Law of People’s Republic of China on Promotion of Transformation of Science and Technology Achievements

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Chapter 1 General Provisions

Article 1. In order to promote the transformation of scientific and technological achievements into practical productive force, regulate the activities of this kind of transformation, accelerate the progress of science and technology, promote economic construction and social development, the present law was made.

Article 2. The scientific and technological achievements concerned by the present law refer to the results of practical value produced through scientific research and technological development, scientific and technological achievements tied to positions, refer to scientific and technological achievements completed by carrying out work tasks
of research and development institutions, institutions of higher learning and enterprises and other units, or using mainly the materials and technical conditions of the above units.

The transformation of scientific and technological achievements as mentioned in this Law, refers to experiment, development, application and promotion carried to the scientific and technological achievements in order to improve the level of productive forces until the formation of new technologies, new processes, new materials, new products and the development of new industries and other activities.

**Article 3.** The activities of transformation of scientific and technological achievements should be conducive to speed up the implementation of innovation driven development strategy, promote the combination of S&I and economy, it should be also beneficial to improve the economic benefit and social benefit, to protect environment and utilize resources in a rational way, and to promote economic construction, social development and to protect national security.

Transformation of scientific and technological achievements should respect market rules, play the main role of enterprises, follow the principles of voluntary, mutually beneficial, fair and honest credit, in accordance with the provisions of laws and regulations and contractual agreement, enjoying rights and interests, bearing risks. The intellectual property rights in the activities of transformation of scientific and technological achievements are protected by law.

The activities of transformation of scientific and technological achievements shall comply with laws and regulations, safeguard national interests, and shall not damage social public interests and legitimate rights and interests of others.

**Article 4.** The state arrange reasonably financial capital investment to scientific and technological achievements, guide the social capital investment, promote diversification of capital investment to the transformation of scientific and technological achievements.

**Article 5.** The State Council and local people’s government at various levels should strengthen policy coordination of science and technology, finance, investment, taxation, talents, industry, banking, government procurement, civil military integration, etc., to create a favorable environment for the transformation of scientific and technological achievements.

Local people’s government at various levels according to the principles stipulated by the present law combines with local practice, can take measures more conductive to the transformation of scientific and technological achievements.

**Article 6.** The state encourages scientific and technological achievements to carry out first in the territory of China. Chinese units or individuals who transfer or give permission to organizations, individuals overseas to carry out scientific and
technological achievements, should comply with relevant laws, administrative regulations and relevant provisions of the state.

Article 7. For the sake of national security, national interests and needs of major social public interests, the state could organize and implement or give permission to others to carry out relevant scientific and technological achievements according to the law.

Article 8. The administrative departments, the comprehensive economic management departments of science and technology of the State Council and other relevant administrative departments shall manage, guide and coordinate works of the transformation of scientific and technological achievements in accordance with the functions and duties prescribed by the State Council.

The local people’s governments at various levels shall be responsible for the management, guidance and coordination of the works of transformation of the scientific and technological achievements in the respective administrative regions.

Chapter 2. Organization and Implementation

Article 9. The State Council and local people’s governments at various levels shall incorporate the transformation of scientific and technological achievements into the national economic and social development plan, organize and coordinate the transformation of scientific and technological achievements.

Article 10. To establish application class science and technology projects and other related science and technology projects by the use of financial funds, the relevant administrative departments and administrative organs shall improve and perfect the management mode of scientific research, when in the formulation of relevant scientific and technological planning and when compiling project guide, they should listen to the views of relevant industries and enterprises; When organizing and implementing the application class science and technology projects, it should be clear the duties of project bears in transformation of scientific and technological achievements, the management of intellectual property rights should be strengthened, the transformation of scientific and technological achievements, the creation and the utilization of intellectual property should be considered important contents and basis for project approval and acceptance check.

Article 11. The state establishes and perfects science and technology reporting system and scientific and technological information system, publishes the implementation of science and technology projects to the social as well as scientific and technological achievements and related intellectual property information, provides scientific and technological achievements information query, screening and other public services. Such publication of relevant information may not reveal state secrets and trade secrets.
For information will not be released, the relevant departments should timely inform the relevant scientific and technological project stakeholders.

