

Law of the People's Republic of China on Protection of State Secrets

(Adopted at the Third Meeting of the Standing Committee of the Seventh National People's Congress on September 5, 1988 and amended at the Fourteenth Meeting of the Standing Committee of the Eleventh National People's Congress of the People's Republic of China on April 29, 2010)

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Chapter I General Provisions

Article 1

This Law is formulated to guard state secrets, protect the national security and interests and guarantee the smooth progress of reform and opening-up and socialist construction.

Article 2

State secrets refer to matters that have a vital bearing on state security and national interests, being specified by legal procedures, and are permitted to be disclosed to a limited number of people during a given period of time.

Article 3

State secrets shall be protected by laws. All state organs, armed forces, political parties, social organizations, enterprises, institutions and citizens shall have the obligation to guard state secrets. Any conduct that will endanger or harm the security of state secrets shall be prosecuted according to laws.

Article 4

In order to ensure the security of the state secrets and facilitate the reasonable utilization of information resources, the work of protection state secrets (hereinafter referred to as the "secrecy work") shall be carried out in line with the principles of actively preventing leakage, laying emphasis on priorities and management according to laws. Matters that are required to be disclosed by laws and administrative regulations shall be disclosed according to laws.

Article 5

The state secret-protection department shall be responsible for the secrecy work all through the state. The local secret-protection departments at or above the county level shall, within the scope of their functions and powers, be responsible for the protection of state secrets in the administrative areas under their jurisdiction.

Article 6

State organs and institutions having awareness of state secrets (hereinafter referred to as "organs or institutions") shall administer the secrecy work within their own organs or institutions. The central state organs shall, within their functions and powers, administer or guide the secrecy work of their own system.

Article 7

The organs and institutions shall adopt the secret-protection accountability system, improve the secret-protection management systems, perfect protective secret protection measures, carry out secret-protection publicity and education, and strengthen the secret-protection inspection.

Article 8

The state shall reward institutions or individuals that have made notable achievements in protection and protecting state secrets and improving techniques and measures etc. for protection secrets.

Chapter II Scope and Categories of State Secrets

Article 9

The following matters involving state security and national interests shall be determined as state secrets if the leakage of such matters is likely to prejudice the state security and national interests in the field of politics, economy, national defense and foreign affairs, etc. shall be determined as state secrets:

- (1) secrets concerning major policy decisions on state affairs;
- (2) secrets concerning the construction of national defense and activities of the armed forces;
- (3) secrets concerning diplomatic activities and foreign affairs as well as secrets to be maintained as commitments to foreign countries;
- (4) secrets concerning national economic and social development;
- (5) secrets concerning science and technology;
- (6) secrets concerning activities for safeguarding state security and the investigation of criminal offences; and
- (7) other matters that are categorized as state secrets by the state secret-protection department.

Secrets of political parties that conform to the provisions of the preceding paragraphs shall be state secrets.

Article 10

State secrets shall be categorized into three levels: top-secret, secret and confidential. State secrets at the top-secret level are vital state secrets, the leakage of which would cause extremely serious harm to the national security and interests; state secrets at the secret level are important state secrets, the leakage of which would cause serious harm to the national security and interests; state secrets at the confidential level are common state secrets, the leakage of which would cause harm to the national security and interests.

Article 11

The specific scope and categories of state secrets shall be determined by the state secret-protection department respectively with the ministries of foreign affairs, the public security department, the national security department and other central organs concerned. The specific scope and categories of state secrets related to military affairs shall be determined by the Central Military Commission. Stipulations concerning the scope and categories of the state secrets shall be made known within relevant scope and adjusted promptly in a timely manner in response to changing circumstances.

Article 12

The responsible person of an organ or institution or any person designated by such responsible person shall be the person in charge of classifying state secrets, and be responsible for the work of classifying, modifying and declassifying state secrets of such organ or institution. When an organ or institution classify, modify or declassify its own state secrets, the person who handles this matter shall formulate a specific opinion thereon, to be verified and approved by the person in charge of classifying state secrets.

