

Comparison between the Draft Regulations on Service Invention for Public Comments in March of 2014 and the Draft for SCLAO’s Review in 2015

The Draft for Public’s Comments in March of 2014	The Draft for SCLAO’s Review in 2015
Chapter I General Provisions	Chapter I General Provisions
<p>Article 1 The Regulations are formulated for the purpose of protecting the legal rights and interests of the inventor of service invention and the entity, fully mobilizing the creative enthusiasm of the inventor of service invention and the entity, improving the ability to innovate, promoting the application and implementation of its intellectual property right (IPR), promoting the economic and social development, and constructing an innovative and talents-powerful country.</p>	<p>Article 1 These Regulations are formulated for the purpose of protecting the legal rights and interests of the inventor of service invention and the entity, fully mobilizing the creative enthusiasm of the inventor of service invention and the entity, improving the entity's intellectual property rights (IPR) management level, promoting the application and implementation of its IPR, promoting the economic and social development, and constructing an innovative and talents-powerful country.</p>
<p>Article 2 The State encourages service invention and the creation, implementation, protection, and management of its IPR.</p> <p>The people's governments at all levels and their related competent department in charge shall actively take effective measures to increase the intensity of promotion and popularization of the service invention system, strengthen the guidance and assistance to entities and inventors in implementing the Regulations, support and promote application and implementation of service invention and its IPRs.</p>	<p>Article 2 The State encourages service invention and the creation, implementation, protection, and management of its IPRs.</p> <p>The people's governments at all levels and their related competent administrative department in charge shall actively take effective measures to increase the intensity of promotion and popularization of the service invention system, strengthen the guidance and assistance to entities and inventors in implementing these Regulations, support and promote application and implementation of service invention and its IPRs.</p>
<p>Article 3 The IPR competent department, science and technology administration department, and labor resources administration department under the State Council are responsible for country-wide supervision and administration of implementation of the service invention system in accordance with their respective responsibilities.</p>	<p>Article 3 The IPR competent department, science and technology administration department, and labor resources administration department under the State Council are responsible for country-wide supervision and administration of implementation of the service invention system in accordance with their respective responsibilities.</p>

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<p>The IPR competent departments, science and technology administration departments, and labor resources administration departments of local people's governments at or above the county level are responsible for, according to their respective responsibilities, supervision and administration of the service invention system in their respective administrative regions.</p> <p>In the Regulations, "IPR competent departments" include patent administration departments, agriculture administration departments, and forestry administration departments.</p>	<p>The IPR competent departments, science and technology administration departments, and labor resources administration departments of local people's governments at or above the county level are responsible for, according to their respective responsibilities, supervision and administration of the service invention system in their respective administrative regions.</p> <p>In these Regulations, "IPR competent administration departments" include patent administration departments, agriculture administration departments, and forestry administration departments.</p>
<p>Article 4 In the Regulations, "invention" refers to the achievement of intellectual-creation, which is made within the territory of People's Republic of China and is eligible subject matter of patent right, right of new varieties of plants, exclusive right of integrated circuit layout design, or know-how protection of subject matter which is the result of intellectual creation.</p>	<p>Article 4 In these Regulations, "invention" refers to the achievement of intellectual-creation, which is made within the territory of People's Republic of China and is eligible subject matter of patent right, right of new varieties of plants, or exclusive right of integrated circuit layout design of subject matter which is the result of intellectual creation.</p>
<p>Article 5 In the Regulations, "inventor" refers to any person who makes creative contributions to the substantive features of an invention.</p> <p>Any person who, during the course of accomplishing the invention, is responsible only for organizational or management work, or who only offers facilities for making use of material and technical means, or who takes part in other auxiliary functions, shall not be considered as an inventor.</p>	<p>Article 5 In the Regulations, "inventor" refers to any person who makes creative contributions to the substantive features of an invention.</p> <p>Any person who, during the course of accomplishing the invention, is responsible only for organizational or management work, or who only offers facilities for making use of material and technical means, or who takes part in other auxiliary functions, shall not be considered as an inventor.</p>
<p>Article 6 The State encourages enterprises and institutions to establish IPR management systems for service invention and set up specialized departments or designate specialized staff to be responsible for IPR management, or commission professional agencies to manage IPR-related affairs on</p>	<p>Article 6 The State encourages enterprises and institutions to establish IPR management systems for service invention and set up specialized departments or designate specialized staff to be responsible for IPR management, or commission professional agencies to manage IPR-related affairs on behalf of the entities.</p>