The bearers of the scientific and technological projects established by using of financial fund should submit relevant scientific and technological report timely in accordance with relevant regulations, and collect and submit scientific and technological achievements and related intellectual property information to the scientific and technological achievements system.

The state encourages the bears of the use of non-financial funds to set up scientific and technological projects to submit relevant science and technology reports, and collect and submit scientific and technological achievements and related intellectual property information to the scientific and technological achievements system, the departments responsible for relevant works at or above the county level shall provide convenience for their work.

Article 12. For the following projects of transformation of scientific and technological achievements, the State gives support through government procurement, research and development funding, publishing industry technical guidance catalog, demonstration and promotion and other ways.

a. For the projects which can significantly improve industrial technology level, economic efficiency or can form new industries which can improve healthy development of social and economy.

b. For the projects which can significantly improve national security ability and public security level.

c. For the projects which can make reasonable development and utilization of resources, save energy, reduce consumption and make prevention and control of environmental pollution, ecological protection, improve ability to respond to climate change and disaster prevention and mitigation.

d. For the projects which can improve people’s livelihood and improve public health level.

e. For the projects which can promote the development of modern agriculture or rural economy.

f. For the projects which can accelerate social and economic development of minority areas, remote areas and poor areas.

Article 13. The state promotes and encourages to use advanced technologies, processes and equipment, improves continuously, limits to use or eliminates backward technologies, processes and equipment by formulating policies and measures.

Article 14. The state enhances the national standard setting work, formulates timely according to the law national standard, industry standard for new technology, new process, new materials and new products, participates actively in the formulation of
international standards, promotes the popularization and application of applicable advanced technology.

The state establishes an effective of mutual transformation of military and civilian scientific and technological achievements, improves the mechanism of national defense science and technology collaboration and innovation system.

Military research and production should adopt with priority advanced applicable civil standard in accordance with the law, to promote military and civil technology transfer and transformation.

**Article 15.** Key scientific and technological achievements transformation projects organized and implemented by People’s governments at all levels, can be transformed by public bidding way organized by relevant departments. The relevant departments shall provide financial assistance or other conditions as determined in the bid to the winning units.

**Article 16.** The holders of scientific and technological achievements can adopt the following ways to transform achievements of science and technology:

a. To implement transformation on their own investment.

b. Transfer to others the scientific and technological achievements.

c. Give permission to others to use the scientific and technological achievements.

d. Use the scientific and technological achievements as a cooperative condition, together with others to implement the transformation.

e. With the scientific and technological achievements for investment, to convert shares and investment proportion.

f. Other ways confirmed by negotiating.

**Article 17.** The state encourages research and development institutions, institutions for high learning to adopt ways like transfer, give permission or investment etc., to transfer the scientific and technological achievements to enterprises and other organizations.

The research and development institutions, institutions for high learning established by the state shall strengthen management, organization and coordination of the transformation of scientific and technological achievements, promote construction of the team responsible for the transformation of scientific and technological achievements, optimize the transformation process of scientific and technological achievements, carry out technical transfer through organizations of this unit responsible for the technical transfer works or entrust independent service agency for transformation of scientific and technological achievements.

**Article 18.** The research and development institutions, institutions for high learning established by the state, for the scientific and technology achievements held by themselves, they can decide autonomously to transfer or give permit or for investment,
but should fix price by agreement, in the technical trading market listing and auction. For those who fix price through the agreement, shall publish in this unit the names of scientific and technological achievements and the proposed transaction prices.

**Article 19.** The scientific and technological achievements tied to positions (see Article 2) obtained by research and development institutions, institutions for high learning established by the state, the people who completed the achievements and the participants can carry out transformation of this scientific and technological achievements in accordance with the agreement made with this unit, and enjoy the rights and interests determined by the agreement in the precondition that the ownership of the scientific and technological achievements tied to positions is not changed. This unit shall support the transformation of the above scientific and technological achievements.

The people who completed the scientific and technological achievements or subject responsible person shall not impede the transformation of scientific and technological achievements, shall not appropriate to themselves the scientific and technological achievements tied to positions and the technical information and data, violating legitimate rights and interests of the units.