Article 13

The categories of state secrets shall be subject to the authority classifying state secrets. A central State organ or an organ at the level of province or its authorized organ or organization may classify State secrets as most confidential, classified and confidential; and the organ at the level of city with districts or autonomous prefecture or its authorized organ or organization may classify State secrets as classified and confidential. Specific authority for classifying State secrets and the scope of authorization shall be determined by the State secret-protection administrative department. Where an organ or organization carries out a matter that is determined as State secrets by its superior department and needs to classify the matter, such classification shall be made according to the category of the State secret. Where the organ or organization at a lower level considers that the relevant matter to be classified arising in the organ or organization falls under the authority of its superior department, security measures shall be taken in advance, and the matter shall be forthwith reported to the superior department for classification; in the absence of such superior department, the matter shall be forthwith reported to the competent department or secret-protection administrative department with the appropriate authority for classification. The public security and national security organs shall, within their respective scopes of responsibilities, determine the category of state secrets within the prescribed powers.

Article 14

An organ or institution shall, in accordance with the provisions on the specific scope and the categories of state secrets, classify state secrets arising in the organ or institution, and determine the secret-protection period and permitted availability of state secrets.

Article 15

The period for protecting a state secret shall, based on the nature and characteristics of the state secret, be restricted to a necessary time limit according to the needs of maintaining the state security and national interests. Where the periods fail to be defined, the conditions for declassification shall be determined. Unless it is otherwise provided, the period for protecting state secrets that is top-secret shall not exceed 30 years; the period for protecting a state secret classified as secret shall not exceed 20 years; and the period for protecting a state secret classified as confidential shall not exceed 10 years. An organ or institution shall, according to the actual needs, determine specific period for protecting secrets, or date or conditions for declassification. Where an organ or institution decides, according to its actual needs, to publicize matters classified as state secrets in deciding on or handling relevant matters, the matter shall be deemed having been declassified upon formal publicity.

Article 16

The availability of a state secret shall be limited to a minimum scope according to actual needs. The availability scope of a state secret shall be limited to specific personnel if possible; or shall be limited to specific organs or institutions which shall limit the scope to designated personnel thereto. Where the personnel outside the scope of availability of a state secret need to know the state secret according to actual needs, approved of the responsible person of the relevant organ or institution shall be required.

Article 17

Organs and institutions shall mark "state secret" on the paper, optic, electromagnetic and other carries bearing state secrets (hereinafter referred to as "state secret media") and equipment and products that are state secrets. The mark of state secret shall not be indicated on those that are not classified as state secrets.

Article 18

The category of state secrets, the secret-protection period and permitted availability scopes of state secrets shall be modified in timely manner in response to the changing circumstances. Such modification shall be determined shall be determined by the organ or institution that originally determined the categories of the state secret, the protection period and the scope of availability or by the relevant superior department.

The organs or institutions or personnel within the scope of availability of the state secret shall be notified in writing and in a timely manner, of modifications of the category, protection period and availability of scope if any.

Article 19

A state secret shall be automatically declassified upon the expiry of the period protection. Organs and institutions shall regularly examine and verify the state secrets determined. Where the matters are no longer kept as state secrets within the period for protection due to adjustment of the scope of state secret, or it is unnecessary to continue to keep the state secrets because the publicity of such secret shall not prejudice the state security and national interest, the state secrets shall be declassified in a timely manner. Where it is necessary to extend the period for protecting a secret, the new period shall be determined prior to the expiration. The earlier declassification of state secrets or the extension of the period for protecting a secret, shall be decided by the organ or institution that originally determined the classification or the relevant superior department.

Article 20

Where any organ or institution is unclear about or has dispute in determining whether or not a matter is a state secret, or which category it should be classified into, the determination shall be made by the State secret-protection department or the secret-protection administrative department of a province, autonomous region or municipality directly under the Central Government.

