

DECREE prescribing forms of sanctioning expulsion, measures of temporary detention of persons, escorting violators according to administrative procedures and management of foreigners who violate Vietnamese law during the period of carrying out expulsion procedures

Pursuant to the Law on Organization of the Government dated June 19, 2015; Law amending and supplementing a number of articles of the Law on Organization of the Government and the Law on Organization of Local Governments dated November 22, 2019;

Pursuant to the Law on Prevention and Control of Domestic Violence dated November 21, 2007;

Pursuant to the Law on Entry, Exit and Residence of Foreigners in Vietnam dated June 16, 2014; Law amending and supplementing a number of articles of the Law on Entry, Exit and Residence of Foreigners in Vietnam dated November 25, 2019;

Pursuant to the Law on Handling of Administrative Violations dated June 20, 2012; Law amending and supplementing a number of articles of the Law on Handling of Administrative Violations dated November 13, 2020;

At the request of the Minister of Public Security;

The Government promulgates a Decree prescribing the forms of sanctioning expulsion, measures of temporary detention of persons, escorting violators according to administrative procedures and management of foreigners who violate Vietnamese law during the period of carrying out expulsion procedures.

Chapter I
GENERAL PROVISIONS

Article 1. Scope of Regulation

This Decree provides for:

1. Subjects of application and procedures for application of expulsion sanctions; rights and obligations of persons subject to the form of expulsion sanction; measures to manage foreigners who violate Vietnamese law during the time of carrying out expulsion procedures and responsibilities of agencies and organizations in the implementation of expulsion sanctions.

2. Subjects of application, procedures for temporary detention and escort of violators according to administrative procedures; cases of application of measures of temporary detention and escort of violators according to administrative procedures; rights and obligations of persons subject to the measure of temporary detention or escort of violators according to administrative procedures.

3. Other provisions related to the application of the sanctioning form of expulsion and measures of temporary detention of persons and escort of violators according to administrative procedures.

Article 2. Subjects of application

This Decree applies to:

1. Persons who commit acts of administrative law violation shall be temporarily detained according to administrative procedures as prescribed in Article 16 of this Decree.

2. Violators shall be escorted under the provisions of Article 124 of the Law on Handling of Administrative Violations.

3. Foreigners who commit acts of violating Vietnamese law and must be expelled according to the provisions of the law on handling of administrative violations under the provisions of Article 27 of the Law on Handling of Administrative Violations.

4. Persons competent to apply the sanctioning form of expulsion under the provisions of Article 39 of the Law on Handling of Administrative Violations; persons competent to temporarily detain persons according to administrative procedures as prescribed in Article 123 of the Law on Handling of Administrative Violations; competent persons on duty shall escort violators according to the provisions of Clause 2, Article 124 of the Law on Handling of Administrative Violations.

5. Other agencies, units and organizations involved in the application of expulsion sanctions, measures of temporary detention of persons, escort of violators according to administrative procedures and management of foreigners who violate Vietnam's administrative law during the period of carrying out expulsion procedures.

Article 3. Principles of application

1. The temporary detention of persons according to administrative procedures and the application of the sanctioning form of expulsion must comply with the principles, right subjects, procedures, competence and time limit specified in the Law on Handling of Administrative Violations, the provisions of this Decree and other relevant provisions of law.

2. It is strictly forbidden to infringe upon the life, health, honor, dignity and property of persons held in custody or escorted according to administrative procedures and persons subject to the sanction of expulsion.

3. The temporary detention and escort of violators according to administrative procedures and the application of expulsion sanctions shall comply with the provisions of Articles 122 and 124 of the Law on Handling of Administrative Violations.

Article 4. Guarantee funding

1. Funding for the application of the measure of temporary detention of persons, escort of violators according to administrative procedures and application of sanctioning forms of expulsion includes:

a) Expenses for investment, construction, repair and upgrading of temporarily seized material foundations;

b) Expenses for the procurement of utensils, vehicles, weapons, combat gears and other conditions in service of the temporary detention of persons and escort of violators according to administrative procedures;

c) Expenses for eating, drinking, medical examination and treatment for persons held in custody, expenses for organizing funerals when persons held in custody or escort die during the period of custody or escort, in cases where they or their families are unable to ensure themselves;

d) Other expenses in service of the temporary detention of persons according to administrative procedures;

dd) Compile dossiers of request for application of expulsion sanctions, manage foreigners during the time of carrying out expulsion procedures, trace the expelled persons who have escaped and execute the expulsion decisions.

2. Funds to ensure the application of the measure of temporary detention of persons, escort of violators according to administrative procedures and application of sanctioning forms of expulsion shall be allocated by the state budget. The formulation, implementation and settlement of funds from the state budget shall comply with the provisions of the Law on the State Budget and guiding documents.

Chapter II

SANCTIONING THE EXPULSION AND MANAGEMENT OF FOREIGNERS

WHO VIOLATE VIETNAMESE LAW DURING THE TIME OF CARRYING OUT EXPULSION PROCEDURES

Article 5. Subjects of application of expulsion sanctions

Individuals who are foreigners who commit acts of administrative violation within the territory, contiguous zones of territorial seas, exclusive economic zones and continental shelves of the Socialist Republic of Vietnam; on aircraft of Vietnamese nationality or ships flying the Vietnamese flag, depending on the seriousness of the violation, they shall be sanctioned for expulsion according to the provisions of Article 27 of the Law on Handling of Administrative Violations.

Article 6. Competence to apply the form of sanctioning expulsion

Agencies and persons competent to apply the form of sanctioning expulsion shall comply with the provisions of Point dd, Clause 5, Clause 7, Article 39 of the Law on Handling of Administrative Violations.

Article 7. Rights and obligations of persons subject to expulsion sanctions

1. Persons subject to the sanctioning of expulsion shall have the right to:

a) Being informed of the reason for expulsion and receiving the expulsion decision at least 48 hours before the execution;

b) To be required to have an interpreter when working with competent agencies or persons;

c) To comply with the regimes specified in Decree No. 65/2020/ND-CP dated June 10, 2020 on organization and regimes for persons staying at accommodation establishments while waiting for exit;

d) To carry their lawful property out of the Vietnamese territory;
 dd) To lodge complaints and denunciations in accordance with the law on settlement of complaints and denunciations.

