from a species under the List of protected genera or species;
2. “*Certificate holder*” of *plant variety protection certificate* is the organization/individual who has been granted a variety protection certificate;
3. “*Propagating material*” is any part of a plant from which a new entire plant can be reproduced such as nursery stock, seed, spore, stems, roots, seedling, grafted branch, layered plant, tuber, fruit, shoot, bud, flowers, tissue, cell and other parts of a plant;
4. “*Harvested material*” is an entire plant or any parts of plants obtained from growing/using propagating material of a plant variety;
5. “*Preliminary examining*” is the examination of validity and legality of the application as regulated in Article 10 of this Decree;
6. “*Substantive examining*” is the examination of novelty, distinctness, uniformity, stability and denomination of the variety in respect of which breeder rights are applied;
7. “*The variety description*” shall mean a description in which the characteristics of the new variety are expressed in accordance with the technical guidelines on distinctness, uniformity and stability certified by the plant variety protection office. The variety description shall be regarded as being widely published in any forms of publicity such as scientific reports, bulletins, newspapers, magazines and other publications;
8. “*The plant variety protection office*” shall be the Plant Variety Protection Office which is located at the Ministry of Agriculture and Rural Development;
9. “*Legal representative*” of foreign organizations/individuals applying for plant variety protection in Vietnam shall be organizations/individuals including nationals of Vietnam and foreign organizations/individuals having their registered business offices or having their registered residence address in Vietnam in accordance with the Intellectual Property Law of the Socialist Republic of Vietnam. This “legal representative” is authorized by the owner of the new variety through a letter of attorney to file an application for protection in respect of the same new plant variety.
10. “*Plant variety breeder*” is the person who was directly involved in the whole process or a part of the breeding work or who discovered and developed a new plant variety.
11. “*Contracting Party*” means any state or group of states signing a bilateral agreement on plant variety right protection with Vietnam or signing an

International Convention on plant variety protection to which Vietnam is a signatory.

Article 4. Responsibility of the Ministries and Ministerial-ranked agencies for State administration over plant variety rights

1. MARD, within its responsibility and competence shall exercise the State administration for plant variety rights over the country including:
 - a) submission of legal documents on plant variety protection to higher level or promulgation of these documents itself. Organization and implementation of the legal documents on plant variety protection;
 - b) issuance, withdrawal, cancellation, nullification of the plant variety certificate holder;
 - c) provision of list of the plant varieties to be protected
 - d) development of regulations on organization, functions and mandates for the Plant Variety Protection Office;
 - e) dissemination of legal documents on plant variety rights;
 - f) checking, inspecting and handling violations of plant variety rights;
 - g) international cooperation in plant variety protection.

2. The Ministry of Science & Technology, Ministry of Fishery, Ministry of Finance, authorities of ministerial-level or subordinated to the Government within their responsibility and competence shall be responsible for collaborating with MARD in the State administration of plant variety rights.

Article 5. Responsibility of the Peoples Committees of provinces/cities under the Central Government for protection of the plant variety rights, shall include:

1. Organization and implementation of policies and legislation on plant variety rights;
2. Organization and dissemination of legal documents on plant variety rights;
3. Checking, inspecting and handling violations of plant variety rights;
4. Instructing District/Town People Committees in the execution of State administration measures on plant variety rights at their localities.

Chapter 2

Orders and procedures for establishment of plant variety rights

Article 6: Applicants for plant variety rights

- 1) Eligible applicants for plant variety rights are stipulated in Article 164 (2) of the Intellectual Property Law.

2) For a plant variety which is bred or discovered and developed using the State's budget or the State managed project budget, the direct individual/breeding agency of the variety shall have the right to apply for plant variety protection.

Article 7. Application for plant variety rights

1. Application for plant variety rights referred to in Article 174 of the Intellectual Property Law shall be made in three copies and filed at the Plant Variety Protection Office.

1. Applications by organizations and individuals of a Contracting Party with which Vietnam is a signatory as stipulated at Article 157 (2) in the Intellectual Property Law but having no permanent residence and no registered business office in Vietnam shall file other necessary papers to justify nationality as supplementary papers to those required in the Article 174 (1), (2), (3).
2. For the applicants who are not nationals of a Contracting Party, a supporting paper is required to prove the permanent residence address or a registered legal office in a country with which Vietnam is a Contracting Party.