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<p>behalf of the entities.</p> <p>An enterprise or institution engaging in research and development shall establish an invention reporting system, or reach an agreement with inventors to clarify the rights, obligations, and responsibilities of the entity and inventors upon completion of an invention, and timely determine the ownership of the rights and interests relating to the invention.</p> <p>An enterprise or institution engaging in research and development shall establish an award and remuneration system for service invention or reach an agreement with inventors on awards and remuneration.</p> <p>When an entity establishes the above systems, it shall seek and consider the opinions and suggestions of relevant persons, and disclose the invention reporting system and the award and remuneration system to research staff and other relevant persons.</p>	<p>An enterprise or institution engaging in research and development shall establish an invention reporting system, or reach an agreement with inventors to clarify the rights, obligations, and responsibilities of the entity and inventors upon completion of an invention, and determine the ownership of the rights and interests relating to the invention in a timely manner.</p> <p>An enterprise or institution engaging in research and development shall establish an award and remuneration system for service invention or reach an agreement with inventors on awards and remuneration.</p> <p>When an entity establishes the above systems, it shall seek and consider the opinions and suggestions of relevant persons, and disclose the invention reporting system and the award and remuneration system to research staff and other relevant persons.</p>
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<p>Chapter II Ownership of Invention</p>	<p>Chapter II Ownership of Invention</p>
<p>Article 7 The following inventions are service invention:</p> <p>(1) Invention made in execution of the duties assigned by the entity which employs the inventor;</p> <p>(2) Invention made in execution of any task, other than the inventor's own duties, which was assigned to the inventor by the entity which employs the inventor;</p> <p>(3) Invention made within one year since the inventor's retirement or termination of employment, or since termination of employment or organizational relationship with the entity which employed the inventor, where the invention relates to the inventor's own duties or the other task assigned to the inventor by the entity which employed the inventor, with the exception of new varieties of plants which are subject to other provisions made by the State;</p>	<p>Article 7 The following inventions are service invention:</p> <p>(1) Invention made in execution of the duties assigned by the entity which employs the inventor;</p> <p>(2) Invention made in execution of any task, other than the inventor's own duties, which was assigned to the inventor by the entity that employs the inventor;</p> <p>(3) Invention made within one year since the inventor's retirement or termination of employment, or since termination of employment or organizational relationship with the entity which employed the inventor, where the invention relates to the inventor's own duties or the other task assigned to the inventor by the entity which employed the inventor, with the exception of new varieties of plants which shall be governed by other provisions made by the State;</p>

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<p>(4) Invention made mainly by using the capital, equipment, parts or raw material of the entity to which employs the inventor, or by using technical materials which are not disclosed to the public by the entity which employs the inventor, unless there is an agreement on returning funding or fees for the usage to the entity which employs the inventor, or the use of the material or technical means of the entity which employs the inventor belongs is merely for verification or testing upon completion.</p>	<p>(4) Invention made mainly by using the capital, equipment, parts, raw materials or propagating materials of the entity which employs the inventor, or by using technical materials which are not disclosed to the public by the entity which employs the inventor, unless there is an agreement on returning funding or fees for the usage to the entity which employs the inventor, or the use of the material or technical means of the entity which employs the inventor is merely for verification or testing upon completion.</p>
<p>Article 8 For a service invention, the entity is entitled to the right to apply for the IPR, protect the invention as know-how, or publish the invention, and the inventor is entitled to the right of inventorship and the right to obtain awards and remuneration. For a non-service invention, the inventor is entitled to the right of inventorship and the right to apply for the IPR, protect the invention as know-how, or publish the invention.</p>	<p>Article 8 For a service invention, the entity is entitled to the right to apply for IPRs, protect the invention as know-how, or publish the invention, and the inventor is entitled to the right of inventorship and the right to obtain awards and remuneration. For a non-service invention, the inventor is entitled to the right of inventorship and the right to apply for IPRs, protect the invention as know-how, or publish the invention.</p>
<p>Article 9 The entity may specify in its policy formulated in accordance with law or in its agreement with the inventor the ownership of the invention that is made using the material or technical means of the entity. The provisions in this Chapter shall apply in the absence of the above mentioned agreement or policy.</p>	<p>Article 9 The entity may specify in its rules and bylaws formulated in accordance with law or in its agreement with the inventor the ownership of the invention that is made using the material or technical means of the entity. The provisions in this Chapter shall apply in the absence of the above mentioned agreement or rules and bylaws.</p>
<p>Chapter III Report of Invention and Application for Intellectual Property Right</p>	<p>Chapter III Report of Invention and Application for Intellectual Property Right</p>
<p>Article 10 Unless otherwise stipulated in provisions or an agreement between an inventor and the entity to which the inventor belongs, the inventor shall report an invention relevant to the business of the entity to the entity within two months from the date the invention is completed. Where the invention is made by two or more</p>	<p>Article 10 Unless otherwise stipulated in an agreement between an inventor and the entity to which the inventor belongs or in the entity's rules and bylaws formulated in accordance with law, the inventor shall report an invention relevant to the business of the entity to the entity within two months from the date the invention is completed.</p>

