

THE PRESIDENT

Order No. 14/2011/L-CTN of December 7, 2011, on the promulgation of law

THE PRESIDENT OF THE SOCIALIST REPUBLIC OF VIETNAM

Pursuant to Articles 103 and 106 of the 1992 Constitution of the Socialist Republic of Vietnam, which was amended and supplemented under Resolution No. 51/2001/QH10 of December 25, 2001 of the Xth National Assembly, the its 10th session;

Pursuant to Article 91 of the Law on Organization of the National Assembly;

Pursuant to Article 57 of the Law on Promulgation of Legal Documents,

PROMULGATES:

the Cipher Law,

which was passed on November 26, 2011, by the XIIIth National Assembly of the Socialist Republic of Vietnam at its 2nd session.

President of the Socialist Republic of Vietnam
TRUONG TAN SANG

Law on Cipher

(No. 05/2011/QH13)

Pursuant to the 1992 Constitution of the Socialist Republic of Vietnam, which was amended and supplemented under Resolution No. 51/2001/QH10;

The National Assembly promulgates the Cipher Law.

Chapter I

GENERAL PROVISIONS

Article 1. Scope of regulation

This Law provides for cipher activities; tasks, powers, principles of organization and operation of the cipher force; regimes and policies applicable to persons working in cipher organizations; rights, obligations and responsibilities of agencies, organizations and individuals involved in cipher activities.

Article 2. Subjects of application

This Law applies to cipher organizations, persons working in cipher organizations and agencies, organizations and individuals involved in cipher activities.

Article 3. Interpretation of terms

In this Law, the terms and phrases below are construed as follows:

1. *Cipher activities* mean especially confidential activities in the field of national security, involving the use of coding skills and techniques and relevant solutions for protecting state secret information, which are carried out by a specialized force.
2. *Code* means exclusive rules and conventions used to change forms of expressing information to protect the confidentiality, genuineness and integrity of information contents.
3. *Coding operations* mean technical measures, regulations and solutions aiming to protect the safety and confidentiality and ensure the reliability of coding techniques.
4. *Coding techniques* mean methods and means involving application of codes to protect information.
5. *Encoding* means a process of using coding techniques to change forms of expressing information.
6. *Code product* means documents, technical facilities and equipment and operations of coding for the protection of information.
7. *Cipher liaison network* means a liaison network using code products supplied and directly managed by cipher organizations to protect state secret information.

Article 4. State policies on building and developing the cipher force

1. To build a regular and modern cipher force which is absolutely loyal to the Communist Party of Vietnam and the State of the Socialist Republic of Vietnam.
2. To prioritize investment in research and application of coding science and technology; to increase investment in the development of national code infrastructure and the training of human resources for cipher activities.
3. To expand the relations of international cooperation in cipher on the basis of guaranteeing the independence, sovereignty and strictness in principle and compliance with the law on protection of state secrets.

Article 5. Principles of organization and operation of the cipher force

1. To be placed under the absolute and direct leadership in all aspects of the Communist Party of Vietnam and the unified management of the State.
2. To comply with the Constitution and law, to protect the interests of the State, and the rights and legitimate interests of agencies, organizations and individuals.
3. To ensure absolute confidentiality, safety, accuracy and timeliness.
4. To be closely and uniformly organized according to the requirements of the Party's leadership and the State's management, the direction and command of the people's armed forces and the requirements of protecting state secret information.
5. To be subject to a peculiar specialized management regime and a strict working regime; to be equipped with advanced coding science and operations and modern coding techniques and technology.

Article 6. Cipher-related state management responsibilities

1. The Government performs the unified state management of cipher.
2. The Minister of National Defense shall take responsibility before the Government for performing the state management of cipher and personally direct the operation of the Government Cipher Commission.
3. The Government Cipher Commission is the national code agency performing the specialized management of cipher and having the responsibility to assist the Minister of National Defense in performing the state management of cipher.
4. Competent agencies of the Communist Party of Vietnam shall manage cipher within the scope under their charge.
5. Ministers and heads of ministerial-level agencies shall, within the scope of their respective tasks and powers, coordinate with the Minister of National Defense in performing the state management of cipher.
6. The People's Committees at all levels shall perform the state management of cipher under the Government's decentralization.