Article 8. Requirements for claiming priority rights

If the applicant is eligible for the priority right as stipulated in Paragraph 1, Article 167 of the Intellectual Property Law, they can claim the priority right by the following procedures:

1. Claim the priority rights in the Application for Plant Variety rights.
2. Pay the stipulated fees for examining the request for priority rights.
3. Within 3 months from the filing date, the applicant shall furnish the following papers:
 - a. A notarized copy of the documents which constitute the first application or certified as a true copy by the authority with which that application was filed;
 - b. Evidence certifying that the variety which is the subject matter of both applications is the same, for example, the variety description, photographs, and other related documents (if available).

Article 9. Receipt of the application for variety protection rights

1. The Plant Variety Protection Office shall receive applications by the following means:

- a) Receive directly from the applicant or through a legal representative agency
- b) Receive from the Post Office. In this case, the filing date will be the date when the Plant Variety Protection Office receives the application.

2. Upon receipt of the application, the Plant Variety Protection Office shall stamp the application to mark the date; give a unique reference number and record these details into the log book; a copy of the stamped application shall be returned to the applicant.

Article 10. Preliminary examination of the application

1. *Examination time*

Within 15 days from the filing date, the Plant Variety Protection Office must complete the preliminary examination of the application.

2. Preliminary examination of application includes checking lists of documents in the application and the validity of the application in accordance with provisions in Article 174 of the Intellectual Property Law and Articles 6 and 7 in this Decree.

Article 11: Invalid applications

1. Invalid formalities include:

- a) When one of the documents stipulated in Article 174 (1) of the Intellectual Property Law and Article 8 of this Decree (priority right claimed) is missing ;
- b) The prescribed format is not used or some information is missing in the application;
- c) Vietnamese language is not used;
- d) Information in the application is amended/deleted, damaged or unclear for reading;
- e) Copies of the related documents are not notarized or certified by a competent authority;
- f) The variety which is the subject matter in the application is not within the list of crops to be protected at the time when the application is filed;
- g) The application is not filed by an eligible person as stipulated in Article 164 of the Intellectual Property Law and Article 6 of this Decree.

2. Handling invalid applications

- a) In cases where points (f) and (g) of paragraph 1 of this Article apply, the Plant Variety Protection Office shall refuse the application and will inform the applicant in writing.
- b) For applications which are found invalid in accordance with the provisions at point (a), (b), (c), (d) (e) of paragraph (1) in this Article, the Plant Variety Protection Office shall notify the applicant who has to make amendments or to provide the necessary information. If the applicant fails to respond within 30 days from the date when the notification is made, or if the application is still unacceptable after amendment, the application shall be refused.
- c) The period of 30 days is stipulated in Point b of this Paragraph shall be defined by the postal stamp where the notice is received. If the postal stamp is not clear to read, the period mentioned above will be 45 days, from the date when the Plant Variety Protection Office inform the applicant.

Article 12. Substantive examination of an application for variety rights

Examination of application content stipulated in Article 178 of the Intellectual Property Law shall be done in order as follows:

1. Examination of variety denomination shall be done in accordance with Article 13 of this Decree.
2. Examination of novelty of the variety shall be done in accordance with Article 14 of this Decree.
3. Technical examination of distinctness, uniformity and stability of the variety shall be done as stipulated in Article 15 and 16 of this Decree.
4. Examination of outcomes from the technical examination shall be done in accordance with Article 19 of this Decree.

Article 13. Examination of denomination of the variety

1. Based on the stipulations in Article 163 of the Intellectual Property Law, the Plant Variety Protection Office shall examine the relevance of the proposed denomination with every denomination which designates, in Vietnam and in the territory of any Contracting party, an existing variety of the same plant species or of a closely-related species. If it is found that the denomination does not satisfy the requirements, the Plant Variety Protection Office shall notify and request the applicant to propose another denomination.
2. Within the period of 30 days from the notification date, the new denomination must be provided by applicant. The Plant Variety Protection Office shall refuse the application if no new denomination is provided within the prescribed period.
3. The applicant may change the variety denomination during the period from the filing date to the time before granting of variety protection. In this case, the applicant shall propose another new denomination for the filed variety and to pay fees accordingly.
4. The Plant Variety Protection Office shall be responsible for informing the competent authorities of the Contracting Parties about the denomination.
5. The official denomination of the variety shall be recognized at the time when the plant variety protection certificate is granted.