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<p>inventors, the report shall be made by the inventors jointly or a representative of the inventors.</p>	<p>Where the invention is made by two or more inventors, the invention report shall be made by all the inventors or a representative of the inventors. The invention disclosure report submitted by the representative of the inventors shall be approved by all the inventors.</p>
<p>Article 11 An invention report shall specify the following information: (1) Names of all inventors; (2) Title and content of the invention; (3) Whether the invention is a service invention or a non-service invention and the reason thereof; (4) Other matters to be stated based on the entity or inventor's requirements. If the entity and inventor have made an agreement on the report content, the agreement shall prevail.</p>	<p>Article 11 Unless otherwise stipulated in an agreement between an inventor and the entity to which the inventor belongs or in the entity's rules and bylaws formulated in accordance with law, an invention report shall specify the following information: (1) Names of all inventors; (2) Title and content of the invention; (3) Whether the invention belongs to a service invention or a non-service invention and the reason thereof; (4) Other matters to be stated based on the entity or inventor's requirements.</p>
<p>Article 12 Where an inventor claims the invention reported by the inventor is a non-service invention, the entity shall provide a written reply within two months from the receipt of the report that is in conformity with Article 11 of the Regulations. Failure to provide such a reply within the above mentioned time period is deemed as the entity's acceptance of the invention as a non-service invention. Where the entity and inventor have made an agreement on the above mentioned time period, the agreement shall prevail. Where the entity claims the reported non-service invention to be a service invention in the written reply, the grounds shall be stated. Where the inventor presents a written counterclaim within two months from the receipt of the reply from the entity, the parties involved may resolve the dispute in accordance with Article 40 of the Regulations; failure to present the counterclaim is deemed as the</p>	<p>Article 12 Unless otherwise stipulated in an agreement between an inventor and the entity to which the inventor belongs or in the entity's rules and bylaws formulated in accordance with law, where an inventor claims that the invention reported by the inventor is a non-service invention, the entity shall provide a written reply within two months from the receipt of the report that is in conformity with Article 11 of these Regulations; failure to provide such a reply within the above mentioned time period is deemed as the entity's acceptance of the invention as a non-service invention. Where the entity claims that the reported non-service invention is a service invention in the written reply, the grounds shall be stated. Where the inventor presents a written counterclaim within two months from the receipt of the reply from the entity, the parties involved may resolve the dispute in accordance with Article 40 of these Regulations; failure to present</p>

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<p>inventor's acceptance of the entity's claim.</p>	<p>the counterclaim is deemed as the inventor's acceptance of the entity's claim.</p>
<p>Article 13 The entity shall decide, within 6 months from the receipt of a service invention report that is in conformity with Article 11 of the Regulations, whether to apply for the IPR in China, to protect the invention as know-how, or to publish the invention, and shall inform the inventor of the decision in a written notice. Where the entity and inventor have made an agreement on the above mentioned time period, the agreement shall prevail. Where the entity fails to inform the inventor within the time limit specified in the above paragraph, the inventor may send a written inquiry to urge the entity to reply; where the entity fails to reply within 1 month after the inventor sent the written inquiry, the invention shall be deemed to be protected as know-how by the entity, and the inventor is entitled the right to obtain compensation in accordance with Article 24 of the Regulations. Where the entity applies for and obtains domestic IPR of this invention afterwards, the inventor is entitled to the awards and remuneration according to the Regulations.</p>	<p>Article 13 Unless otherwise stipulated in an agreement between an inventor and the entity to which the inventor belongs or in the entity's rules and bylaws formulated in accordance with law, where the inventor claims that the reported invention is a service invention, the entity shall decide, within six months from the receipt of a service invention disclosure report that is in conformity with Article 11 of these Regulations, whether to apply for IPRs in China, to protect the invention as know-how, or to publish the invention, and shall inform the inventor of the decision in a written notice.</p> <p><i>[The second paragraph is deleted.]</i></p>
<p>Article 14 Where the entity applies for IPR of the service invention, it may seek the opinion of the inventor on the application documents intend to be filed. The inventor shall actively cooperate with the entity for the application for IPR. During the application for the IPR, the inventor is entitled the right to request information about the progress from the entity.</p>	<p>Article 14 Where the entity applies for IPRs of the service invention, it may seek the opinion of the inventor on the application documents intended to be submitted. The inventor shall actively cooperate with the entity in applying for IPRs. During the application for IPRs, the inventor is entitled to request information about the progress from the entity.</p>

