

## **DRAFT AS AT 17 SEPTEMBER 2001**

This note does not form part of the Bill.

The purpose of this Bill is to provide for the grant and registration of patents, and to set out and protect the rights deriving from registration.

The Bill reflects international trends towards greater uniformity in the field of intellectual property law. In particular, the Bill conforms with the minimum standards and principles prescribed for patents in the international Agreement on Trade-Related Aspects of Intellectual Property Rights.

### **PART 1 PRELIMINARY PROVISIONS**

This Part contains definitions of terms used in the Bill.

### **PART 2 PATENTABILITY**

This Part sets out what inventions are patentable and those that are not. To be patentable, an invention must be new, must involve an inventive step, and must be able to be made or used in an industry. The priority date for a patent is the date on which the patent application is filed, and this is the date when the protection given by a patent starts.

### **PART 3 RIGHT TO OBTAIN A PATENT**

This Part provides that a patent may only be granted to the inventor, the owner of the invention or the successor in title to either of them. It also sets out when the inventor must be mentioned in the application for a patent.



## **PART 11 ACTS OF INFRINGEMENT**

This Part sets out patent, and deals with proceedings for infringement of patents, and appeals.

## **PART 12 INDIGENOUS KNOWLEDGE**

This Part provides for the protection of indigenous knowledge. It requires the Registrar to refer applications for grant of a patent that is based on, arose out of, or incorporates elements of, indigenous knowledge to the Vanuatu National Cultural Council, and provides that such a patent is not to be granted without the consent of the custom owners of the indigenous knowledge. In limited circumstances such consent is not required eg if the custom owners cannot be identified. There is also provision for payment to the custom owners of an equitable share of the benefits from the patent.

## **PART 13 REGULATIONS AND OFFENCES**

This Part gives the Minister power to make regulations for the purposes set out in the Part. It also sets out what are offences under the Bill, such as using a patented invention without the consent or authority of the owner.

## **PART 14 ADMINISTRATION**

This Part provides for matters relating to administration. It includes provisions for the appointment of a Registrar and establishment of the Register of Patents.

## **PART 15 MISCELLANEOUS**

This Part makes contains provisions dealing with protection of the Government, its officers and examiners, extensions of time, repeal and savings and commencement of the Act.

**Deputy Prime Minister and  
Minister of Trade, Tourism and Economic Cooperation**