Article 7. Responsibility to assist the cipher force

Agencies, organizations and individuals are responsible for assisting the cipher force and cipher officers in the performance of their tasks when so requested.

Article 8. Protection of confidentiality of code products and information in cipher activities

Code products and information on cipher organizations and liaison networks, work places, production establishments and storehouses of

cipher code products are state secrets which must be managed and protected under the law on protection of state secrets.

Article 9. Encoding of state secret information

1. State secret information transmitted by communication or telecommunications equipment must be encoded in cipher codes.
2. State secret information stored in electronic equipment, computers and on telecommunications networks must be encoded in cipher codes.

The Government provides for types of state secret information to be encoded under this Clause.

Article 10. Funds and physical foundations for cipher activities

1. Funds for cipher activities are allocated from the state budget.
2. The allocation, management and use of funds and physical foundations for cipher activities and the audit thereof comply with the laws applicable to the field of defense and security.

Article 11. Prohibited acts

1. Disclosing state secrets and work secrets in cipher activities.
2. Using code products not supplied by the Government Cipher Commission for protection of state secret information.
3. Abusing one's assigned tasks and powers in cipher activities to harm national security, interests of the State or rights and legitimate interests of agencies, organizations and individuals.
4. Transmitting state secret information via communication and telecommunications equipment without encoding them in cipher codes.
5. Illegally researching, producing, using, collecting or destroying cipher code products in contravention of law.
6. Deliberately damaging and appropriating cipher code products.
7. Illegally obstructing cipher activities.

Chapter II

CODING ACTIVITIES TO PROTECT STATE SECRET INFORMATION

Article 12. Coding science and technology activities, transfer of coding technologies

1. Coding science and technology activities and the transfer of coding technologies to protect state secret information must comply with the law on protection of state secrets.

2. Fully qualified and capable organizations and individuals may register and participate as members or collaborators of coding science and technology research projects to protect state secret information.

When necessary, the Government may mobilize scientific and technological potential of agencies, organizations and individuals for research, production and use of codes to protect state secret information.

3. The State uniformly manages and organizes coding science and technology activities and transfer of coding technologies for the protection of state secret information.

4. The Government shall detail this Article.

Article 13. Production and supply of code products

1. The State monopolizes the production and supply of code products for agencies and organizations to protect state secret information.

2. The Government Cipher Commission shall plan and organize the production and supply of code products and directly manage code production establishments for the protection of state secret information.

Article 14. Import of equipment and technologies for research and production of code products

1. The State shall adopt policies to prioritize the import of equipment and technologies for research and production of code products to protect state secret information, which cannot be produced at home yet.

2. The Prime Minister shall provide for mechanisms for the import of equipment and technologies for research and production of code products.

Article 15. Technical standards, verification and evaluation of code products

1. Code products to protect state secret information must comply with technical standards, be verified and evaluated before use.

2. The Government shall provide for the formulation, appraisal and promulgation of technical standards applicable to code products; prescribe the management of activities of verifying and evaluating code products for the protection of state secret information.

Article 16. Management and use of code products

1. Code products for the protection of state secret information must be uniformly and strictly managed.

2. The use of code products for the protection of state secret information must comply with operation regulations and use process applicable to each type of code products.

3. Users of code products shall ensure human resources, equipment and necessary conditions for ready use to ensure code security and safety.

Article 17. Establishment and dissolution of cipher liaison networks

1. A cipher liaison network may be established when there appears demand to protect state secret information in codes and when the personnel, technical, security and safety conditions are fully met.

2. The establishment or dissolution of a cipher liaison network shall be decided by heads of competent cipher-using agencies or organizations after obtaining written consent of the Government Cipher Commission to operational issues.

3. In case of emergency to establish or dissolve a cipher liaison network, the head of a cipher-using agency or organization may decide thereon and promptly report his/her decision to the Government Cipher Commission.