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<p>Article 15 Where the entity intends to stop the process of applying for IPR or abandon the IPR of a service invention, it shall inform the inventor 1 month in advance. The inventor may negotiate with the entity to obtain the right to apply for the IPR or obtain the IPR of the service invention. The entity shall assist the inventor actively to complete the assignment formalities.</p> <p>After the inventor obtains the relevant right in accordance with the above paragraph free of charge, the entity is entitled to implement the service invention or its IPR free of charge.</p>	<p>Article 15 Where the entity intends to stop the process of applying for IPRs or abandon IPRs of a service invention, it shall inform the inventor in advance. The inventor may negotiate with the entity to obtain the right to apply for IPRs or obtain IPRs of the service invention. Where the inventor obtains the aforesaid right through negotiation, the entity shall assist the inventor to complete the assignment formalities.</p> <p>Where the inventor obtains the relevant right in accordance with the above paragraph free of charge, the entity is entitled to implement the service invention or its IPRs free of charge.</p>
<p>Article 16 The inventor has the confidentiality obligation on service invention the inventor made, and shall not disclose it to the public without authorization of the entity, or apply for IPR or assign to any third party on his/her own. The entity has the confidentiality obligation for the non-service invention disclosed thereto, and shall not disclose it to the public without authorization of the inventor, or apply for IPR or assign to any third party on its own.</p>	<p>Article 16 The inventor has the confidentiality obligation on service invention the inventor made, and shall not disclose it to the public without authorization of the entity, or apply for IPRs or assign to any third party on his/her own. The entity has the confidentiality obligation for the non-service invention disclosed thereto, and shall not disclose it to the public without authorization of the inventor, or apply for IPRs or assign to any third party on its own.</p>
<p>Chapter IV Award and Remuneration of Service Invention</p>	<p>Chapter IV Award and Remuneration of Service Invention</p>
<p>Article 17 Where the entity is granted the IPR of a service invention, it shall award the inventor in a timely manner.</p> <p>Where the entity assigns or allows others to exploit, or exploits on its own the service invention that is granted the IPR, it shall pay the inventor a reasonable remuneration in time based on the economic benefits yielded and the level of contribution made by the inventor.</p>	<p>Article 17 Where the entity is granted IPRs of a service invention, it shall award the inventor in a timely manner.</p> <p>Where the entity assigns or licenses others to exploit, or exploits on its own the service invention that is granted IPRs, it shall pay the inventor a reasonable remuneration in a timely manner based on the economic benefits yielded and the level of contribution made by the inventor.</p>
<p>Article 18 The entity may enter into an agreement with the inventor, or provide it in its policy formulated in accordance with law, on the procedure, manner and amount of the award</p>	<p>Article 18 The entity may enter into an agreement with the inventor, or provide it in its policy formulated in accordance with law, on the procedure, manner and amount of the award and</p>

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<p>and remuneration. The agreement or policy shall inform the inventor of the right the inventor is entitled to and the way to seek relief, and be in accordance with Articles 19 and 22 of the Regulations.</p> <p>Any agreement or policy eliminating the right that the inventor is entitled in accordance with the Regulations or imposing unreasonable conditions to the inventor's possession or implementation of the said right is invalid.</p>	<p>remuneration. The agreement or policy shall clarify the rights the inventor is entitled to and the way to seek relief, and be in accordance with provisions of Articles 19 and 22 of these Regulations.</p> <p>Any agreement or policy eliminating the rights that the inventor is entitled to in accordance with these Regulations or imposing unreasonable conditions on the inventor's entitlement to or implementation of the aforesaid rights are invalid.</p>
<p>Article 19 When the entity decides the processmanner and amount of the award and remuneration given to the inventor, it shall seek the opinion of the inventor.</p> <p>The entity shall, inform the inventor of the information about the economic benefit earned by the entity by exploiting, assigning, or licensing of the service invention.</p>	<p>Article 19 When the entity decides the manner and amount of the award and remuneration given to the inventor of service invention, it shall seek the opinion of the inventor.</p> <p>(See the second paragraph of Article 40.)</p>
<p>Article 20 Where the entity has not entered into an agreement with the inventor on the award to the service invention, and has not specified the award to the service invention in its policy formulated, it shall, for the service invention granted an invention patent or the right of new varieties of plants, award all the inventors a sum of money not less than 200% of the average monthly wage of the entity's employees as a bonus; and for the service invention granted IPRs other than invention patent or the right of new varieties of plants, award all the inventors a sum of money not less than the average monthly wage of the entity's employees as a bonus.</p>	<p>Article 20 Where the entity has not entered into an agreement with the inventor on the award to the service invention, and has not specified the award to the service invention in its policy formulated in accordance with law, it shall, for the service invention granted an invention patent or the right of new varieties of plants, award all the inventors a sum of money not less than 200% of the average monthly wage of the entity's employees as a bonus; and for the service invention granted IPRs other than invention patent or the right of new varieties of plants, award all the inventors a sum of money not less than the average monthly wage of the entity's employees as a bonus.</p>
<p>Article 21 Where the entity has not entered into an agreement with the inventor on remuneration and has not specified remuneration in its policy, it shall, upon the exploitation of the IPR granted to the service invention, provides remuneration</p>	<p>Article 21 Where the entity has not entered into an agreement with the inventor of service invention on remuneration and has not stipulated remuneration in its policy formulated in accordance with law, it shall, upon the</p>