Article 14. Examination of novelty

Based on the stipulations on novelty of the plant variety stated in Article 159 of the Intellectual Property Law, the Plant Variety Protection Office shall examine novelty as below:

- a) Examination of information provided in the application form;
- b) Review and handle any responses, complaints (if any) about novelty of the variety after the application is published.

Article 15. Technical examination

The Technical Examination stipulated in Article 178 (2) of the Intellectual Property Law shall be conducted as follows:

1. Based on the actual situation, the Plant Variety Protection Office shall decide how the technical examination should be done in one of the following ways:
 - a) by a technical body which is eligible as stipulated in Article 16 of this Decree ;
 - b) by competent organizations and individuals;
 - c) by using available results provided by the breeder or from other sources.
2. In the case of point (b) of paragraph 1 in this Article, the technical examination must be carried out according to the technical guidelines on distinctness, uniformity and stability.
3. Results from the technical examination shall be entered in the technical forms provided by Plant Variety Protection Office. Organizations and individuals which provide technical results as indicated in point c, paragraph 1 of this Article shall take responsibility for the information provided.
4. In case points (a) or (b) of paragraph 1 of this Article apply, and if the technical examination result is not satisfactory, the applicant shall have the right to request the Plant Variety Protection Office to re-examine and shall pay fees accordingly. A request for re-examination shall be made in writing with a clear explanation and justification.
5. The fees for re-examination stipulated in paragraph 4 of this Article will be returned to the applicant if the DUS test result proves that the request from the application for re-examination is justified.

Article 16. Technical examination body

The technical examination body stated in Article 15 (1) (a) of this Decree shall satisfy the following requirements:

1. Location and size must satisfy the variety examination guidelines and requirements for growing and development of each crop.
2. Availability of technical equipment for examination of each crop as regulated by the competent authority .
3. Having available, or able to hire competent technical staff who can fulfill the variety examination requirements.

Article 17. Filing of variety samples

1. If Article 15 (1) (a) of this Decree applies, at the request of the Plant Variety Protection Office, the applicant shall provide variety samples to the technical examination body at least 20 days before the sowing season starts.
2. If Article 15(1) (b) (c) of this Decree applies, the applicant shall not have to provide the technical examination body with variety sample. Instead, the applicant shall have to provide a variety sample to a storage agency as regulated in paragraph 3 of this Article. The Plant Variety Protection Office shall determine the time when the sample has to be provided.
3. The filed sample indicated in Paragraph 2 shall be stored as below:

- (a) Seed samples shall be kept at the storage agency appointed by the competent State authority.
 - (b) For samples of vegetative crops, applicants shall arrange storage of samples themselves and shall indicate in the application the locations where the samples are kept.
4. In cases where it is necessary, and if requested by the technical examination body, the Plant Variety Protection Office shall request the applicant to provide, if possible, samples of varieties which are similar to the submitted variety.
 5. When receiving samples, either the technical examination body or the storage agency shall carry out a preliminary check of quality of the provided samples. A receipt of accepting samples shall be issued if it is found that provided samples are acceptable. If provided samples are not satisfactory, another sample will be requested.
 6. Within 20 days from the date of receiving samples, the sample receiver shall check the quality and inform the applicant of the quality of the provided sample. In case of broken/damaged samples, the applicant shall provide another sample within 30 days from the notification date.
 7. The storage agency shall be responsible for keeping samples in safe conditions and keeping confidentiality of the information if requested by applicants.

Article 18. Report on the technical examination result

Within 30 days from the date when the variety examination ends, the technical examination body indicated in Article 15 (1) (a) (b) of this Decree shall send the report on the technical examination to the Plant Variety Protection Office.