4. The Government shall specify the conditions, competence, order and procedures for establishment and dissolution of cipher liaison networks in conformity with the tasks of each system of cipher organizations.

Article 18. Development of code products to protect state secret information stored in electronic equipment, computers and telecommunications networks

1. Agencies, organizations or individuals having state secret information stored in electronic equipment, computers or telecommunications networks provided in Clause 2, Article 9 of this Law shall send written requests for development of code products to competent cipher organizations.

2. Competent cipher organizations shall develop code products for the protection of state secret information stored in electronic equipment, computer and telecommunications networks according to regulations of the Government.

Article 19. Assurance of code safety in case of emergency or danger

In case of emergency or danger and there exist no other alternative measures to ensure code safety, code product users shall immediately apply the measure of destruction and promptly report thereon to competent persons.

Chapter III

TASKS, POWERS AND ORGANIZATION OF THE CIPHER FORCE

Article 20. Position, functions and tasks of the cipher force

The cipher force is a specialized force to protect state secrets, functioning to advise the Party and the State on cipher work and conduct cipher

activities; contribute to ensuring absolute confidentiality, safety, accuracy and timeliness of information to serve the Party's leadership, the State's management and the direction and command of the people's armed forces in all circumstances; take the initiative in preventing and combating code-spying activities which harm the national security, the interests of the State or the rights and legitimate interests of agencies, organizations or individuals.

Article 21. Tasks and powers of the Government Cipher Commission

1. To advise and propose the Minister of National Defense to promulgate or submit to competent agencies for promulgation strategies, policies and legal documents on cipher.
2. To assist the Minister of National Defense in:
 - a/ Organizing the implementation of cipher strategies, policies and laws;
 - b/ Directing and coordinating with concerned agencies in building cipher organizations in a uniform and strict manner and building a clean, strong and firm cipher force with good qualifications and operations;
 - c/ Organizing the establishment and unified management of cipher liaison network systems; managing and controlling the use of code products nationwide;
 - d/ Submitting to the Government regulations on the organizational apparatus and payroll of the Government Cipher Commission.
3. To organize and direct the training and retraining in coding operations and techniques within the entire cipher sector.
4. To organize and uniformly manage the cipher scientific research and technological development for the protection of state secret information; to coordinate with concerned agencies and organizations in managing the import of equipment and technologies for research and production of code products.
5. To perform the unified management of and ensure coding operations and techniques for cipher activities nationwide; to produce and supply code products for the protection of state secret information and build physical and technical foundations for developing a regular and modern cipher force.
6. To ensure the readiness of the cipher liaison network system, the reserve forces and code product reserve sources for effectively coping with all circumstances.

7. To perform the tasks of a key planning and investment and central budget unit; to directly manage its physical foundations, technical facilities and equipment.
8. To coordinate with related agencies and organizations in organizing the implementation and inspection of the encoding of state secret information.
9. To organize the protection of confidentiality of code products and other state secret information in cipher activities.
10. To coordinate with related agencies and organizations in the management of activities of researching, producing, dealing in and using codes to serve socio-economic development; and to provide information confidentiality and safety services for agencies, organizations and individuals in accordance with law.
11. To inspect, examine and settle complaints and denunciations and handle violations related to cipher in accordance with law.
12. To implement international cooperation on cipher.
13. To perform other tasks and powers defined by law.

Article 22. Organization of the cipher force

1. The Government Cipher Commission
2. Ministerial or sectorial cipher organizations, including:
 - a/ The system of cipher organizations of the People's Army;
 - b/ The system of cipher organizations of the People's Public Security;
 - c/ The system of diplomacy cipher organizations;
 - d/ The system of cipher organizations in Party agencies, other agencies of the State at central and local levels.
3. Cipher organizations within the cipher systems of ministries and sectors defined in Clause 2 of this Article are independent bodies placed under the leadership of competent agencies of the Communist Party of Vietnam, the direction by heads of cipher users and the operational management by superior cipher organizations.
4. The Government shall provide for the establishment and dissolution of cipher organizations and the organizational structure of the Government Cipher Commission.