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<p>to all related inventors in one of the following ways:</p> <p>(1) Within the valid period of the IPR, pay inventor a sum of money not less than 5% from the operating profit of exploiting the invention patent right or the right of new varieties of plants, or a sum of money not less than 3% from the operating profit of exploiting IPR other than invention patent or the right of new varieties of plants;</p> <p>(2) Within the valid period of the IPR, pay inventor a sum of money not less than 0.5% from the sales revenue of exploiting the invention patent right or the right of new varieties of plants, or not less than 0.3% from the sales revenue of exploiting IPR other than invention patent or the right of new varieties of plants;</p> <p>(3) Within the valid period of the IPR, determine the amount of annual remuneration by reasonably multiplying the personal salary of the inventor with reference to the amounts in the above two items;</p> <p>(4) Determine the lump sum amount of remuneration to be paid to the inventor by reasonably multiplying the amount in Item 1 or 2.</p> <p>The accumulated amount of the remuneration mentioned above shall not be more than 50% of the accumulated operating profit of exploiting the IPR.</p> <p>Where the entity has not entered into an agreement with the inventor on remuneration and has not specified remuneration in its policy, it shall, upon assigning or licensing the IPR to a third party, shall pay inventor a sum of money not less than 20% from the net income of assignment or licensing as a remuneration.</p>	<p>exploitation of the service invention granted IPRs, provide remuneration to all related inventors in one of the following ways:</p> <p>(1) Within the valid period of the IPRs, pay the inventor a sum of money not less than 5% from the operating profit of exploiting the invention patent or new varieties of plants, or a sum of money not less than 3% from the operating profit of exploiting other IPRs;</p> <p>(2) Within the valid period of the IPRs, pay the inventor a sum of money not less than 0.5% from the sales revenue of exploiting the invention patent or new varieties of plants, or not less than 0.3% from the sales revenue of exploiting other IPRs;</p> <p>(3) Within the valid period of the IPRs, determine the amount of annual remuneration by reasonably multiplying the personal average monthly wage of the inventor with reference to the amounts in the above two items;</p> <p>(4) Determine the lump sum amount of remuneration to be paid to the inventor by reasonably multiplying the amount in Item 1 or 2.</p> <p>The accumulated amount of the remuneration mentioned above shall not be more than 50% of the accumulated operating profit of exploiting the IPRs.</p> <p>Where the entity has not entered into an agreement with the inventor on remuneration and has not specified remuneration in its policy formulated in accordance with law, it shall, upon assigning or licensing the IPRs to a third party, pay the inventor a sum of money not less than 20% from the incomes of assignment or licensing as a remuneration.</p>
<p>Article 22 When deciding the amount of remuneration, factors such as the economic contribution to the entire product or process made by each service invention, and the</p>	<p>Article 22 When deciding the amount of remuneration, the entity shall consider factors such as the economic contribution to the entire product or process made by each service</p>