**Article 20.** The competent departments of research and development institutions, institutions for high learning and the relevant administrative departments of finance, science and technology should establish a performance assessment evaluation system for promoting the transformation of scientific and technological achievements. To consider the situation of science and technology achievements transformation as one of the important contents and basis for revaluation of relevant units and personnel and for scientific research funds, increase research funding support to the relevant units and personnel which have outstanding performance in the transformation of scientific and technological achievements.

The research and development institutions, institutions for high learning established by the state should set up a system of professional title evaluation, post management and evaluation, examination system, improve the incentive and restraint mechanism for incoming distribution.

**Article 21.** The research and development institutions, institutions for high learning established by the state should submit annual report on the transformation of scientific and technological achievements to their competent departments, explaining the number of scientific and technological achievements and the implementation of the transformation and also the distribution of relevant incoming according to the law, the competent departments shall submit annual report on the transformation of scientific and technological achievements according to relevant provisions to relevant administrative departments of finance, science and technology, etc.
Article 22. In order to adopt new technologies, new processes, new materials and produce new products, enterprises can release on their own the information or entrust scientific and technological intermediary service agencies to collect the required scientific and technological achievements, or seek partners for transformation of scientific and technological achievements.

Science and technology administrative departments of Local people’s governments at or above the county level and other relevant departments shall divide the work in accordance with duties and responsibilities, provide assistance and support to enterprises in obtaining the necessary scientific and technological achievements.

Article 23. Enterprises shall have the right according to the law to independently or jointly with domestic and foreign enterprises, public institutions and other partners to implement the transformation of scientific and technological achievements.

Enterprises may, through fair competition, independently or in combination with other entities to undertake scientific and technological research and development as well as technological achievements transformation projects carried out by the government.

Article 24. For science and technology projects with market application prospects and industrial objectives established by using of financial funds, relevant government departments and management organizations should play a leading role in the research and development to select and implement the projects, encourage enterprises, research and development institutions, institutions of higher learning and other organizations to implement together these projects.

Article 25. The State encourages research and development institutions, institutions of higher learning and enterprises to jointly implement the transformation of scientific and technological achievements.

Research and development institutions, institutions of higher learning can participate in tender and bid activities for the implementation of transformation of scientific and technological achievements of relevant government departments or enterprises.

Article 26. The state encourages enterprises to adopt industry-university-research cooperation methods to jointly set up research and development platforms, technology transfer mechanism or technology innovation alliance with research and development institutions, institutions of higher learning and other organizations, work together to carry out research and development, application and promotion of achievements, standard research and formulate and other activities.

All partners should sign agreement, according to the law appoint organization form of cooperation, division of tasks, capital investment, intellectual property ownership, equity distribution, risk sharing and responsibility for breach of contract and other matters.
Article 27. The state encourages research and development institutions and institutions of higher learning to carry out exchange projects of scientific and technological personnel together with enterprises and other organizations, according to professional characteristics and technical development needs of industries to employ scientific and technical personnel of enterprises and other organizations engaged part-time in teaching and scientific research works, give support to the technical personnel of these units to go to the enterprises and other organizations to work on scientific and technological achievements transformation activities.

Article 28. The state supports enterprises, research and development institutions, institutions of higher learning, professional universities and colleges and training institutions to establish a joint occupation practice training base for students and graduate research practice working mechanism of student internship, train together professional technical personnel and highly skilled personnel.

Article 29. The state encourages agricultural scientific research institutions, agricultural experiment demonstration units to work independently or in cooperation with other units to carry out the transformation of agricultural scientific and technological achievements.

Article 30. The state fosters and develops technology market, encourages the establishment of science and technology intermediary service institutions, to provide trading places, information platform and information retrieval, processing and analysis, evaluation, brokerage and other services for the technology exchange.

Science and technology intermediary service institutions when provide services, should follow fair and objective principle, and should not provide false information and proves, for the knowledge of state secrets and commercial secrets got in the process of service they should have obligation to keep confidential.

Article 31. The state gives support to the construction of public research and development platform according to the industrial and regional development needs, which provides services for scientific and technological achievements transformation like technology integration, common technology research and development, pilot test and industrial test, systematization and engineering development of scientific and technological achievements, technology promotion and demonstration and other relevant services.