2. Obligations of the expelled person:

a) Fully comply with the provisions stated in the decision on sanctioning of administrative violations with the application of the sanctioning form of expulsion;

b) Produce identification papers at the request of the immigration authority;

c) Comply with the provisions of Vietnamese law and submit to the management of the police office during the time of carrying out expulsion procedures;

d) Promptly fulfill all civil, administrative and economic obligations as prescribed by law (if any);

dd) Completing necessary procedures for leaving the territory of Vietnam.

Article 8. Dossier of request for application of the form of expulsion sanction

1. Within 02 working days, the violation-detecting agency deems that the foreigner has committed an act of violation and is eligible for the application of the sanction of expulsion and must send the temporarily seized documents, exhibits and means (if any) related to the violation to the immigration management agency of the provincial-level police where the foreigner registers permanent residence, temporary residence or place where the violation occurs to compile a dossier of request for the application of the form of expulsion sanction. For violations detected by central agencies or professional units under the Ministry of Public Security, the violation dossiers shall be sent to the Immigration Department for compiling dossiers of request for the application of expulsion sanctions.

2. Within 03 working days from the date of receipt of the violation dossier, the immigration management agency of the provincial-level Police and the professional division of the Immigration Department shall complete the dossier of application for the application of the expulsion sanction. The dossier comprises:

a) A summary of the curriculum vitae and acts of law violation of the person proposed to be sanctioned for expulsion;

b) A record of the administrative violation of the person proposed to be sanctioned for expulsion;

c) Documents and evidences of administrative violations;

d) Documents on the sanctioning forms of administrative violations that have been applied (for cases of repeated violations or recidivism);

dd) A written request for the application of the expulsion sanction.

3. The compilation of dossiers of application of expulsion sanctions to foreigners who commit administrative violations in case of additional sanctions as prescribed in Clause 2, Article 21 of the Law on Handling of Administrative Violations shall comply with the provisions of Clause 1, Clause 2 of this Article.

Article 9. Decision on application of expulsion sanctions

1. Within 02 working days from the date of receipt of the written request for application of the expulsion sanction from the immigration management agency of the provincial-level Police or the professional division of the Immigration Department, the Director of the provincial-level Police or the Director of the Immigration Department shall consider, to issue decisions on sanctioning expulsion for foreigners who commit administrative violations. If they are not eligible for the application of the form of expulsion sanction, they must immediately notify the agency detecting the violation.

2. A decision on application of the sanctioning form of expulsion must clearly state the following contents:

- a) Place name, date, month and year of issuance of the decision;
- b) Legal grounds for issuance of the Decision;
- c) Records of administrative violations, verification results, written explanations of persons proposed for application of expulsion sanctions;
- d) Full name and position of the decision issuer;
- dd) Full name, date of birth, nationality, occupation, passport number or passport replacement papers of the person subject to the expulsion sanction;
- e) Acts of administrative violation committed by the person subject to the sanctioning of expulsion; aggravating circumstances and extenuating circumstances;
- g) Provisions of the applicable legal document;
- h) Main sanctioning forms, additional sanctioning forms, remedial measures (if any);
- i) The right to lodge complaints and initiate lawsuits against decisions;
- k) Validity of the Decision; time limit for execution of decisions; the place of deportation to; place of execution of the decision; the compulsory residence of the foreigner during the period of carrying out the expulsion procedure;
- l) Full name and signature of the decision issuer;
- m) The agency responsible for organizing the implementation of the decision.

3. Decisions on application of the sanctioning form of expulsion must be sent to the expelled persons and the Ministry of Foreign Affairs of Vietnam, consular offices and diplomatic missions of the countries of which the expelled persons are citizens or the countries in which such persons last resided before arriving in Vietnam before the execution of such decisions under the provisions of Article 84 of the Law on Handling of Administrative Violations chief. The decision to evict must be expressed in both Vietnamese and English.

4. Decisions on the application of expulsion sanctions to foreigners who commit administrative violations in cases specified as additional sanctions specified in Clause 2, Article 21 of the Law on Handling of Administrative Violations shall comply with the provisions of Clause 1, 2, 3 This.

Article 10. Implementation of the Decision on application of the sanctioning form of expulsion

1. Police offices and persons competent to apply the form of sanctioning expulsion shall be responsible for organizing the implementation of the decision

on application of the form of sanctioning expulsion; at the same time, it is responsible for transferring all relevant dossiers, papers, material evidences and means of administrative violations (if any) to the agency receiving the decision on application of the form of expulsion sanction for the implementation of the decision on application of the form of expulsion sanction in accordance with the Law on Handling of Administrative Violations.

2. In case the person subject to the sanctioning form of expulsion deliberately refuses to receive the sanctioning decision, the competent person shall make a record of the refusal to receive the decision and send it to the Ministry of Foreign Affairs of Vietnam, the consular office or diplomatic mission of the country where the expelled person is a citizen or the country where he/she last resided before the to Vietnam.

3. Individuals being foreigners subject to the sanction of expulsion must abide by the sanctioning decisions as prescribed in Clause 1, Article 73 of the 2012 Law on Handling of Administrative Violations.

4. The implementation of the Decision on application of the sanctioning form of expulsion to foreigners who commit administrative violations in cases specified as additional sanctions specified in Clause 2, Article 21 of the Law on Handling of Administrative Violations shall comply with the provisions of Clause 1, 2, 3 This.

Article 11. Postponement of the implementation of the Decision on application of the sanctioning form of expulsion

1. The postponement of the execution of a decision on application of the expulsion sanction shall be effected in the following cases:

a) Being seriously ill, requiring emergency treatment or other health reasons making it impossible to implement the decision on application of the expulsion sanction certified by the hospital or medical examination and treatment establishment of the district or higher level;

b) To perform civil, administrative and economic obligations in accordance with law.

2. Competence to issue decisions to postpone the execution of decisions on application of expulsion sanctions:

a) At the request of the Director of the provincial-level Police or the head of the foreigner management unit of the Immigration Department or the head of the professional division of the Immigration Department of the Ministry of Public Security, the Director of the Immigration Department of the Ministry of Public Security shall consider, to issue a decision to postpone the execution of the decision on application of the form of expulsion sanction, in case the Director of the Immigration Department of the Ministry of Public Security issues an expulsion decision;

b) At the request of the head of the immigration management unit, the director of the provincial-level police shall consider and issue a decision to postpone the execution of the decision on application of the sanctioning form of expulsion, for cases where the director of the provincial-level police has issued a decision on expulsion.