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<p>contribution to each service invention made by every inventor shall be considered.</p>	<p>invention, and the contribution to each service invention made by every inventor.</p>
<p>Article 23 Where the entity has not entered into an agreement with the inventor on the time limit for paying award and remuneration and has not specified the time limit in its policy formulated in accordance with law, it shall, pay the bonus within three months since the granting of the IPR; where the IPR of a service invention is assigned or licensed to others, the entity shall pay the remuneration within three months after the assignment or license fee is received; where the entity exploits the service invention on its own and pays the remuneration yearly in cash, it shall pay the remuneration within three months upon the expiration of each accounting year. Where the remuneration is paid in stock, the entity shall pay dividend in accordance with laws, regulations, and the entity's policy.</p>	<p>Article 23 Where the entity has not entered into an agreement with the inventor on the time limit for paying awards and remuneration and has not specified the time limit in its policy formulated in accordance with law, it shall, pay the bonus within three months since the granting of the IPRs; where the IPRs of a service invention are assigned or licensed to others, the entity shall pay the remuneration within three months after the assignment or license fee is received; where the entity exploits the service invention on its own and pays the remuneration yearly in cash, it shall pay the remuneration within three months upon the expiration of each accounting year. Where the remuneration is paid in stock, the entity shall pay the dividend in accordance with laws, regulations, and the entity's policy .</p>
<p>Article 24 Where the entity decides to protect the service invention as know-how, it shall pay a reasonable compensation to the inventor in accordance with the provisions of this Chapter based on the economic contribution of the know-how to the entity.</p>	<p>Article 24 In respect of the achievement of intellectual-creation which could be applied for patent, new varieties of plants, and integrated circuit layout design, but was decided being protected as know-how by the entity, it shall, based on the economic contribution of the know-how to the entity, enter into an agreement with the inventor or refer to the provisions of this Chapter to pay a reasonable compensation to the inventor.</p>
<p>Article 25 Where the employment or organizational relationship between the inventor and the entity is terminated, the inventor shall fulfill the obligations to the invention that is generated before the termination and is relevant to the business of the entity as provided in Articles 10, 14, and 16 in the Regulations, while the inventor shall remain entitled to the inventorship and to</p>	<p>Article 25 Where the employment or organizational relationship between the inventor and the entity is terminated, the inventor shall fulfill the obligations regarding the invention completed before the termination and relevant with the business of the entity in accordance with Articles 10, 14, and 16 in these Regulations, while the inventor shall remain entitled to the inventorship and to receive awards and</p>

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<p>receive awards and remuneration. Where the inventor is deceased, his/her heir or devisee is entitled to the right of receiving awards and remuneration.</p>	<p>remuneration. Where the inventor is deceased, his/her heir or devisee is entitled to the right of receiving awards and remuneration.</p>
<p>Article 26 Unless otherwise stipulated in an agreement between the entity and the inventor or in the entity's policy formulated in accordance with law, where the IPR granted on the service invention is announced invalid or revoked, the awards and remuneration provided for the inventor before the invalidation or revocation took effect are irrevocable.</p>	<p>Article 26 Unless otherwise stipulated in an agreement between an inventor and the entity or in the entity's policy formulated in accordance with law, where the IPRs granted to the service invention are announced invalid or revoked, the awards and remuneration provided for the inventor before the invalidation or revocation took effect are irrevocable.</p>
<p>Article 27 The awards and remuneration given to the inventor by an enterprise may be calculated as costs of the enterprise in accordance with related regulations. The awards and remuneration given by entities other than enterprise shall be categorized in the accounting book in accordance with related regulations.</p>	<p>Article 27 The awards and remuneration given to the inventor by an enterprise may be calculated as costs of the enterprise in accordance with related regulations. The awards and remuneration given by entities other than the enterprise shall be categorized in the accounting book in accordance with related regulations.</p>
<p>Chapter V Facilitate the Exploitation of Intellectual Property Right of Service Invention</p>	<p>Chapter V Facilitate the Exploitation of Intellectual Property Right of Service Invention</p>
<p>Article 28 Where state-owned research and development institutions and institutions of higher learning, without any justifiable reasons, neither exploit or make necessary preparation for exploiting the service invention nor assign or license the service invention to others within a reasonable period after obtaining the IPR for the service invention, the inventor, under the situation that the ownership of the service invention is not changed, may exploit or license others to exploit the IPR and enjoy the relevant benefit in accordance with an agreement with the entity.</p>	<p>Article 28 Where state-owned research and development institutions and colleges and universities, neither exploit or make necessary preparation for exploiting the service invention nor assign or license the service invention to others within a reasonable period after obtaining the IPRs for the service invention, the inventor, under the situation that the ownership of the service invention is not changed, may exploit or license others to exploit the IPRs and enjoy the relevant benefits in accordance with an agreement with the entity.</p>