Chapter IV

PERSONS WORKING IN CIPHER ORGANIZATIONS AND REGIMES,
POLICIES APPLICABLE TO THESE PERSONS

Article 23. Persons working in cipher organizations

1. Persons working in cipher organizations include:

a/ Persons who are transferred, seconded or appointed to perform the tasks of the cipher force (below referred to as cipher officers);

b/ Persons who are selected for training in cipher operations;

c/ Persons working in cipher organizations other than those defined at Points a and b, Clause 1 of this Article (below referred to as non-cipher officers in cipher organizations).

2. The Government shall stipulate the grades and titles of persons working in cipher organizations.

Article 24. Obligations and responsibilities of persons working in cipher organizations

1. To keep confidential state secret information and cipher work secrets, even when they no longer work in cipher organizations.

2. To submit to the assignment and transfer by their agencies or organizations and strictly and fully perform the assigned tasks; to be devoted to their work and ready to well fulfill their tasks in all circumstances; to strictly abide by the Party's line and policies and the State's laws, and the statutes, regimes and regulations on cipher work; to keep and preserve the assigned code products in absolute safety.

3. To regularly preserve and foster their revolutionary morality, learn for higher qualifications, knowledge and capability in politics, cipher and military operation, culture and physical strength so as to fulfill their tasks.

4. Upon receipt of an order of a competent person, if having a ground to believe that such order is illegal, to immediately report it to the person who issues the order; if having to obey the order, to promptly report it to the immediate superior of the person who issues the order and to bear no responsibility for the consequences of the execution of such order.

5. To fulfill other tasks and responsibilities defined by law.

Article 25. Recruitment of persons into cipher organizations

1. Persons who bear only the Vietnamese nationality, reside in Vietnam, are aged full 18 years, fully satisfy the standards on political and moral quality, educational level, health, have the aspiration and capability suitable to cipher work, can be recruited into cipher organizations.

2. Cipher organizations have priority to select students and pupils who are excellent graduates from different educational institutions and fully satisfy

the standards defined in Clause 1 of this Article, for training and recruitment in the cipher force.

Article 26. Standards of cipher officers

1. Cipher officers must fully satisfy the following standards:

a/ Having a firm political stuff, being absolutely loyal to the Fatherland and people, to the Communist Party of Vietnam and the State of the Socialist Republic of Vietnam; voluntarily rendering long-term service in cipher organizations; being ready to undertake and fulfill assigned tasks.

b/ Having good moral quality, clean and clear family and personal political backgrounds;

c/ Possessing political and professional qualifications, skills, practical capabilities and good health as required by assigned tasks;

d/ Being trained in cipher operations.

2. Cipher officers, when failing to satisfy the standards defined in Clause 1 of this Article, are not allowed to continue with cipher work. On a case-by-case basis, competent cipher users shall decide to handle these officers under law.

Article 27. Working ages of cipher officers

1. The age limit of cipher officers being army men or policemen complies with the laws on the People's Army and the People's Public Security. The age limit of cipher officers being neither army men nor police men complies with the Labor Code.

2. Cipher officers who are neither army men nor police men and satisfy the State-prescribed social insurance conditions are entitled to retirement; those who work in cipher organizations for full 25 years, for men, or full 20 years, for women and fully pay social insurance premiums with at least five years working as cipher officers and are no longer required to work in cipher organizations by cipher agencies or cannot be transferred to other jobs may retire before the age limit mentioned in Clause 1 of this Article.

Article 28. Seconding of cipher officers

1. Based on the cipher task requirements, cipher officers may be seconded under decisions of competent authorities.

2. Seconded cipher officers are entitled to the regimes and policies provided in this Law and relevant laws.

Article 29. Time limit for non-participation in coding activities

Persons working in cipher organizations defined at Points a and b, Clause 1, Article 23 of this Law, when retiring or being transferred out of the

cipher service or to other jobs or quitting their jobs, within 5 years after the issuance of decisions on their retirement, work or job transfer, or quitting of their job, may not participate in coding activities for organizations or individuals outside the cipher service.