3. The postponement of the execution of the Decision on application of the sanctioning form of expulsion to foreigners who commit administrative violations in cases specified in Clause 2, Article 21 of the Law on Handling of Administrative Violations shall comply with the provisions of Clause 1, 2, 3 This.

4. When the conditions for postponement no longer exist, the decision on application of the sanctioning form of expulsion shall continue to be enforced.

Article 12. Dossiers of application of expulsion sanctions

1. A dossier of application of the form of sanctioning expulsion comprises:

- a) Decide on the application of the sanctioning form of expulsion;
- b) Records of administrative violations;
- c) A dossier of application for the application of expulsion measures as prescribed in Article 8 of this Decree;
- d) A copy of the passport or other identification papers in lieu of the passport of the expelled person;
- dd) Papers certifying the fulfillment of other obligations (if any);
- e) Other relevant documents.

2. The immigration management agency of the provincial-level Police or the professional division of the Immigration Department of the Ministry of Public Security shall compile a dossier of application of the expulsion sanction as prescribed in Clause 1 of this Article.

3. The dossier of application of the sanctioning form of expulsion to foreigners who commit administrative violations in cases specified in Clause 2, Article 21 of the Law on Handling of Administrative Violations shall comply with the provisions of Clause 1, 2 and Clause 4 of this Article.

4. Dossiers of application of expulsion measures must be marked and archived at competent agencies.

Article 13. Management of foreigners who violate Vietnamese law during the time of carrying out expulsion procedures

1. The head of the professional division of the Immigration Department and the head of the Immigration Management Division of the provincial-level Police (where the dossier of request for expulsion is prepared) shall propose to the Director of the Immigration Department or the Director of the provincial-level Police to decide on the application of management measures to foreigners during the time of carrying out expulsion procedures.

2. Foreigners who violate Vietnamese law during the period of carrying out expulsion procedures shall be subject to management measures in the following cases:

- a) When there are grounds to believe that, if necessary measures are not applied for management, such person will evade or obstruct the execution of the expulsion sanctioning decision;

- b) To prevent such persons from continuing to commit acts of law violation.

3. Measures to manage foreigners who violate Vietnamese law during the time of carrying out expulsion procedures

- a) Restricting the travel of the managed persons;

- b) Designation of the residence of the person under management;

c) Temporary seizure of passports or other identity papers in lieu of passports.

4. The application of measures to manage foreigners who violate Vietnamese law must be clearly stated in the decision on application of management measures to foreigners who violate Vietnamese law during the time of carrying out expulsion procedures, including the following contents:

- a) Place name, date, month and year of issuance of the decision;
- b) Full name and position of the decision issuer;
- c) Full name, date of birth, nationality, occupation, passport number/passport replacement papers of the person subject to management measures;
- d) Management measures (clearly stating specific management measures);
- dd) Effect of the decision on application of management measures; time limit for application of management decisions; scope and place of application of travel restrictions (for the measures specified at Point a, Clause 3 of this Article); compulsory residence of the person subject to management measures (for the measures specified at Point b, Clause 3 of this Article); reasons for temporary seizure of passports or other identity papers in lieu of passports (for the measures specified at Point c, Clause 3 of this Article);
- e) Full name and signature of the decision issuer;
- g) The agency responsible for organizing the implementation of the decision.

5. The designation of residences of foreigners who violate Vietnamese law during the period of carrying out expulsion procedures shall be carried out as follows:

- a) Staying at an accommodation establishment managed by the Ministry of Public Security;
- b) At other accommodation establishments designated by the Ministry of Public Security.

6. The application of accommodation measures to foreigners who violate Vietnamese law during the period of carrying out expulsion procedures at accommodation establishments managed or designated by the Ministry of Public Security shall be carried out in the following cases:

- a) Foreigners who violate Vietnamese law during the period of carrying out deportation procedures do not have passports or papers in lieu of passports, and do not fully meet the necessary conditions for expulsion (air tickets, visas, passports, papers in lieu of passports, etc.);
- b) Having no place of residence or the residence duration has expired;
- c) Violating the provisions of Clause 2 of this Article or failing to comply with management and supervision measures of competent agencies;
- d) Committing acts of law violation or having grounds to believe that such persons may commit acts of law violation while waiting for exit;
- dd) Committing acts of fleeing, preparing to flee or other acts that cause difficulties to the execution of the expulsion decisions;

e) Suffering from infectious diseases in accordance with the law on prevention and control of infectious diseases and must be subject to medical isolation;

g) Persons suffering from mental illnesses or other diseases that cause loss of cognitive capacity or ability to control behavior;

h) Voluntarily apply for entry to the accommodation establishment.

7. It is forbidden to use temporary detention houses according to administrative procedures, criminal detention centers, detention camps or prisons to manage foreigners who violate Vietnamese law during the period of carrying out expulsion procedures.

Article 14. Regimes for foreigners who violate Vietnamese law during the period of carrying out expulsion procedures

1. Accommodation regimes for foreigners subject to expulsion sanctions during the period of carrying out expulsion procedures shall comply with the provisions of Chapter II of Decree No. 65/2020/ND-CP dated June 10, 2020 on organization and management and regimes for persons staying at accommodation establishments while waiting for exit.

2. Expenses for regimes for residents shall comply with the provisions of Decree No. 65/2020/ND-CP dated June 10, 2020 on organization and management and regimes for people staying at accommodation establishments while waiting for exit.

a) In case the expelled person is unable to pay, the Immigration Department of the Ministry of Public Security or the provincial-level Police Department (where the dossier of management of the subject is compiled) shall request the diplomatic mission or consular office of the country of which the person is a citizen or the agency or the organizations and individuals that invite foreigners to enter Vietnam or apply for visa extensions for foreigners to pay.

b) In case the above-mentioned individuals, agencies and organizations do not have the conditions and ability to pay, the Immigration Department of the Ministry of Public Security or the provincial-level police where the dossier is compiled shall manage the payables from the state budget.

