

# Law of the PRC on Guarding State Secrets

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## Chapter I — General Provisions

Article 1 — This Law is enacted for the purpose of guarding State secrets, safeguarding national security and interests, and ensuring the smooth progress of reform, opening up, and the socialist modernization drive.

Article 2 — State secrets are matters that concern State security and interests, that are determined in accordance with statutory procedures, and that are known to only a limited number of persons for a given period of time.

Article 3 — All State organs, armed forces, political parties, public organizations, enterprises, public institutions, and citizens shall have the obligation to guard State secrets. Any act of divulging State secrets shall be prohibited in accordance with the law.

Article 4 — The work of guarding State secrets shall be subject to the leadership of the Communist Party of China and shall adhere to the principles of safeguarding State secrets in accordance with the law, combining active prevention with prevention as the priority, and combining measures appropriate to the specific area and situation with technological protection, so as to ensure the security of State secrets.

Article 5 — The State administrative departments for the guarding of State secrets shall be in charge of the work of guarding State secrets throughout the country. The local State administrative departments for the guarding of State secrets at or above the county level shall be in charge of the work of guarding State secrets within their respective administrative areas.

Article 6 — State organs and entities that involve State secrets shall, in accordance with the specific circumstances, establish organizations for the work of guarding State secrets or designate personnel to carry out day-to-day management of the guarding of State secrets within their respective organs or entities.

Article 7 — State organs and entities shall conduct education on the guarding of State secrets for their staff, and shall regularly inspect the work of guarding State secrets and promptly address issues discovered.

Article 8 — The State shall commend and reward entities and individuals that have made outstanding contributions in guarding, improving, or developing technologies for protecting State secrets, or that have performed meritorious deeds in situations of critical importance.

## **Chapter II — Scope and Classification of State Secrets**

Article 9 — State secrets that fall into one of the following categories shall be guarded: (1) secret matters in major policy decisions on State affairs; (2) secret matters in the building of national defense and in the activities of the armed forces; (3) secret matters in diplomatic activities and in activities related to foreign countries, as well as matters to be maintained as commitments to foreign countries; (4) secret matters in national economic and social development; (5) secret matters in science and technology; (6) secret matters in activities for safeguarding State security and in the investigation of criminal offenses; and (7) other secret matters determined by the State administrative departments for the guarding of State secrets. State secrets of political parties that conform to the provisions of the preceding paragraph shall be guarded as State secrets.

Article 10 — State secrets shall be classified into three categories: "top secret," "secret," and "confidential." Top secret State secrets are the most important State secrets, the divulgence of which would cause extremely serious harm to State security and national interests. Secret State secrets are important State secrets, the divulgence of which would cause serious harm to State security and national interests. Confidential State secrets are ordinary State secrets, the divulgence of which would cause harm to State security and national interests.

Article 11 — The specific scope and classification levels of State secrets shall be prescribed by the State administrative departments for the guarding of State secrets in conjunction with the relevant departments of the central State organs such as foreign affairs, public security, and national security. The specific scope and classification levels of State secrets in the military field shall be prescribed by the Central Military Commission. Provisions on the specific scope and classification levels of State secrets shall be published within the relevant scope and shall be adjusted in a timely manner in light of changing circumstances.

Article 12 — State organs and entities shall determine the specific classification levels of State secrets generated in the performance of their functions in accordance with the provisions on the specific scope and classification levels of State secrets. Where the specific classification level cannot be determined, the matter

shall be reported to the relevant competent department or the State administrative department for the guarding of State secrets at the same level for a decision.

Article 13 — The determination of classification levels of State secrets shall be subject to the power to grant classification levels. The State organs and entities authorized to classify State secrets and the scope of their power to classify shall be determined by the State administrative departments for the guarding of State secrets. The power to classify State secrets in the military field shall be prescribed by the Central Military Commission. State organs and entities shall, in determining the classification levels of State secrets, specify the duration of the secrecy and the scope of persons with knowledge of the secret. The duration of secrecy shall not be extended without approval.

Article 14 — In determining the classification levels of State secrets, State organs and entities shall, in light of the specific circumstances, determine the duration of the secrecy. Unless otherwise provided for, the duration of secrecy for top secret State secrets shall not exceed thirty years, for secret State secrets shall not exceed twenty years, and for confidential State secrets shall not exceed ten years. State organs and entities shall, in light of the needs of their work, determine the specific duration of secrecy, declassification time, or conditions for declassification. Where the classification level and the duration of secrecy of a State secret are altered by the State organ or entity that originally classified the secret, or by its superior organ, the duration of secrecy for the State secret shall commence anew from the date of alteration.