Chapter III Secrecy Provisions

Article 21

The making, receiving and sending, transmitting, using, abstracting preservation, maintenance and destruction of state secret carriers shall be in conformity with the state secrecy provisions. The media of State secrets that are top-secret shall be preserved on the facilities or equipment that comply with the secret-protection standard of the State, and personnel shall be specially designated to manage the said facilities or equipment; the reproduction and extraction of such media shall not be made without the approval by the organ or organization that originally classified the State secrets or its superior department; personnel shall be designated to take charge of the receipt, dispatch, delivery or carrying of such media, and necessary security measures shall be taken.

Article 22

The research, development, production, transportation, using, keeping, maintenance and destruction of the equipments and products that are in the category of state secrets shall be in conformity with the state secrecy provisions.

Article 23

The protection of the computer information systems for storing and processing state secrets (hereinafter referred to as "secret-related information systems") shall be according to the extent to which they are related to secrets. A secret-related information system shall be equipped with secrecy facilities and equipments according to the state secrecy standards. Such secrecy facilities and equipments shall be planned, constructed and put into practice simultaneously with the secret-related information system. A secret-related information system shall not be put into practice before passing inspection.

Article 24

Organs and institutions shall strengthen the management of secret-related information systems, and no organization or individual shall conduct the following acts:

1. Connecting any secret-related computer or secret-related storage equipment to the Internet or any other public information network;
2. Exchanging information message between a secret-related information system and the Internet or any other public information network without taking any protective measures;
3. Using a non-secret-related computer or non-secret-relate storage equipment to handle information pertaining to State secrets;
4. Uninstalling or modifying the security technique program or management program of a secret-related information system without permission; or
5. Presenting as a gift, selling, discarding, or altering the purpose of secret-related computer or secret-related storage equipment that is no longer in use and has not been approached with security technology.

Article 25 Organs and institutions shall strengthen the management of state secret media, and no organization or individual may conduct the following acts:

1. Illegally acquiring or holding any state secret carrier;
2. Purchasing, selling, transferring or privately destroying any state secret carrier;
3. Transmitting State secret media through channels without any security measures such as ordinary mail and express deliver;
4. Mailing or consigning State secret media out of China; and
5. Carry or transmitting any state secret carrier out of China without approval by relevant authorities.

Article 26

State secrets shall be prohibited from being illegally reproduced, recorded or stored. State secrets shall be prohibited from being transmitted on the Internet or any other public information network or via wire or wireless communications without any security measures. No State secrets may be involved in private contacts or correspondence.

Article 27

In the editing, publication, printing and distribution of newspapers, journals, , books, audio and video recordings and electronic publications, in the production and broadcasting of radio programs, TV programs and films, and in the editing and publication of information on the Internet, mobile communication network or any other public information network or medium, the relevant security regulations shall be complied with and no state secrets shall be leaked.

Article 28

Operators and service providers of the Internet or any other public information network shall provide cooperation in the investigation over cases involving the leakage of State secrets conducted by the public security organs, the national security organs and the

procuratorial organs; when discovering that the information released on the Internet or any other public information network involves leakage of State secrets, the operators and providers shall immediately stop the transmission thereof, keep the relevant records, and make a report to the public security organs, the State security organs or the secret-protection administrative departments; the information involving the divulgence of State secrets shall be deleted as required by the public security organs, the State security organs or the secret-protection administrative departments.

Article 29

An organ or organization shall observe the secret-guiding provisions in publicly releasing information and making purchase in connection with the construction, goods and services that involve State secrets.

Article 30

Where state secrets have to be furnished for the benefits of contacts and co-operation with foreign countries by an organ or institution or a foreign-appointed or foreign-employed person needs to know a State secret because of the actual needs, the organ or organization shall report the same to the relevant competent department of the State Council or the relevant competent department of the people's government of a province, autonomous region or municipality directly under the Central Government for approval, and conclude an agreement on confidentiality with the other party.

Article 31

With regard to meetings and other activities that involve state secrets, the sponsor institution shall take secrecy measures, provide secrecy education to participants and set specific requirements for the purpose of secrecy.