Article 15. Responsibilities of the Immigration Management Agency of the Ministry of Public Security

1. Responsibilities of the Immigration Department of the Ministry of Public Security:

a) Compile a dossier of execution of the decision on application of the form of sanctioning expulsion, including: Decision on application of the form of sanctioning expulsion; A copy of the passport or other identification document that replaces the passport of the deported person; Papers certifying the fulfillment of other obligations (if any); other relevant documents;

b) Send the decision on application of the sanctioning form of expulsion, the decision on postponement of the execution of the decision on sanctioning expulsion and the decision on application of measures to manage foreigners who violate the law during the time of carrying out the expulsion procedures to the Ministry of Foreign Affairs for notification to the diplomatic missions or

consulates of the countries of which such persons are citizens; at the same time, send a copy of the decision to the expelled person for enforcement;

c) Collect and receive information and documents necessary for the implementation of decisions on application of expulsion sanctions;

d/ To coordinate with concerned agencies in ensuring the exercise of rights and obligations of expelled persons;

dd) Organize the expulsion according to the decision.

2. Responsibilities of the provincial-level police where the dossier of request for the application of the expulsion sanction is compiled:

a) Compile a dossier of execution of the decision on sanctioning expulsion;

b) Manage the beneficiaries during the time of making dossiers of application for the application of expulsion sanctions as prescribed in Article 13 of this Decree;

c) Hand over the subject to the immigration authority when requested;

d) Coordinate with the immigration authority in executing the decision on application of the expulsion sanction;

e/ To coordinate with relevant agencies in ensuring the exercise of rights and obligations of the expelled persons.

Chapter III

TEMPORARY DETENTION OF PERSONS ACCORDING TO ADMINISTRATIVE PROCEDURES

Article 16. Temporary detention of persons according to administrative procedures

The temporary detention of persons according to administrative procedures shall only be applied in the following cases:

1. It is necessary to immediately prevent and stop acts of disturbing public order or causing injury to others.

2. It is necessary to immediately prevent and stop acts of smuggling and illegal transportation of goods across borders.

3. To execute decisions on sending to reformatories, compulsory education establishments or compulsory detoxification establishments.

4. Persons who commit acts of domestic violence in violation of decisions on prohibition of contact in accordance with the law on domestic violence prevention and control.

5. To determine the drug addiction status of illegal users of narcotic substances.

Article 17. Competence to temporarily detain persons according to administrative procedures

In the cases specified in Article 16 of this Decree, the persons competent to decide on the temporary detention of persons according to administrative procedures shall comply with the provisions of Article 123 of the Law on Handling of Administrative Violations.

Article 18. Duration of temporary detention of persons according to administrative procedures

1. The duration of temporary detention of persons according to administrative procedures shall comply with the provisions of Clause 3, Article 122 of the Law on Handling of Administrative Violations.

2. The duration of temporary detention of persons according to administrative procedures must be specified in the decisions on temporary detention of persons according to administrative procedures of the persons competent to issue decisions on temporary detention of persons according to administrative procedures.

3. The duration of temporary detention of persons according to administrative procedures, for cases of temporary detention in border areas or remote, remote mountainous forests or islands, the duration of temporary detention shall be counted from the time the violators are escorted to the places of temporary detention according to administrative procedures.

Article 19. Decision on temporary detention of persons according to administrative procedures

1. In case there are sufficient grounds for temporary detention of persons according to administrative procedures prescribed in Article 16 of this Decree and deem it necessary to apply the measure of temporary detention according to administrative procedures to persons who have committed acts of law violation, the persons competent to temporarily detain persons according to administrative procedures must immediately issue a decision on temporary detention of persons.

2. A decision on temporary detention of a person according to administrative procedures must be made in two copies, one copy shall be handed over to the person held in custody and the other copy shall be kept in the custody dossier and must clearly state the following contents:

a) Number of the decision; the hour, minute, day, month and year of issuance of the decision;

b) Full name, rank (if any), position, agency or unit of the decision issuer;

c) Grounds for issuance of decisions on temporary seizure, articles and clauses of applicable legal documents; reasons for temporary detention;

d) Full name, date of birth, place of birth, place of permanent residence (or temporary residence), occupation, place of work or study, personal identification number, citizen identification number (or identity card number) of the person in custody; full names of the persons held in custody (if the persons held in custody are minors);

dd) Nationality, passport number or valid papers to replace passports (if the person held in custody is a foreigner);

e) Duration of temporary detention (how long of temporary detention; when it starts); place of temporary detention;

g) The right to lodge complaints, denunciations and initiate lawsuits about the issuance of temporary detention decisions and the implementation of measures of temporary detention of persons according to administrative procedures in accordance with law;

h) The signature and seal of the agency of the person issuing the temporary seizure decision.

3. When there are grounds to believe that the acts of law violation committed by persons held in custody according to administrative procedures show signs of crime, the persons issuing the temporary detention decisions must immediately transfer the dossiers and the persons held in custody together with material evidences and means of violation (if any) to the competent criminal procedure-conducting agencies for settlement in accordance with law.

4. In all cases, the temporary detention of persons according to administrative procedures must be decided in writing by competent persons. It is strictly forbidden to temporarily detain persons without written decisions.

Article 20. Extension of detention period

1. In case it is necessary to extend the temporary detention duration as prescribed in Clause 3, Article 122 of the Law on Handling of Administrative Violations, before the expiration of the temporary detention duration of persons according to administrative procedures stated in the decision, the person competent to temporarily detain shall issue a decision to extend the temporary detention duration.

2. The contents of a decision on extension of the temporary detention period must clearly state the following contents:

- a) Number of the decision; the hour, minute, day, month and year of issuance of the decision;
- b) Full name, rank (if any), position, agency or unit of the decision issuer;
- c) Grounds for issuance of decisions on extension of the duration of temporary detention of persons, articles and clauses of applicable legal documents; the reason for the extension of the temporary detention period;
- d) Full name, date of birth, place of birth, gender, place of permanent residence (or temporary residence), occupation, place of work or study, personal identification number, citizen identification number (or people's identity card number) of the person subject to the extension of the temporary detention period; full names of the parents or guardians of the persons subject to extended detention (if the persons held in custody are minors);
- dd) Nationality, passport number or valid papers to replace passports (if the person held in custody is a foreigner);
- e) Duration of extension of the temporary detention period;
- g) The right to lodge complaints, denunciations or initiate lawsuits about the issuance of decisions on the extension of the temporary detention period and the implementation of this measure in accordance with law;
- h) The signature and seal of the agency of the person issuing the temporary seizure decision.