<p>Article 29 The State applies a preferential tax policy to the income from transformation and implementation of the service invention and its IPR by the entity and the awards and remuneration received by the inventor.</p>	<p>Article 29 The State applies a preferential tax policy to the income from transformation and implementation of the service invention and its IPRs by the entity and the awards and remuneration received by the inventor.</p>
<p>Article 30 Where the relevant administrative department of the State formulates policies and measures following the standards of examination and evaluation of IPR management of entities, it shall, consider the implementation of the service invention system by the entities as a factor for examination or evaluation. Implementation of the service invention system by the entity shall be considered when evaluating the performance of the entity's principal.</p>	<p>Article 30 Where the relevant authorities of the State formulate policies and measures following the standards of examination and evaluation of IPR management of entities, it shall, consider the implementation of the service invention system by the entities as a factor for examination or evaluation. Implementation of the service invention system by the entity shall be considered in the evaluation of the performance of the entity's principal.</p>
<p>Article 31 The State shall establish funds to promote the implementation of service inventions made by the science and technology fund projects and science and technology plans sponsored by fiscal funds.</p>	<p>Article 31 The State shall establish funds to promote the implementation of service inventions made by the science and technology fund projects and science and technology plans sponsored by fiscal funds.</p>
<p>Chapter VI Supervision, Inspection, and Legal Responsibility</p>	<p>Chapter VI Supervision, Inspection, and Legal Responsibility</p>
<p>Article 32 The supervision and management departments supervise and inspect the implementation of the service invention system by entities in accordance with law. During the supervision and inspection, the supervision and management departments have the authority to examine the employment contracts, entity policies, and other materials relevant to the service invention, and inquire the parties involved. Both of the entity and the inventor shall provide relevant authentic materials and situation description.</p>	<p>Article 32 The supervision and management departments supervise and inspect the implementation of the service invention system by entities in accordance with law. During the supervision and inspection, the supervision and management departments have the authority to examine the employment contracts, entity policy, and other materials relevant to the service invention, and inquire the parties involved. Both of the entity and the inventor shall provide relevant authentic materials and situation description.</p>

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<p>Article 33 While personnel from the supervision and management departments perform supervision and inspection, they shall present identification cards, conduct their duties in accordance with law, and keep the business secrets of which they are informed confidential during the process of supervision and inspection.</p> <p>Where it is found in supervision and inspection that an entity does not implement the service invention system in accordance with law, the supervision and management departments may warn the entity and order the entity to make corrections within a time limit.</p>	<p>Article 33 While personnel from the supervision and management departments perform supervision and inspection, they shall present identification cards, conduct their duties in accordance with law, and keep confidential of the business secrets acquired during supervision and inspection.</p> <p>Where it is found in supervision and inspection that an entity does not implement the service invention system in accordance with law, the supervision and management departments may warn the entity and order the entity to make corrections within a time limit.</p>
<p>Article 34 Where the inventor violates the provisions of the Regulations and applies for the IPR of a service invention, the entity is entitled the right granted under the application, and all the relevant benefits obtained by the inventor shall be returned to the entity.</p> <p>Where the entity violates the provisions of the Regulations and applies for the IPR of a non-service invention, the inventor is entitled the right granted under the application, and all the relevant benefits obtained by the entity shall be returned to the inventor.</p>	<p>Article 34 Where the inventor, in violation of the provisions of the Regulations, applies for IPRs of a service invention, the entity is entitled the right granted under the application, and all the relevant benefits obtained by the inventor shall be returned to the entity.</p> <p>Where the entity, in violation of the provisions of the Regulations, applies for IPRs of a non-service invention, the inventor is entitled to the right granted under the application, and all the relevant benefits obtained by the entity shall be returned to the inventor.</p>
<p>Article 35 The following behaviors are deemed as infringement of inventorship:</p> <p>(1) Failure to list the name of the inventor;</p> <p>(1) Listing a non-inventor as an inventor.</p>	<p>Article 35 The following behaviors are deemed as infringement of inventorship:</p> <p>(1) Failure to list the name of the inventor;</p> <p>(2) Listing a non-inventor as an inventor.</p>
<p>Article 36 Where the inventor believes that his/her right to inventorship has been infringed, the inventor may request the IPR administration department under the people's government at the county level to intervene, or to file a lawsuit in front of the People's Court.</p> <p>Where an infringement of right to inventorship causes serious negative impacts, the inventor</p>	<p>Article 36 Where the inventor believes that his/her right to inventorship has been infringed, the inventor may request the IPR administration department under the people's government at the county level to intervene, or to file a lawsuit to the People's Court.</p> <p>Where an infringement of right to inventorship causes serious negative impacts, the inventor</p>