Article 32

An organ or organization shall determine its section that involves the most confidential State secrets or a relatively large number of classified or confidential State secrets as a key secret-protection department, determine the special place where the manufacture, storage and custody of State secret media are conducted on a centralized basis as a key location, and provide and use necessary technical protection facilities or equipment in accordance with the secret-guiding provisions and standards of the State.

Article 33

Military forbidden zones and places and locations which are not allowed to open to the public due to state secret shall be protected by security measures;, and no one shall decide to open them to the public or enlarge the area open to the public without the approval of relevant authorities.

Article 34

Enterprises or institutions engaging in the production, reproduction, maintenance or destruction of state secret media, the integration of secret-related information systems,

the scientific research or manufacturing of weaponry or the business involving State secrets such as scientific research and production of weaponry shall be subject to secrecy inspection and specific measures shall be provided by the State Council . The specific measures shall be formulated by the State Council. When appointing an enterprise or public institution to engage in the business set forth in the preceding paragraph, the organ or organization shall conclude an agreement on confidentiality with the enterprise or public institution, lay down the requirements for protecting secrets and take confidentiality measures.

Article 35

Based on the extent of the state secrets permitted to be awarded, Personnel who hold secret-related posts (hereinafter referred to as secret-related personnel) shall be divided into core secret-related personnel, important secret-related personnel and common secret-related personnel, and such personnel shall be subject to graded management. Examination shall be conducted in respect of appointment or employment of secret-related personnel in accordance with the relevant provisions.

Secret-related personnel shall have a good political awareness, good characters and the working competency required by the secret-related work positions. The legitimate rights and interests of secret-related personnel shall be protected by laws.

Article 36

Before taking post, secret-related personnel shall receive secret-protection education and training, master secret-protection knowledge and skills, sign a confidentiality undertaking, and strictly observe security rules and regulations, and shall not divulge State secrets in any way.

Article 37

Secret-related personnel shall only leave China upon approval of the relevant departments. If the relevant organs consider that secret-related personnel's leaving China will cause harm to State security or cause heavy loss to national interests, secret-related personnel shall not be approved to leave China.

Article 38

Secret-related personnel shall be subject to the administration whereby they are kept away from secrets during a specific period of time when leaving their post or position. Within such period, secret-related personnel shall perform their obligation for protecting secrets in accordance with the provisions, and shall not be employed in violation of the provisions or divulge State secrets in any way.

Article 39

An organ or organization shall establish and improve the management system for secret-related personnel, specify the rights of secret-related personnel and their post responsibilities and requirements, and constantly supervise and inspect secret-related personnel's performance of responsibilities.

Article 40

Officials working for the governments and other citizens should, upon discovering that state secrets have been divulged or are in danger of being divulged, take remedial measures immediately and promptly report the matter to the state organs and units concerned, which shall, upon receiving such reports, handle the matter without delay.

Chapter IV Supervision and Administration

Article 41

The State secret-protection administrative department shall, in accordance with the provisions of laws and administrative regulations, formulate secret-protection rules and the State secret-protection standard.

Article 42

A secret-protection administrative department shall, in accordance with the law, organize and carry out the work relating to the dissemination of the knowledge about secret protection, secret-protection inspection, and investigation and punishment of cases involving the protection of secret-protection technology and secret divulgence, and guide and supervise the secret-protection work of organs and organizations.

Article 43

Where a secret-protection administrative department discovers any inappropriate classification, modification or declassification of a State secret, the department shall promptly notify the relevant organ or organization to make corrections.

Article 44

When a secret-protection administrative department inspects an organ or organization in terms of its compliance with security rules, the relevant organ or organization shall provide cooperation. Where a secret-protection administrative department discovers that there is a hidden danger for divulgence of secrets with an organ or organization, the department shall require the organ or organization to take measures and make corrections within a specified time limit; the department shall order the organ or organization to suspend the use of any facilities, equipment or place with a hidden trouble for divulgence of secrets; the department shall make a suggestion to the relevant organ or organization for imposing disciplinary measures on secret-related personnel who seriously violate the provisions regarding secret-protection and removing them from their secret-related post; if it is discovered that the personnel are suspected of divulging a State secret, the department shall supervise or guide the relevant organ or organization to conduct investigation and impose punishment accordingly. If the personnel are suspected of committing a criminal offense, the case shall be transferred to the relevant judicial organ for handling.