Article 15 — The scope of persons with knowledge of State secrets shall be limited to the minimum necessary. Persons with knowledge of State secrets at the top secret level shall be limited to designated persons. Where State secrets may be declassified upon the expiration of the duration of secrecy, they shall be declassified by themselves. Where an extension of the duration of secrecy is necessary, the original classification organ or entity, or its superior organ, shall make a decision before the expiration of the duration of secrecy; where an early declassification is necessary, the original classification organ or entity, or its superior organ, may declassify the secret.

Article 16 — State organs and entities shall promptly declassify State secrets that conform to the conditions for declassification as specified by laws and administrative regulations.

Article 17 — If State secrets cannot be declassified upon the expiration of the duration of secrecy, the classification organ or entity shall submit a recommendation, and the original classification organ or entity or its superior organ shall review and decide to extend the duration of secrecy. If a State secret may be declassified before the expiration of the duration of secrecy, the original classification organ or entity, or its superior organ, may declassify it.

Article 18 — State organs and entities shall promptly declassify State secrets where the conditions for declassification as prescribed by laws and administrative regulations are met.

Article 19 — Where there is a dispute over the determination of whether a matter is a State secret or its classification level, it shall be determined by the State administrative department for the guarding of State secrets or the State administrative department for the guarding of State secrets of a province, autonomous region, or municipality directly under the Central Government.

Article 20 — Where State organs and entities, in the determination of classification levels of State secrets, fail to correctly determine the classification levels due to negligence, the relevant authorities shall promptly make corrections. Where a State secret is no longer required to be guarded, the classification level shall be promptly lifted.

### **Chapter III — Systems for Guarding State Secrets**

Article 21 — The transmission, reception, copying, extraction, provision, dissemination, and destruction of State secret carriers, as well as the research, development, production, testing, storage, maintenance, and

destruction of equipment and products involving State secrets, shall comply with the State secrecy provisions. State secret carriers refer to physical media such as paper documents, optical discs, magnetic media, and other items on which State secrets are recorded, and that are used for transmitting, processing, and storing information. Equipment and products involving State secrets refer to the equipment and products that are specially used for the creation, transmission, processing, and storage of State secrets.

Article 22 — The storage of State secret carriers and the equipping of facilities and equipment for preserving State secrets shall conform to the State secrecy provisions. Facilities and equipment for storing State secret carriers shall possess the necessary protective functions for guarding secrecy.

Article 23 — State secrets shall not be stored, processed, or transmitted on computers or computer information systems that are not connected to the Internet or other public information networks, and that do not have security and secrecy protection measures. The security and secrecy safeguards for computers and computer information systems involving State secrets shall comply with the State secrecy provisions.

Article 24 — State secrets shall not be transmitted through ordinary postal services, express delivery services, or other means without secrecy protection measures. State secrets shall not be transmitted through the Internet or other public information networks. State secrets shall not be discussed or communicated through wired or wireless communications, the Internet, or other public information networks without secrecy protection measures.

Article 25 — The publication and distribution of materials involving State secrets, and the production and broadcasting of films, television programs, videos, and other audio-visual products with State secret content shall comply with the State secrecy provisions.

Article 26 — Where it is necessary to provide State secrets abroad or to international organizations, or to provide State secrets to diplomatic missions, consular posts, or the representative offices of international organizations in China, the matter shall be approved in accordance with the State secrecy provisions.

Article 27 — Where State secrets are to be provided for the purpose of foreign exchanges and cooperation, the matter shall be approved in accordance with the prescribed procedures. Where State secrets are to be provided in cooperation with foreign parties, the matter shall be reported to or approved by the relevant department of the State Council or the relevant department of the people's government of the province, autonomous region, or municipality directly under the Central Government, and to the State administrative department for the guarding of State secrets.

Article 28 — Meetings and other activities involving State secrets shall adopt secrecy measures and shall conduct secrecy education for the participants and shall impose secrecy requirements.

Article 29 — State organs and entities shall determine the classified parts of a project through examination and classification, and shall sign secrecy agreements with the units undertaking the classified projects. The units undertaking classified projects shall possess the corresponding secrecy qualifications. The administration of secrecy qualifications for units undertaking classified projects shall be prescribed separately by the State administrative department for the guarding of State secrets or by the State administrative department for the guarding of State secrets in conjunction with the relevant State Council departments.

Article 30 — The scope of State secrets that may be known by staff members of State organs and entities shall be determined on the basis of the needs of their work, and such staff members shall not be permitted to know State secrets beyond the necessary scope of their work. Military installations and other places and parts involving State secrets shall be classified as classified sites or classified parts, and shall be subject to secrecy protection measures. Without approval, the relevant State secrets shall not be duplicated, recorded, photographed, or videotaped.