Article 30. Training and employment of persons working in cipher organizations

1. Person working in cipher organizations must be trained in politics, cipher operations, law and other necessary knowledge relevant to their assigned tasks.
2. Persons who have completed cipher training courses may be transferred or appointed by competent agencies to work in cipher organizations.

Article 31. Regimes and policies applicable to cipher officers

1. Cipher officers who are army men or police men enjoy wage and allowance regimes as well as other regimes and policies applicable to the People's Army or the People's Public Security.
2. Cipher officers who are neither army men nor police men are entitled to wage and allowance regimes as well as other regimes and policies like those applicable to army men and are exempt from active military service.
3. Cipher officers are entitled to peculiar regimes and policies prescribed by law for the cipher service.
4. The Government shall detail this Article.

Article 32. Regimes and policies applicable to persons selected for cipher training

Persons selected for cipher training are entitled to the regimes and policies like those applicable to cadets at army or police schools.

Article 33. Regimes and policies applicable to non-cipher officers in cipher organizations

- 1 Non-cipher officers in cipher organizations who are army men or police men are entitled to wage and allowance regimes as well as other regimes and policies applicable to the People's Army or the People's Public Security.
2. Non-cipher officers in cipher organizations who are neither army men nor police men, enjoy wage and allowance regimes as well as other regimes and policies like those applicable to defense workers or employees in the People's Army, and are exempt from active military service.

Article 34. Allowance regime for code confidentiality protection responsibility

Persons working in cipher organizations are entitled to an allowance regime for code confidentiality protection responsibly stipulated by the Government.

Article 35. Regimes and policies applicable to cipher officers who are neither army men nor police men when they retire, are transferred out of the cipher service or give up their jobs

1. When retiring, cipher officers who are neither army men nor police men are entitled to the following interests:

a/ The pension regime prescribed by law;

b/ Being given conditions to stabilize their lives by local administrations at their place of residence;

c/ Medical examination and treatment according to the health insurance regime at military or civil medical establishments.

2. When being transferred out of the cipher service, cipher officers who are neither army men nor police men are entitled to the following interests:

a/ Having their wage level at the time of transfer reserved for at least 18 months;

b/ In case they are transferred back to the cipher force as required, their duration of working outside the cipher service will be counted as continuous working time for rank promotion and wage raise consideration and working seniority calculation;

c/ When retiring, the working seniority allowance calculated based on the working duration in a cipher organization at the time of transfer will be added to the average monthly wage for pension calculation.

If the pension calculated at the time of retirement is lower than the pension calculated at the time of transfer, they are entitled to the pension calculated at the time of transfer.

3. Cipher officers who are neither army men nor police men, when giving up their jobs while having not yet fully satisfied the retirement conditions, are entitled to the following interests:

a/ Job creation allowance, lump-sum job severance allowance and the social insurance regime as provided for by law;

b/ Being given conditions to stabilize their lives by local administrations of their place of residence;

c/ Hospital fee exemption or reduction according to regulations of the Minister of National Defense when they have medical examination and

treatment at army medical establishments, if they have worked in the cipher force for full 15 years or more.

Article 36. Assurance of working conditions for cipher officers

1. Cipher officers shall be equipped with technical and professional equipment, weapons, support instruments and enjoy priority in exit and entry procedures, exempt from customs procedures for code products carried along upon their exit or entry.
2. Cipher users shall manage and employ cipher officers strictly according to their operations and ensure their working conditions; regularly educate them in politics, ideology and moral quality; and fully apply regimes and policies toward them and care for their material and spiritual lives.

Chapter V

IMPLEMENTATION PROVISIONS

Article 37. Effect

This Law takes effect on February 1, 2012.

Cipher Ordinance No. 33/2001/PL-UBTVQH10 ceases to be effective on the effective date of this Law.

Article 38. Implementation detailing and guidance

The Government shall detail and guide the implementation of articles and clauses as assigned in this Law.

This Law was passed on November 26, 2011, by the XIIIth National Assembly of the Socialist Republic of Vietnam at its second session.-

Chairman of the National Assembly
NGUYEN SINH HUNG