3. A decision on extension of the custody duration shall be made in two copies, one of which shall be handed over to the person held in custody and the other shall be kept in the custody dossier.

Article 21. Cancellation of the application of the measure of temporary detention of persons held in custody according to administrative procedures

1. The cancellation of the application of the measure of temporary detention of persons held in custody according to administrative procedures shall be carried out when:

- a) The duration of temporary detention of persons according to administrative procedures expires;
- b) The person held in custody is sick as prescribed in Clause 1, Article 29 of this Decree;
- c) There are grounds to believe that the acts of law violations committed by persons held in administrative custody according to administrative procedures show signs of crimes;
- d) Grounds for temporary detention of persons according to administrative procedures which have been terminated but the temporary detention duration has not expired stated in the temporary detention decisions.

2. Persons competent to issue temporary detention decisions must issue decisions to cancel the application of temporary detention according to administrative procedures to persons held in custody. The decision on cancellation of the application of the measure of temporary detention of persons according to administrative procedures shall be made in two copies, one copy shall be handed over to the person held in custody and the other shall be kept in the dossier.

3. The contents of a decision on cancellation of the application of the measure of temporary detention of persons according to administrative procedures must clearly state the following contents:

- a) Number of the decision; place names, hours, minutes, days, months and years of issuance of decisions;
- b) Full name, rank (if any), position, agency or unit of the decision issuer;
- c) Legal grounds for issuing the decision; articles and clauses of applicable legal documents;
- d) Reasons for cancellation of the application of the measure of temporary detention;
- dd) Full name, date of birth, place of birth, place of permanent residence (or temporary residence), occupation, place of work or study, personal identification number, citizen identification number (or identity card number) of the person subject to the cancellation of the measure of temporary detention;
- e) Full names of parents or guardians of minor persons held in custody;
- g) Nationality, passport number or valid papers to replace passports (if the person held in custody is a foreigner);
- h) The right to lodge complaints, denunciations or initiate lawsuits about the issuance of decisions on cancellation of the application of the measure of temporary detention and the application of this measure in accordance with law;
- i) Full name and signature of the person issuing the decision to cancel the application of the measure of temporary detention.

4. Decisions on cancellation of the application of the measure of temporary detention of persons according to administrative procedures must be recorded in the Monitoring Book of persons held in administrative custody and signed for certification by the persons subject to the application of temporary detention

measures. In case the person to whom the temporary detention measure is cancelled refuses to sign for certification, the person issuing the decision on cancellation of the application of the measure of temporary detention of persons according to administrative procedures must make a record or assign the person who is directly performing the task of temporary detention of persons according to administrative procedures to make a record and clearly state the reason in the record. The record must be signed by the witness (if any), the person making the record and the person issuing the decision to cancel the application of the measure of temporary detention of persons according to administrative procedures.

5. The issuer of the decision to cancel the application of the measure of temporary detention must transfer the dossier and hand over the person held in custody together with the material evidences and means of violation (if any) to the competent criminal procedure-conducting agency for settlement in accordance with law, if it falls into the case specified at Point c, Clause 1 of this Article.

Article 22. Place of custody

1. Places of temporary detention of persons according to administrative procedures shall comply with the provisions of Clauses 5 and 6, Article 122 of the Law on Handling of Administrative Violations.

2. Administrative detention houses or administrative detention chambers must have locks, ensuring light, coolness, hygiene and safety in terms of fire prevention and fighting, and convenient for supervision and protection. Persons held in custody overnight must be provided with beds and must have mats, blankets and curtains; The minimum sleeping space for each person is 2 m².

3. The Minister of Public Security shall, based on the provisions of Article 122 of the Law on Handling of Administrative Violations and the provisions of Article 22 of this Decree, take responsibility for the organization and arrangement of temporary detention places according to administrative procedures and direct the design and construction of administrative detention places to ensure and comply with the provisions of law.

Article 23. Notice of temporary detention decision

1. The notification of decisions on temporary detention of persons shall comply with the provisions of Clause 4, Article 122 of the Law on Handling of Administrative Violations. In case of failure to notify them, they must notify the persons held in custody according to administrative procedures and clearly state the reasons in the Monitoring Book of persons held in administrative custody.

2. In case the person held in custody according to administrative procedures is a foreigner, the person issuing the temporary detention decision must immediately report it to the head of the superior competent agency for notification to the Ministry of Foreign Affairs for notification to the consular office or diplomatic mission of the country of which such person is a citizen; at the same time, coordinate with the Ministry of Foreign Affairs in arranging for representatives of consular offices or representatives of diplomatic missions of that country to visit consular offices upon request and coordinate in handling other relevant external affairs.

Article 24. Reception of persons held in custody according to administrative procedures

When receiving persons held in custody according to administrative procedures, persons assigned to receive and manage persons held in custody shall:

1. Examine and compare decisions on temporary detention of persons according to administrative procedures with persons held in administrative custody.
2. To examine and record the health status of persons held in custody according to administrative procedures.
3. To examine the personal belongings and objects of persons held in custody that are permitted to be carried; disseminate the rights and obligations of persons held in custody; regulations on places of temporary detention and other relevant regulations.
4. To enter in the Monitoring Book of persons held in custody according to administrative procedures.

Article 25. Management of persons held in custody according to administrative procedures

Persons assigned to manage persons held in custody according to administrative procedures shall regularly supervise, protect and look after persons held in custody.

1. In case of detecting that the person held in custody has injuries, signs of psychological or health or abnormal behavior, a record of the person's health condition must be made and immediately reported to the person competent to issue the custody decision for timely handling.
2. In case of detecting circumstances related to the violation case or detecting the person in custody hiding weapons, explosives, combat gears, material evidences and means of violation, a record of the detection of relevant circumstances and a record of temporary seizure of weapons must be made. explosives, combat gears, material evidences and means of such administrative violations.
3. Personal belongings and property of persons held in custody must be deposited at places of temporary detention. The delivery and receipt of consigned assets must be fully and specifically recorded in the book of monitoring the temporary detention of persons according to administrative procedures and must be certified by the persons held in custody.
4. In case the consigned personal belongings and assets are large in quantity or of large value, the officials assigned to manage them must make a record of the deposit of personal belongings and assets, which must fully and specifically state the quantity, type, symbol, form, condition of the objects and other relevant matters. The property deposit record must be made in 02 copies, certified by the person in custody and the signature of the property preservation recipient and handed over to each party 01 copy.
5. Upon the expiration of the temporary detention duration or the person held in custody according to administrative procedures moves to another place, the person held in custody shall receive back all the deposited personal belongings

and property. In case of detecting loss or damage of personal belongings and consigned assets, the persons held in custody may request the custody agencies to pay compensation in accordance with law.