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<p>may request the IPR administration department under the people's government above the county level to intervene.</p> <p>Where the IPR administration department under the people's government or People's Court affirms the infringement of inventorship, it shall order the infringer to stop the infringement, to apologize, and to compensate damages. The authority for granting or registering intellectual property rights shall correct the inventorship recorded in the relevant documents and make a public announcement based on the effective ruling.</p> <p>Where an infringer infringes inventorship twice or more times, the IPR administration department under the people's government at the county level shall impose a penalty between 5,000 RMB and 50,000 RMB on the infringer and publicly announce the infringement.</p>	<p>may request the IPR administration department under the people's government above the county level to intervene.</p> <p>Where the IPR administration department under the people's government or People's Court affirms the infringement of inventorship, it shall order the infringer to stop the infringement, to apologize, and to compensate for the damages incurred. The authority for granting or registering intellectual property rights shall correct the inventorship recorded in the relevant documents and make a public announcement based on the effective ruling.</p> <p>Where an infringer infringes inventorship twice or more times, the IPR administration department under the people's government at the county level shall impose a penalty between RMB 5,000 and RMB 50,000 on the infringer and publicly announce the infringement.</p>
<p>Article 37 Any organization or individual may report infringement over the right of inventorship to the IPR administration department under the people's government at the county level, and the department receiving the report shall investigate and handle the case in a timely manner.</p>	<p>Article 37 Any organization or individual may report infringement over the right of inventorship to the IPR administration department under the people's government at the county level, and the department receiving the report shall investigate and handle the case in a timely manner.</p>
<p>Article 38 Where an entity's policy or an agreement between an entity and inventor is not in accordance with item 1 in Article 18 of the Regulations, or is considered invalid according to Item 2 in Article 18 of the Regulations, and causes a loss to the inventor, the entity shall be liable for compensation.</p> <p>Article 39 Where an entity fails to provide awards and remuneration in a timely manner and in full amount to an inventor in accordance with the Regulations, the IPR administration department under the people's government at the county level or above shall order the entity to make a correction; where loss is caused to</p>	<p>Article 38 Where an entity's policy or an agreement between an entity and inventor is not in accordance with the first paragraph in Article 18 of these Regulations, or is considered invalid according to the second paragraph in Article 18 of these Regulations, and causes losses to the inventor, the entity shall be liable for compensation.</p> <p>Article 39 Where an entity fails to provide awards and remuneration in a timely manner and in full amount to an inventor in accordance with these Regulations, the IPR administration department under the people's government at the county level shall order the entity to make</p>

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<p>the inventor, the entity shall be liable for compensation.</p>	<p>corrections; where losses are caused to the inventor, the entity shall be liable for compensation.</p>
<p>Article 40 Where a dispute on the ownership of an invention or on awards and remuneration takes place, it shall be resolved by parties concerned through negotiation. If the parties concerned fail to resolve the dispute, they may request mediation from the IPR administration department under the people's government at the county level or above, or may file a lawsuit in front of the People's Court or request arbitration in accordance with laws. <i>[See the 2nd Paragraph of Article 19]</i></p>	<p>Article 40 Where a dispute over the ownership of an invention or over awards and remuneration arises, it shall be resolved by the parties concerned through negotiation. If the parties concerned fail to resolve the dispute, they may request mediation from the IPR administration department under the people's government at or above the county level, or may file a lawsuit to the People's Court or request arbitration in accordance with law. Where an inventor and the entity have a dispute over the remuneration of a service invention, the entity shall bear the burden of proof regarding economic benefits obtained from exploiting the service invention on its own, assigning or licensing others to exploit the service invention.</p>
<p>Article 41 After the application for the IPR of an invention, where the parties involved have a dispute on the ownership of the invention, the department granting or registering the IPR may, based on the request of the parties, suspend the relevant IPR process. After the settlement of the dispute on the ownership, the parties involved may request resumption of the relevant IPR process against the effective legal documents.</p>	<p>Article 41 Upon the application for IPRs of an invention, where the parties involved have a dispute over the ownership of the invention, the department granting or registering the IPRs may, based on the request of the parties, suspend the relevant IPR process. After the settlement of the dispute over the ownership, the parties involved may, with the effective legal documents, request restoration of the relevant IPR process.</p>
<p>Chapter VII Supplementary Provisions</p>	<p>Chapter VII Supplementary Provisions</p>
<p>Article 42 Where an entity formulates a policy or signs a contract with an inventor regarding the ownership of inventions or awards and remuneration, the entity may archive the policy and contract with the local IPR administration department.</p>	<p>Article 42 Where an entity formulates policy or signs a contract with an inventor regarding the ownership of inventions or awards and remuneration, the entity may archive the policy or the contract with the local IPR administration department.</p>

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<p>Article 43 The Regulations are applicable to service inventions related to national defense.</p>	<p>Article 43 The Regulations are applicable to service inventions related to national defense.</p>
<p>Article 44 The Regulations are effective from the date of __, __.</p>	<p>Article 44 The Regulations are effective from the date of __, __.</p>

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