Article 19. Review examination result

1. Within 90 days from the date when results are received from the technical examination body, the Plant Variety Protection Office shall carry out and complete the evaluation of these results.
2. In case of uncertainties, MARD shall establish an *ad hoc* professional council to review/appraise the technical examination results. The reviewing/appraising work shall not exceed 60 days from the date when the council is established.

Article 20. Grant of variety rights

1. If the technical examination results confirm that the submitted variety fulfils conditions indicated in Article 159, 160, 161, 162 and 163 of the Intellectual Property Law, the Plant Variety Protection Office shall request the Minister of MARD to sign the decision on granting plant variety protection certificate and shall publish it in the agricultural magazine of MARD.
2. Within 30 days after publishing the grant of plant variety protection certificate, if there are no written comments/complaints, the Plant Variety Protection Office

shall grant a plant variety protection certificate and record it in the national registration book.

3. If any written comments or complaints are received within 30 days from the publishing date of the decision on granting a plant variety protection certificate, they shall be dealt with as stipulated in Article 184 of the Intellectual Property Law and Article 24 of this Decree.
4. The plant variety protection certificate shall be issued in one original copy; in case additional copies are required, the applicant shall indicate the number of copies in the application. The format of the plant variety protection certificate and the national registration book for recording the protected varieties are stipulated at Article 168 of the Intellectual Property Law.
5. Applicants have to pay fees for issuing the protection certificate as stipulated. In case the Certificate is damaged, lost or the holder changes, the certificate holder can request another copy and shall pay fees accordingly.

Article 21. Cancellation of a variety protection certificate

1. For cancellation of a plant variety protection certificate according to Article 170 (1) (a) of the Intellectual Property Law, the procedures shall be as follows:
 - a. When a request for cancellation of a certificate is received from a third party, the Plant Variety Protection Office shall verify the request and notify the certificate holder within 30 days. The request for cancellation must be made in writing together with supporting evidence that the protected variety is no longer as uniform and stable as was determined at the time when the certificate was granted. If the certificate holder agrees to a re-examination of the variety, the party requesting the cancellation shall pay the stipulated fee for the technical re-examination. If the re-examination shows good justification for cancellation of the certificate, the fee will be returned to the party which made the request.
 - b. If after 30 days of the notification being made to the certificate holder about the request for cancellation, the holder has not replied or has not proposed the necessary corrections, MARD shall issue a decision on cancellation. The cancellation shall be effective from the date when the decision on cancellation is published in the Agriculture magazine;
 - c. If the certificate holder objects to the request for cancellation being made by the third party, the certificate holder must follow the procedures for re-examination as stipulated in Article 15 (4) of this Decree. If the re-examination, which is implemented by the agency indicated in Article 15 (1) (a), proves that the protected variety is no longer as uniform or stable as it was at the time when the certificate was granted, the Plant Variety Protection Office shall start procedures for cancellation of the certificate as stipulated in point b of this paragraph.
2. In case of uncertainties, MARD shall establish an *ad hoc* professional council for a decision concerning the cancellation.

Article 22. Reinstatement of a plant variety protection certificate

1. For the reason of cancellation in Article 170 (1) (a) of the Intellectual Property Law, and based on the result of the technical re-examination, MARD shall decide to accept or reject the request for reinstatement of the plant variety protection certificate.
2. In case the cancellation is based on Article 170 (1) (b,c,d) of the Intellectual Property Law, and based on the actual corrections made by the holder referred to in Article 170 (5) of the Intellectual Law, MARD shall decide to accept or reject the request for reinstatement of the plant variety protection certificate.

Article 23. Nullity of the effectiveness of a plant variety protection certificate

1. In accordance with Article 171 (1) of the Intellectual Property Law, MARD shall issue a decision to nullify the effectiveness of plant variety protection certificate.
2. In case of receiving a letter from organizations/ individuals requesting to nullify a certificate, and after reviewing the letter and consulting with the relevant agencies, MARD shall make a decision concerning the nullity or non-nullity of the granted certificate. The Certificate Holder shall be informed accordingly.