Article 26. Assignment and receipt of persons committing acts of administrative violation

1. Persons competent to temporarily detain persons according to administrative procedures shall make records of handing over and receiving persons who commit acts of administrative violation with organizations and individuals escorting administrative violators or assign persons on duty to make records of handover, receiving persons who commit acts of administrative violation.

2. Immediately after making a record of handing over or receiving persons who commit acts of administrative violation, if deeming that the violators must be temporarily detained according to administrative procedures, the persons competent to issue decisions on temporary detention of persons according to administrative procedures must immediately issue temporary detention decisions.

In case of insufficient grounds or deeming it unnecessary to apply the measure of temporary detention of persons according to administrative procedures, the persons competent to temporarily detain persons according to administrative procedures shall issue decisions to immediately release such persons and return their personal belongings and assets. means and papers (if any) for them if these personal belongings, assets and papers are not subject to the measure of temporary seizure of material evidences and means of administrative violations.

3. The record of handing over and receiving a person who commits an act of administrative violation must clearly state the following contents:

- a) Full names, positions and addresses of individuals, organizations, assignors and recipients of acts of administrative violation;
- b) Time for making the record (hour, minute, day, month, year);
- c) The place where the record is made;
- d) Full name, address, personal identification number, citizen identification number (or identity card number if the validity period is still valid) of the violator; time and place of committing the violation;
- dd) Health status and attitude of the violator;
- e) Their material evidences, personal belongings, property, vehicles and papers (if any) and other circumstances related to the delivery and receipt of violators.

4. In case there are witnesses and there are people who suffer damage caused by persons committing acts of administrative violation, it must be clearly stated in the minutes:

- a) The contents and incidents witnessed by them and the damage caused by the person committing the act of administrative violation;
- b) Full names, addresses, personal identification numbers, citizen identification numbers (or people's identity card numbers if they are still valid) of witnesses and victims;

c) If the witness or the victim refuses to sign the record, the person making the record must clearly state the reason in the record.

5. The record of handing over and receiving persons committing acts of administrative violation must be made in 02 copies and read again to all participants in signing the minutes; the recipient keeps 01 copy, the assignor keeps 01 copy.

Article 27. Rights and obligations of persons held in custody

1. Persons held in custody have the right to:

a) To be notified of the application of the measure of temporary detention of persons according to administrative procedures;

b) To be informed of the reasons for temporary detention, duration of temporary detention and places of temporary detention; complaints about being held in custody;

c) Request the issuer of the decision on temporary detention of persons according to administrative procedures to notify the decision on temporary detention to their families and organizations (workplaces or studies) of their temporary detention under the provisions of Clause 1, Article 23 of this Decree;

d) To be ensured of a diet as prescribed in Article 28 of this Decree;

dd) To receive medical treatment and care when suffering from illness as prescribed in Article 29 of this Decree.

2. Persons held in custody have the obligations:

a) Strictly abide by the decision on temporary detention, internal rules and regulations of the place where the person is temporarily detained according to administrative procedures;

b) Comply with the requests and orders of the person issuing the temporary detention decision and the person assigned to manage and protect the temporary detention place;

c) Weapons, explosives, combat gears, means and electronic devices with the function of receiving and transmitting signals, toxic cultural products, alcohol, beer and other addictive substances or items that may affect the order and safety of the place of temporary detention must not be brought into the place of temporary storage.

Article 28. Diet of persons held in custody

1. In cases where the persons held in custody or their families are unable to ensure themselves, the agencies or units of persons competent to issue decisions on temporary detention according to administrative procedures shall ensure the diet of persons held in custody according to the normative standard of 0.6 kg of ordinary rice per person per day; 0.1 kg of pork; 0.5 kg of vegetables; 01 liter of drinking water is boiled to cool; fish sauce, salt, suitable fuel. This regime is granted by the state budget and is converted into money according to the market price in each locality from time to time.

2. The regime for persons held in custody during holidays and Tet holidays shall be implemented as follows:

a) During the Lunar New Year, the person in custody is entitled to extra meals but the level of food (including extra meals) does not exceed 05 times the standard meal on weekdays;

b) On holidays or New Year's holidays, the person held in custody may eat more, but not more than 03 times the standard of a weekday meal;

c) The agency where the person is temporarily detained may decide to swap the above-mentioned food quantity to suit the reality and taste of the person in custody in order to ensure that they are fully fed.

3. Agencies and units with the function of temporarily detaining persons according to administrative procedures must open books to monitor and settle the diet of persons held in custody in accordance with law.

Article 29. Persons held in custody according to administrative procedures who fall ill or die during the custody period

1. Handling of persons held in custody according to administrative procedures who are sick:

a) In case a person held in custody falls ill during the custody period, he or she shall be treated on the spot;

b) In case of an emergency medical condition, the agency, unit and the person directly managing the person in custody shall take them to the medical examination and treatment establishment for treatment, and at the same time immediately notify their families and relatives for care;

c) In case the family, relatives or families of the person held in custody submit a written request for sending them home for care and deem it unnecessary to continue the custody as prescribed at Point a, Clause 1, Article 11, Points a, b and d, Clause 1, Article 21 of this Decree, the person competent to custody the custody may decide to cancel the custody and to return them to their families for healing. The cancellation of the custody measure shall comply with the provisions of Clause 2, Clause 3, Clause 4 and Clause 5, Article 21 of this Decree;

d) In case the person held in custody does not have a certain place of residence or his/her family or relatives are far away and cannot come in time to take care of them, the agency or unit where the person is temporarily detained according to administrative procedures shall be directly responsible for taking care of the person in custody.