Article 32. The state gives support to the development of incubators for science and technology enterprises just like science and technology incubators, scientific and technologic technology park of universities, providing services of incubation venues, business counseling, research development and management consulting and other services for the start-up period science and technology type enterprise in dimension small and middle.
Chapter 3. Safeguard measures

Article 33. Financial funds for transformation of scientific and technological achievements, are mainly used for guide funds for scientific and technological achievements transformation, loans with discounted interest, subsidy funds and risk investment and other ways of using funds for promoting the transformation of scientific and technological achievements.

Article 34. The state shall, in accordance with the relevant tax laws and administrative regulations, carry out preferential tax policies for the transformation of scientific and technological achievements.

Article 35. The state encourages financial institutions in the banking sector to make innovations in the organization form, management system, financial products and services, encourages to carry out intellectual property rights pledge loans, equity pledge loans and other loans business, to provide financial support for scientific and technological achievements transformation.

The state encourages policy oriented financial institutions to take measures to increase financial support for scientific and technological achievements transformation.

Article 36. The state encourages insurance institutions to develop insurance products which can meet the characteristics of scientific and technological achievements transformation, and to provide insurance services for scientific and technological achievements transformation.

Article 37. The state improves multi-level capital market, and gives support to the enterprises to do financing through equity transactions, issue stocks and bonds according to the law and other direct financing ways for transformation of scientific and technological achievements projects.

Article 38. The state encourages venture capital investment institutions to invest in for scientific and technological achievements transformation projects.

The venture capital investment fund established by the state, should guide and support venture capital investment institutions to invest in start-up period enterprises small and medium of science and technology.

Article 39. The state encourages to establish scientific and technological achievements transformation fund or risk fund, the capital of which is provided by the state, local governments, enterprises, public institutions and other organizations and individuals to support scientific and technological achievements transformation of high investment, high risk, high yields, accelerating the industrialization of major scientific and technological achievements.
Chapter 4. Technical rights and interests

Article 40. The units who completed scientific and technological achievements which made transformation of the achievements in cooperation with other units, shall make contract according to the law to determine the ownership of the rights and interests of this scientific and technological achievements. For the contract which does not mention it, please see the following principles:

a. If there is no new invention in the transformation in cooperation with others, the rights and interests of this scientific and technological achievements belong to the unit who completed this scientific and technological achievements.

b. If there is new invention in the transformation in cooperation with others, the rights and interests of this new invention belong to all the partners.

c. For scientific and technological achievements in the transformation in cooperation with others, all the parties have the right to carry out scientific and technological achievements, the transfer of the scientific and technological achievements shall be agreed by all the parties of cooperation.

Article 41. The units who completed scientific and technological achievements which made transformation of the achievements in cooperation with other units, all the parties of cooperation shall reach an agreement on the protection of technical secrets; The parties concerned shall not violate the agreement or requirements made by holder of the rights on keeping confidential the technical secrets, and shall not disclose and allow others to use this technology.

Article 42. Enterprises and public institutions shall establish and improve the technical secret protection system, protect technical secrets of the units. The staff and workers should comply with the technical secret protection system of this unit.

Enterprises and institutions may sign agreement for keeping confidential the technology secrets of the units with relevant personnel who participates in the transformation of scientific and technological achievements when on the job or after a certain period of demission or retirement; The relevant personnel shall not violate the agreement, disclose the technical secrets and engage in the same activities as the same as the original unit for scientific and technological achievements transformation.

Employees shall not transfer without authorization or transfer in a disguised form scientific and technological achievements tied to positions.
**Article 43.** All the income obtained by Research and development institutions and colleges, universities of high learning set up by the state in transformation of scientific and technological achievements shall belong to these units, after giving reward to personnel who made important contribution in completion and transformation of scientific and technological achievements, the rest of income will be used mainly for research and development of science and technology, achievements transformation and other related works.

**Article 44.** After transformed scientific and technological achievements tied to positions, the units who completed scientific and technological achievements give reward to the personnel who made important contribution to the completion and transformation of the scientific and technological achievement.

The unit who completed scientific and technological achievement can stipulate or make agreement with scientific and technological personnel the way of reward and remuneration, amount and time limit. The unit makes relevant provisions, should fully listen to the views of the unit’s scientific and technological personnel, and publish relevant provisions in this unit.