Article 24. Basis for opposition/appeal against a decision concerning granting of a variety protection certificate

When organizations or individuals oppose or appeal against a decision to grant or refuse to grant a variety protection certificate, the appeal shall be based on any of the following grounds, namely that:

1. Refusal to grant a variety certificate is not well justified
2. The variety protection certificate has been granted to a person who is not entitled to it, unless it is transferred to the person who is so entitled;
3. The variety is not new or distinct;
4. The variety is not uniform or stable;
5. The variety denomination is unsuitable.

Article 25. National registration book

The Plant Variety Protection Office shall be responsible for establishing and keeping the national registration book on protected plant varieties. All information related to plant variety protection certificates and changes made during the period of protection shall be recorded and kept in the national registration book.

Chapter 3

Rights and obligations of the plant variety protection certificate holder and variety breeder

Article 26. Rights of the plant variety certificate holder

1. Rights of the plant variety protection certificate holder stipulated in Article 186 of the Intellectual Property Law shall also apply to the harvested material of the protected variety obtained through the unauthorized use of propagating materials of the protected variety, unless the Holder has had reasonable opportunity to exercise the right in relation to the said propagating material.

2. The rights of the plant variety protection holder stipulated in paragraph 1 of this Article shall also apply to the plant varieties stipulated in Article 187 of the Intellectual Property Law.

Article 27. Request for provisional protection

The holder of the certificate shall be entitled to provisional protection in accordance with Article 189 (1) of the Intellectual Property Law. If the filed variety is used by someone for commercial purpose during the provisional protection period, the certificate holder shall exercise the variety rights as stipulated in Article 189 (2) (3) of the Intellectual Property Law. In order to exercise this right from the time when the certificate is granted, the Certificate holder shall request provisional protection and shall carry out the following procedures:

1. Reach an agreement with the person who exploited the filed variety for commercial purpose about compensation rate
2. In case of failing to reach an agreement, the Certificate holder can write a letter to competent authorities to resolve the issue as stipulated in Article 200 of the Intellectual Property Law. Requests for provisional protection must be prepared in writing together with well-justified evidence.

Article 28. Limitation of the rights of the plant variety certificate holder

As provided in Article 190 of the Intellectual Property Law, the right of the holder shall not extend to

1. acts done privately and for non - commercial purposes;
2. acts done for scientific research; and
3. acts done for the purpose of breeding other varieties, and, except where the provisions of Article 187 of the Intellectual Property Law apply, acts referred to in Article 186 of the Intellectual Property Law and in Article 26 of this Decree.

4. Individual households may use the harvested products of a protected variety obtained in their own field for propagation and cultivation in their own field in the next season.

Article 29. Obligations of the plant variety certificate holder

As stipulated in Article 191 (1) of the Intellectual Property Law, the Certificate Holder has the following obligations:

1. To pay fees to the breeder by one of the following ways:
 - a. By an agreement between the Certificate Holder and the Breeder
 - b. If an agreement cannot be reached, the fee to be paid to Breeder must be 30% of the total royalty collected.
 - c. For plant varieties which are bred, or discovered and developed by the state budget, the Certificate holder shall pay the breeder according to their internal rules. In case no internal rules are available, the Certificate Holder shall pay the breeder 30% of the collected royalty.
2. To pay fees to Plant Variety Protection Office for maintaining the effectiveness of the plant variety protection certificate in the first three months of the first effective year after the certificate is granted and in the first month of the subsequent effective years.
3. To store the protected variety and provide information, documents and propagating material of the protected variety at the request of the Plant Variety Protection Office; to maintain the stability of the protected variety to ensure the same characteristics as described at the time when the variety right was granted.

Article 30. Obligations of the breeder

In accordance with Article 191 (2) of the Intellectual Property Law, during the effective time of the certificate, the breeder shall be obliged to maintain the protected variety to ensure the same characteristics as described at the time when the variety right was granted.

Chapter 4

License and assignment of rights over a Protected Variety

Article 31. Orders and procedures for variety rights assignment and licensing among parties

1. After the contract on assignment of the right of the protected variety has been completed and agreed following the rules, the assignee shall file the signed contract at the Plant Variety Protection Office and pay fees accordingly.

2. The Plant Variety Protection Office shall receive the said contract, certify and publicize the said assignee of variety right as the new certificate holder.