2. Handling of cases where persons held in custody according to administrative procedures die during the custody period:

a) In case a person held in custody dies during the custody period according to administrative procedures, the person issuing the custody decision must immediately notify the investigating agency or the competent procuracy for settlement in accordance with law, and at the same time, make a record of the death of the person held in custody and immediately notify the his/her family. relatives of the deceased; the family of the deceased shall be responsible for burying the deceased;

b) In case the person held in custody according to administrative procedures dies without his/her family or relatives, the burial shall be handled by the agency or unit where the custody is held in coordination with the local administration

where the custody is held; funeral expenses in this case shall be paid by the state budget in accordance with law;

c) In case the person held in custody according to administrative procedures dies is a foreigner, the person competent to issue the decision on temporary detention of the person according to administrative procedures must immediately report it to the superior competent agency for immediate notification to the Ministry of Foreign Affairs or a competent state agency. coordinate with consular offices and diplomatic missions of the countries where the deceased has nationality to coordinate in settling them.

3. A record of the death of a person held in custody according to administrative procedures during the custody period must clearly state the following contents:

- a) Full name of the person held in custody; date of birth of the person held in custody;
- b) Personal identification number, citizen identification number or identity card/passport/relevant personal papers; place of temporary detention;
- c) The health status of the custodian upon receipt;
- d) The process of handling the custodian from the time of receipt to the death of the person held in custody;
- dd) The reason for the death of the custodian.

Chapter IV

ESCORTING PEOPLE ACCORDING TO ADMINISTRATIVE PROCEDURES

Article 30. Escorting violators

1. Violators who fail to voluntarily comply with the requests of competent persons other than due to objective obstacles or force majeure cases shall be escorted in the following cases:

- a) Being temporarily detained according to administrative procedures;
- b) Sending them to or returning to reformatories, compulsory education establishments or compulsory detoxification establishments as prescribed in Article 124 of the Law on Handling of Administrative Violations.

2. Competent persons on duty specified in Article 31 of this Decree shall escort violators.

3. During the escort period, the management of escorted persons shall comply with the provisions of Articles 25, 28 and 29 of this Decree.

Article 31. Performing the escort

The following persons on official duty shall escort violators according to administrative procedures:

1. Competent persons on duty of the People's Police Force, Border Guard, Coast Guard, Customs, Forest Rangers, tax authorities, market surveillance, inspection agencies, civil judgment enforcement, forest rangers, taxation, fisheries surveillance, market management and inspectorates.

2. Competent persons who are performing other official duties in accordance with the Law on Handling of Administrative Violations and other relevant legal documents.

Article 32. Escort procedures

1. Before escorting violators, persons on official duty performing escorts must explain to the escorted persons their rights and obligations in the course of being escorted in accordance with law and answer questions of the escorted persons.

2. While escorting, absolute safety must be ensured for persons on duty performing escort tasks and for escorted persons. The use of weapons and combat gears when applying escort measures must comply with the principles specified in Clause 4, Article 20 of the Law on Handling of Administrative Violations and the provisions of this Decree.

3. In case the escorted person shows signs of absconding or commits acts against the official-duty performer, the person on duty performing the escort task must immediately report to the competent person for issuance of a decision on temporary detention according to administrative procedures for such person.

4. Persons on official duty performing escort tasks must closely supervise and manage escorted persons, be vigilant, take the initiative and promptly handle complicated situations that may occur; must not arbitrarily settle the requests of the escorted persons while the escort is being carried out.

Article 33. Delivery and receipt of escorted persons

1. Persons on official duty who escort violators must make records of handing over and receiving escorted persons with agencies receiving escorted persons.

2. Persons on official duty who escort violators upon arrival at the escort places must invite representatives of the local administrations of the localities where the escorted persons reside or are being managed, representatives of agencies or organizations where the escorted persons work, learning and witnessing.

3. Inspect and compare photos and identity papers, identify the correct violators escorted according to administrative procedures and make records on the escort of violators according to administrative procedures.

4. The record of handing over and receiving the escorted person shall comply with the provisions of Article 34 of this Decree.

Article 34. Record of handing over and receiving escorted persons

The record of handing over and receiving the escorted person shall contain the following contents:

1. Time and place of making the record.

2. Full name, position and address of the individual or organization of the deliverer or recipient; full name, address, personal identification number, citizen identification number, identity card number (if any) or other identification papers of the person committing the violation to be escorted; violations; time and place of committing the violation; the state of health, attitude of the violator, their material evidences and property (if any) and other circumstances related to the

escort of the violator; in case there are witnesses, the full names and addresses of witnesses must be clearly inscribed.

3. The record must bear the signatures of the deliverer, the escort recipient and the person committing the escorted violation and witnesses (if any); the person competent to temporarily detain the person according to administrative procedures shall sign the record of handing over and receiving the escorted violator. In case the violator is escorted or the witness refuses to sign, the person making the record must clearly state the reason in the record.

4. The record of handing over and receiving the person who commits the act of administrative violation who is escorted must be made in two copies and read to all participants in signing the record; the recipient and the deliverer of the violator are escorted to each party to keep a copy.

Article 35. Handling some situations while escorting

1. In case the escorted person commits an act of opposition; if the escorted person is a minor who commits acts of cursing or insulting but does not attack by force, the person on official duty performing the escort must explain the provisions of law and request him or her to abide by the decision; In case the escorted person commits an act of attacking by force, the person on official duty performing the escort has the right to use force, bind, lock hands and feet, use weapons and combat gears in accordance with law to control and neutralize the escorted person's act of opposition.

2. In case the escorted violator runs away, the person on duty performing the escort must request the persons present to coordinate in the arrest; in case of failure to immediately arrest the subjects, they must promptly report to the heads of the units and contact the local administrations of the localities where the incidents occur to have a plan to trace the fleeing violators; at the same time, make a record of the escort's escape, signed by witnesses; if there are no witnesses, the reason must be clearly stated in the minutes.

3. In case the escorted person suffers from an unexpected illness and requires prompt emergency treatment, the person on duty performing the escort must promptly take him to the nearest medical examination and treatment establishment. The escort or transfer to a higher-level medical examination and treatment establishment for further treatment must be certified in writing by the medical examination and treatment establishment on the health status of the escorted person and the person on duty performing the escort must immediately report to the direct commander. During the emergency period at medical examination and treatment establishments, persons on official duty performing the escort must have a plan to closely guard and supervise violators, not to hide or freely contact with others.

4. In case the escorted person dies unexpectedly, he or she must be taken to the nearest medical examination and treatment establishment and immediately reported to the head of the unit, the investigating agency and the procuracy of the locality where the incident occurred for carrying out the procedures as prescribed by law.