**Article 45.** If the units who completed scientific and technological achievements does not stipulate or make agreement with technical personnel on the way and amount of reward and remuneration, the reward and remuneration will be given to the above-said personnel according to following standards:

a. Transfer the scientific and technological achievements to others or give permit to others to implement the achievements, from net income of transferring this scientific and technological achievement or net income of giving permit the personnel concerned can get not less than 55%.

b. To use this scientific and technological achievement tied to positions for investment, the personnel concerned can get not less than 50% of stock or investment proportion formed by this scientific and technological achievement.

c. To implement independently or to implement in cooperation with others the scientific and technological achievement tied to positions, when successfully done the transformation, three to five years after the operation, the personnel concerned should take no less than 5% from the operating profit ratio in the implementation of the scientific and technological achievement every year.

Research and development institutions, institutions of high learning established by the state stipulate or make agreement with scientific and technological personnel on the way and amount of reward and remuneration, should follow the provisions of from the first paragraph to the third paragraph of the preceding article.

The state-owned enterprises and institutions according to the provisions of this law, should put the expense used for reward and remuneration for personnel who made
important contribution to completion and transformation of scientific and technological achievements tied to positions in the total amount of wages of this unit in this year, but it’s not restricted by total amount of wages of this unit in this year, and it’s not calculated in cardinal number of total amount of the wages of this unit.

Chapter 5. Legal responsibility

Article 46. The bears of the scientific and technological projects established by using financial funds, don't submit scientific and technological report and collect, submit information related to scientific and technological achievements and relevant intellectual property according to the present law, the relevant government departments and management departments which organized project implementation shall order them to correct; If the circumstances are serious, the bears should be criticized by notification, and should be prohibited to undertake the scientific and technological projects established by using financial funds in a certain period.

Research and development institutions, institutions of high learning established by the state don’t submit annual report of transformation of scientific and technological achievements according to the present law, their competent authorities shall order them to correct; If the circumstances are serious, the bears should be informed criticism.

Article 47. Who violates the provisions of the present law, practices fraud, gains award and honorary title by cheating, obtains money by fraud, makes unlawful profit, the relevant government departments shall order them to correct according to the management responsibilities provisions, cancel award and honorary title, confiscate the illegal income, and impose a fine. For who causes economic losses to others, shall bear civil liability in accordance with law. If a crime is constituted, criminal responsibility shall be investigated according to law.

Article 48. Science and technology service organizations and their employees if violate the provisions of the present law, provide deliberately false information, experimental results or assessments, to cheat the parties concerned or to cheat one of the parties together with another party, the relevant government departments shall order them to correct according to the management responsibilities provisions, confiscate the illegal income, and impose a fine; If the circumstances are serious, the administrative department for Industry and Commerce should revoke their business license according to law. For who causes economic losses to others, shall bear civil liability in accordance with law. If a crime is constituted, criminal responsibility shall be investigated according to law.

Science and technology intermediary service institutions and their employees violate the provisions of the present law disclosing state secrets or business secrets of people
concerned, should bear the corresponding legal responsibility in accordance with the relevant laws and administrative regulations.

Article 49. The administrative departments of science and technology and other relevant departments and their staff, if breach of privilege, neglect of duty, practice favoritism, the appointment and demission organ and the supervisory organ will give disciplinary action to directly responsible personnel in charge according to law; If a crime is constituted, criminal responsibility shall be investigated according to law.

Article 50. Who violates provisions of the present law, using ways like incitement to steal, inducements bullying to violate legitimate rights and interests of others, shall bear civil liability and may also impose a fine; If a crime is constituted, criminal responsibility shall be investigated according to law.

Article 51. For the staff who violates provisions of the present law, leaking technological secrets of this unit, or transferring without authorization or transferring in a disguised form scientific and technological achievements tied to positions, the relevant personnel who participates in transformation of scientific and technological achievements violates the agreement made with this unit, or works on the activities of scientific and technological achievements transformation as the same as those of the original unit in the period stipulated by agreement after demission and retirement, causing economic losses to the unit, shall bear civil liability for compensation. If a crime is constituted, criminal responsibility shall be investigated according to law.

Chapter 6. Supplementary articles

Article 52. The present law came into force since 1 October 1996.

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