Article 45

The secret-protection departments shall take over the illegally acquired or held state secret media found in secrecy inspections.

Article 46

Where an organ that handles a case involving suspected divulgence of a State secret needs to determine whether or not the relevant matter is a State secret or which category it should be classified into, such determination shall be made by the State secret-protection administrative department or the secret-protection administrative department of the relevant province, autonomous region or municipality directly under the Central Government.

Article 47

Where an organ or organization fails to impose disciplinary measures in accordance with the law on a person who violates the secret-protection provisions, the relevant secret-protection administrative department shall make a suggestion on making corrections and, in the event of refusal to make corrections, shall submit the same to the organ or supervision organ at the next higher level for dealing with the leaders bearing responsibility and persons subject to direct liability of the organ or organization in accordance with the law.

Chapter V Legal Liability

Article 48

In the case of any of the following acts in violation of the provisions of this Law, disciplinary measures shall be imposed in accordance with the law; if the act constitutes a criminal offense, criminal liability shall be imposed in accordance with the law:

1. Illegally acquiring or holding any state secret carrier;
2. Purchasing, selling, transmitting or secretly destruct any state secret carrier;
3. Transmitting any state secret carrier via ordinary mail, express mail or any other channel without secrecy safeguards;
4. Sending any state secret carrier out of the territory of China by mail or consignment or carrying or transmitting any state secret carrier out of the territory of China without the approval of the relevant authorities;
5. Illegally copying, recording or storing any state secret;
6. Referring to any state secret in private contact or correspondence;
7. Transmitting any state secret on the Internet or any other public information network or in any wire or radio communication without secrecy safeguards;
8. Connecting any secret-related computer or storage device to the Internet or any other public information network;
9. Exchanging message between a secret-related information system and the Internet or any other public information network without taking any safeguard measures;
10. Storing or processing state secret information by using any computer or storage device which is not a secret-related computer or storage device;
11. Uninstalling or modifying the safety technique program or management program of a secret-related information system without permission; or
12. Presenting, selling, abandoning any secret-related computer or storage device which has ceased to be used but not undergone treatment by security techniques or use such

facilities for any other purpose. Where the commitment of the foresaid conducts by a person does not constitute a crime and is not subject to disciplinary actions the secret-protection department shall urge the organ or institution which has supervising obligations to such person to handle this matter..

Article 49

Where an organ or organization violates the provisions of this Law resulting in the occurrence of a significant case involving divulcation of secrets, the relevant organ or organization shall impose disciplinary measures on the person directly in charge and the persons subject to direct liability; for the persons to whom the disciplinary measures are not applicable, the secret-protection administrative department shall urge the department in charge of the person to deal with the person. Where, in violation of the provisions of this Law, an organ or organization fails to classify a matter that is required to be classified or classifies a matter that is not required to be classified, thereby causing serious consequences, the relevant organ or organization shall impose disciplinary measures on the person directly in charge and the persons subject to direct liability.

Article 50

Where any operator or service provider of the Internet or any other public information network violates Article 28 of this Law, the relevant public security organ or State security organ and the competent information industry department shall, according to their respective functions and duties, impose a penalty thereon in accordance with the law.

Article 51

Personnel of a secret-protection department who abuses his powers, neglects his duties, makes advantage for personal interests and commits frauds in performing his secrecy administrative functions shall be subject to disciplinary actions; where any crime is constituted, such personnel shall be procured criminal liabilities.

Chapter VI Supplementary Provisions

Article 52

The Central Military Commission shall formulate the secrecy regulation of the Chinese People's Liberation Army according to this Law.

Article 53

This Law shall come into effect as of October 1, 2010.