5. In all cases of escorting violators, necessary logistical conditions must be prepared, and the local administrations of the localities where the violators are escorted must be prepared in advance in the management of the escorted persons.

Chapter V

RESPONSIBILITIES OF AGENCIES, ORGANIZATIONS AND INDIVIDUALS

Article 36. Responsibilities of the Ministry of Public Security

The Ministry of Public Security shall, within the ambit of its tasks and powers, have the responsibility to:

1. To assist the Government in monitoring, inspecting and urging the implementation of this Decree.

2. To assume the prime responsibility for, and coordinate with relevant ministries, sectors and local People's Committees in, organizing the application of expulsion sanctions, measures of temporary detention and escort of violators according to administrative procedures and management of foreigners who violate Vietnamese law during the period of carrying out expulsion procedures.

3. To direct and guide the police of units and localities in the application of sanctions for expulsion, temporary detention of persons and escort of violators according to administrative procedures; manage foreigners who violate Vietnamese law and are expelled during the time of carrying out expulsion procedures; organize the expulsion according to the decision; hand over the deported subject to the immigration authority when requested; at the same time, coordinate with relevant agencies to ensure the implementation of the rights and obligations of the expelled persons.

4. To examine, inspect and settle complaints and denunciations about the application of expulsion sanctions, measures of temporary detention of persons, escort of violators according to administrative procedures and organize the execution of expulsion sanctioning decisions.

5. Statistics on the application and organization of the execution of expulsion decisions.

Article 37. Responsibilities of the Ministry of Foreign Affairs

1. To settle external procedures related to the execution of expulsion sanctioning decisions and other relevant procedures for cases where the persons held in custody or escort under administrative procedures are foreigners.

2. Exchanging and providing relevant information to foreign competent agencies, consular offices and diplomatic missions of countries where passport holders or passport replacement papers are subject to the measure of temporary detention, escort of persons according to administrative procedures and application of expulsion sanctions.

3. To direct the foreign affairs agencies of the provinces and centrally-run cities to coordinate with the functional agencies, consular offices or diplomatic missions of the countries where the holders of passports or papers in lieu of passports are administratively seized or expelled (in case of death) in settlement.

Article 38. Responsibilities of the Ministry of Finance

Ensure regular funding for the application of measures of temporary detention of persons, escort of violators according to administrative procedures and application of expulsion sanctions in accordance with the law on the state budget.

Article 39. Responsibilities of the Ministry of National Defense

1. To direct and guide their attached agencies, units and functional forces in organizing the escort and temporary detention of violators according to administrative procedures in accordance with the provisions of this Decree and relevant legal documents.

2. To coordinate with the Ministry of Public Security and other ministries and branches in implementing and exchanging information related to the expulsion, escort of persons and temporary detention of violators according to administrative procedures.

Article 40. Responsibilities of the Ministry of Health

Direct and guide health agencies and affiliated hospitals to organize medical examination and treatment, health care and health assessment for persons subject to the sanction of expulsion or temporary detention according to administrative procedures and in case they are seriously ill and must be treated.

Article 41. Responsibilities of the Ministry of Planning and Investment

To formulate and arrange plans on investment capital from the state budget for investment, construction and repair of places of temporary detention of persons according to administrative procedures and accommodation establishments under the management of the Ministry of Public Security for foreigners who violate Vietnamese law during the period of carrying out expulsion procedures.

Article 42. Responsibilities of provincial-level People's Committees

Provincial-level People's Committees shall, within the ambit of their tasks and powers, coordinate with concerned ministries and branches in directing local functional agencies in applying the sanctioning of expulsion, measures of temporary detention of persons and escort of violators according to administrative procedures.

Article 43. Responsibilities of relevant agencies, organizations and individuals

1. To coordinate and cooperate with functional agencies in the application of expulsion sanctions.

2. To bear all expenses or financial guarantees in case the expelled persons are unable to pay the expenses on the spot as prescribed by Vietnamese law.

Chapter VI

IMPLEMENTATION PROVISIONS

Article 44. Enforcement effect

This Decree takes effect from January 1, 2022.

This Decree replaces the Government's Decree No. 112/2013/ND-CP dated October 2, 2013 regulating the forms of sanctioning expulsion, measures of temporary detention and escort of persons according to administrative procedures

and management of foreigners who violate Vietnamese law during the period of carrying out expulsion procedures and Decree No. 17/2016/ND-CP dated March 17, 2016 amending, supplementing a number of articles of the Government's Decree No. 112/2013/ND-CP dated October 2, 2013 regulating forms of sanctioning expulsion, measures of temporary detention and escort of persons according to administrative procedures and management of foreigners who violate Vietnamese law during the period of carrying out expulsion procedures.

Article 45. Implementation responsibilities

1. The Ministers of Public Security, National Defense, Finance, Industry and Trade, Agriculture and Rural Development, Transport, Foreign Affairs and Health shall regularly direct, guide and inspect the application of sanctions for expulsion, measures of temporary detention of persons, escort of violators according to administrative procedures and management of foreigners who violate Vietnamese law during the time of carrying out expulsion procedures under their management.

2. Ministers, heads of ministerial-level agencies, heads of government-attached agencies, presidents of provincial-level People's Committees shall implement this Decree./.

Recipients:

- The Party Central Secretariat;- The Prime Minister, Deputy Prime Ministers;- Ministries, ministerial-level agencies, agencies attached to the Government;- People's Councils, People's Committees of provinces and centrally-run cities;- Central Office and Committees of the Party;- Office of the General Secretary;- Office of the President;- Nationality Council and Committees of the National Assembly;- Office of the National Assembly;- People's Courts - Supreme People's Procuracy;- State Audit Office;- National Financial Supervisory Committee;- Bank for Social Policies;- Vietnam Development Bank;- Central Committee of the Vietnam Fatherland Front;- Central agencies of mass organizations;- Joint Stock Offices: Organizing Committees, PCNs, Assistants to the Central Committee, General Director of the E-Commerce Portal, Departments, Departments, affiliated units, Official Gazette;- Save: VT, NC (2b).

**TM. THE
PRIME MINISTER'S
GOVERNMENT**

Pham Minh Chinh

This translation was prepared by An Law Vietnam, for reference purposes only. Its copyright is owned by An Law Vietnam and is protected under Clause 2, Article 14 of the Law on Intellectual Property. Your comments are always welcome.