Article 31 — For the purpose of State secrets protection, the relevant State organs may request that entities and individuals within a particular scope provide evidence or cooperate with investigations in accordance with the law.

Article 32 — Persons holding classified posts shall be subject to classified personnel administration and shall be subject to review before assuming their posts, training and education during their tenure, and supervision at the expiration of their terms or upon leaving their posts. The specific administrative measures shall be prescribed by the State administrative department for the guarding of State secrets in conjunction with the relevant departments of the State Council.

Article 33 — Persons holding classified posts shall sign secrecy undertakings and strictly observe the State secrecy provisions. They shall not, within the specified declassification period, be employed by or provide services to foreign-invested enterprises or foreign entities, or hold any position in such enterprises or entities.

## **Chapter IV — Supervision and Administration**

Article 34 — State organs and entities shall conduct regular secrecy self-inspection and self-assessment. The State administrative departments for the guarding of State secrets shall conduct inspections of compliance with State secrecy laws and regulations by State organs and entities. Where problems are discovered during such inspections, the relevant State organs or entities shall make corrections within the prescribed time limit.

Article 35 — Where State secrets have been divulged or may have been divulged, the State organ or entity concerned shall immediately take remedial measures and report the matter to the relevant administrative department for the guarding of State secrets and the relevant superior authorities within 24 hours. The local administrative department for the guarding of State secrets shall report major divulgence incidents to the administrative department for the guarding of State secrets at the next higher level.

Article 36 — The State administrative departments for the guarding of State secrets or their authorized departments may confiscate articles that illegally acquire, hold, record, or store State secrets and the equipment specially used for the acquisition, recording, or storage of State secrets.

Article 37 — State secrecy administrative departments shall strengthen the administration of secrecy inspection departments and guide secrecy inspection departments in carrying out the work of guarding State secrets in accordance with the law.

## **Chapter V — Legal Liability**

Article 38 — Persons holding classified posts who, in violation of the provisions of this Law, divulge State secrets, shall, if the circumstances are serious, be subject to administrative sanctions in accordance with the law; if the circumstances are not serious, the entity where they work shall provide criticism and education. Where divulgence of State secrets constitutes a crime, criminal liability shall be pursued in accordance with the law.

Article 39 — Where a State organ or entity, in violation of the provisions of this Law, commits any of the following acts, the relevant organ or entity shall impose sanctions on the directly responsible person in charge and other directly responsible persons in accordance with the law; where the act constitutes a crime, criminal liability shall be pursued in accordance with the law: (1) failing to determine classification levels of State secrets generated in accordance with the law, or determining classification levels in excess of authority; (2) failing to indicate classification levels on State secret carriers as required; (3) distributing, receiving, or disseminating State secret carriers without approval; (4) storing, processing, or transmitting State secrets through the Internet or other public information networks, or storing or processing State secrets on computers or computer information systems not connected to the Internet or other public information networks without security and secrecy protection measures; (5) storing State secrets in violation of the law;

(6) transmitting State secrets through means without secrecy protection measures such as ordinary postal services or express delivery services; (7) providing State secrets abroad or to international organizations, diplomatic missions, consular posts, or representative offices of international organizations in China without approval; (8) disclosing State secrets in publications, information on the Internet or other public information networks, broadcasts, films, television programs, or other audio-visual products; (9) entering into secrecy agreements or imposing secrecy requirements in violation of provisions; (10) failing to designate classified posts or implement classified personnel administration as required; (11) failing to report to the relevant authorities promptly after divulgence of State secrets, or failing to take remedial measures; and (12) failing to conduct secrecy review of State secrets to be made public in accordance with the law.

Article 40 — Where State secrets are divulged through the Internet or other public information networks, radio, television, newspapers, or other media, or through publications, the relevant departments shall order the deletion of the State secrets involved and may impose penalties in accordance with the law.

Article 41 — Where an entity undertaking classified projects violates the provisions of this Law, the State administrative department for the guarding of State secrets shall impose administrative penalties in accordance with the law; where the circumstances are serious, the State administrative department for the guarding of State secrets shall revoke its secrecy qualification.

Article 42 — Where a State secrecy administrative department or any of its staff, in the course of performing its functions, abuses its power, neglects its duties, or engages in favoritism, a sanction shall be imposed in accordance with the law; where the act constitutes a crime, criminal liability shall be pursued in accordance with the law.

## Chapter VI — Supplementary Provisions

Article 43 — The Chinese People's Liberation Army and the Chinese People's Armed Police Force shall implement the secrecy provisions of the Central Military Commission.

Article 44 — This Law shall enter into force on May 1, 1989. The Regulations on Guarding State Secrets adopted by the Standing Committee of the National People's Congress on May 21, 1951 shall be repealed simultaneously.

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