

DRAFT AS AT 17 SEPTEMBER 2001

REPUBLIC OF VANUATU

**BILL FOR THE
DESIGNS ACT NO. OF 2001**

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REPUBLIC OF VANUATU

**BILL FOR THE
DESIGNS ACT NO. OF 2001**

Act to provide for the registration of designs

Be it enacted by the President and parliament as follows:

INTERPRETATION

being proceeding;

2000;

consent of the owner of the design;

Convention country for the purposes of this Act;

No 42 of

the design with the

"corresponding design" means a design that:

- (a) when applied to an article, is a reproduction of an artistic work;
and
- (b) is not a design consisting solely of features of two-dimensional pattern or ornament that can be applied to a surface of an article;

reme Court;

- (b) whose nature or use has been transmitted from generation to generation; and
- (c) that is regarded as pertaining to a particular indigenous person or people in Vanuatu.

infringement of the monopoly in a registered design;

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- (i) the same design; or
 - (ii) a design that differs only in immaterial details or in features commonly used in the relevant trade from the design the other articles have.
- (3) A reference in this Act to an article includes a reference to:
 - (a) a set of articles; and
 - (b) each article in a set of articles ; and
 - (c) both a set of articles and each article in that set.

- (a) if the design is registered the date of registration of the design for that article; or
 - (b) if the registration of the design is being sought the day that would be the date of registration of the design for the article if the design were registered.

OWNERSHIP OF UNREGISTERED DESIGN

5. (1) This section deals with unregistered designs.
- (2) Subject to this section, the author of an unregistered design is the owner of the design.
- (3) that other person is the owner of the design.
- (4) In spite of subsection (3), if a design is made by a person in the course of his or her employment, the employer is the owner of the design.
- (5) The owner of a design or the assignee of an interest in a design may assign to another person the whole or any part of his or her interest in the design.

WHAT DESIGNS MAY BE REGISTERED

6. (1) Any new or original design may be registered.
- (2) If
 - (a) the owner of the copyright in an artistic work applies to register a corresponding design; and
 - (b) the work has been previously used commercially by the owner;
- (3) the sale or hire of an article to which the design has been applied industrially.
- (4) A design is not to be registered for an article if the design:
 - (a) differs only in immaterial details or in features commonly used in the relevant trade from a design that was registered, published or used in Vanuatu for the same article before the priority date for the application for registration; or

- (b) is an obvious adaptation of a design that was registered, published or used in Vanuatu for another article before the priority date for the application for registration.
- (5) A design for an article that is primarily literary or artistic in character is not to be registered.
- (6) A design may be registered although the design consists of, or includes, features of shape or configuration that serve, or serve only, a functional purpose.

RIGHTS GIVEN BY REGISTRATION OF DESIGN

REGISTERED OWNER MAY DEAL WITH DESIGN

NOTICE OF DECISION

LAPSING OF APPLICATION

DESIGN LIKELY TO DECEIVE OR CAUSE CONFUSION

IDENTICAL . DESIGNS

OPPOSITION

OPPOSITION PROCEEDINGS

DECISION

REGISTRATION MAY BE OPPOSED ON SAME GROUNDS AS
FOR REJECTION

APPLICANT DOES NOT OWN OR INTEND TO USE DESIGN

DESIGN SIMILAR TO DESIGN USED IN VANUATU

APPLICATION DEFECTIVE

DATE AND TERM OF REGISTRATION

- (3) If:
- (a) a registered design was, when it was registered , a corresponding design in relation to an artistic work in which copyright subsisted under the Copyright Act No. 42 of 2000; and
 - (b) because of a previous use of that artistic work, the design was only registered under this Act because of subsection 6(2); and
 - (c) the copyright expires before the registration of the design ceases;

the registration of the design ceases at the same time as the copyright and

CORRECTION OF REGISTER

CANCELLATION OF REGISTRATION BY REGISTRAR

AMENDMENT OR CANCELLATION BY COURT

REFERRAL TO COURT

NOTICE OF OPPOSITION

REMOVAL OF DESIGN IF NON-USE APPLICATION UNOPPOSED

PROCEEDINGS BEFORE REGISTRAR

DECISION ON OPPOSED APPLICATION

CERTIFICATE—USE OF DESIGN

ASSIGNMENT AND TRANSMISSION OF DESIGN

RECORDING ASSIGNMENT OR TRANSMISSION OF DESIGN IF REGISTRATION IS SOUGHT

- (2) The application must be in an approved form and be filed with the Registrar.
- (3) If the application complies with this Act, the Registrar must:
 - (a) within 3 working days of receiving the application, record, in the papers dealing with the application for registration, the particulars of the assignment or transmission; and

RECORDING ASSIGNMENT OR TRANSMISSION OF REGISTERED DESIGN

INFRINGEMENT OF REGISTERED DESIGNS

58. (1) A person infringes a registered design if the person, without the consent of the registered owner of the design:
- (a) uses the design; or
 - (b) imports into Vanuatu for sale, or for use in a trade or business, an article for which the design is used outside Vanuatu without the consent of the person who was the owner of the registered design at the time when the design was so used; or
 - (c) sells an article :
 - (i) for which the design has been used in infringement of the monopoly in the design ; or
 - (ii) for which the design is used outside Vanuatu without the consent of the person who was the owner of the registered design at the time when the design was so used.

PRIOR USE OF IDENTICAL DESIGN

whichever is earlier.

FALSE REPRESENTATIONS ABOUT DESIGNS

FALSE ENTRIES IN REGISTER

JURISDICTION OF

REGISTRAR OF DESIGNS

MAKING AND SIGNING APPLICATIONS

- (a) a lawyer; or
- (b) a patent attorney; or
- (c) a person authorised in writing by that person and permanently employed by, and only by, that person.

FILING DOCUMENTS

WITHDRAWING APPLICATION .

EXTENSION OF TIME

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CONVENTION COUNTRIES