Article 32. License and assignment of rights to use a plant variety owned by the State

1. Licensing of rights over a state-bred variety must be done in accordance with the Laws on state asset management.

2. Use and management of fees obtained from licensing and assigning contracts on plant varieties shall follow the Decree 43/2006/NĐ-CP dated 25 April 2006 of the Government stipulating the ownership, accountability for implementing tasks, structural organization, employment and finance in the public institutes.

Article 33. Compulsory license of rights of a protected plant variety

Cases for compulsory licensing of variety rights are stipulated in Article 195 (1) (a) of the Intellectual Property Law for reasons of public urgent interest including emergencies such as calamity consequences, epidemics, war or environmental pollution on a large scale.

Article 34. Basis for determining the compensation norm for compulsory license of variety rights

Determination of the compensation norm for a compulsory license of variety right shall be based on:

1. Mutual agreement between the licensee and the licensor
2. In case of failing to reach a mutual agreement, the compensation norm shall be calculated on the basis of:
 - a. value of the latest existing licensing contract with other licensor for the same variety, then calculating the equivalent basis in terms of the time and volume of seed taken as a result of the compulsory transfer.
 - b. the profit obtained by the Certificate Holder through commercial exploitation, then calculating equivalent basis in terms of the time and volume of seed taken as a result from compulsory transfer.
3. The decision makers indicated in Article 35 of this Decree shall take the lead and collaborate with other concerned ministries and departments to determine compensation norm for the cases indicated in paragraph 2 of this Article.

Article 35. Decision makers on compulsory licensing of variety rights

1. MARD shall promulgate decisions on compulsory license of variety rights for agricultural crops and forestry species.
2. Ministry of Fishery shall have the right to promulgate decisions on the compulsory license of variety rights for aquatic plants.

3. Ministry of Health shall have the right to make decision on the compulsory license of variety rights for the plants to be used for medicine.
4. The agencies indicated in paragraph 1, 2 &3 of this Article shall arrange and nominate their respective departments to be in charge of handling procedures for compulsory licensing of plant variety rights.

Article 36. Procedures for compulsory license of variety rights

1. The agencies indicated in Article 35 (1, 2, 3) of this Decree shall publicize the need for the variety, name of the variety, purpose, quantity; scope and duration of compulsory licensing.
2. Organizations/individuals which are interested in being a licensee, shall submit a dossier requesting a license of variety rights to the state administrative agencies stipulated in Article 35 of this Decree. The dossier shall include:
 - a) A letter requesting the license. The scope and time to take over the license of variety rights shall be clearly indicated in the letter.
 - b) Business certificate on producing and commercializing plant varieties.
 - c) Proof of financial capacity to provide compensation to the licensor as stipulated.
3. Responsibility of the state administrative agencies for the compulsory license of variety rights:
 - a) To receive the dossiers indicated in paragraph 2 of this Article;
 - b) Within 15 days from receiving the valid dossier, evaluate the dossier and submit it to a higher competent authority for promulgating a decision on compulsory licensing of the variety if the licensee is capable to take it over.
 - c) In case the said licensee is not capable to take over the compulsory license, the administrative agency shall notify in writing and indicate the reasons.
 - d) Inform the licensor and licensee of the decision accordingly.

Chapter 5

Execution provision

Article 37. Transitional provision

1. Applications which are filed at the Plant Variety Protection Office before the effective date of this Decree, shall be handled according to the legal documents on plant variety protection effective at the filing date of application.
2. Applications which are filed at the date when this Decree is effective, shall be handled according to stipulations in this Decree.

Article 38. Effectiveness of the Decree

This Decree shall enter into force 15 days after it is published in the Official Gazette. From the effective date, this Decree shall replace the Decree no. 13/2001/NĐ-CP of the Government dated April 20, 2001.

Article 39. Execution provisions

1. MARD shall be responsible for providing instructions for execution of this Decree.
2. Ministry of Finance shall take the lead, in collaboration with MARD to provide guidance on collection, management and use of fees collected for the protection of new plant varieties.
3. Ministers, Heads of ministerial level agencies, Heads of Government agencies, Chairman of Provincial/City Peoples Committees, which are under Central Government shall have the responsibility to execute this Decree.

For the Government
Prime Minister

Nguyen Tan Dung