

REPUBLIC OF VANUATU

BILL FOR THE
TRADE SECRETS ACT
NO. OF 1999

Explanatory Note

This Note does not form part of the Bill

The purpose of this Bill is to provide for the protection of trade secrets and other undisclosed information.

The Bill reflects international trends towards greater uniformity in the field of the protection of trade secrets. In particular, the Bill conforms with the minimum standards and principles prescribed for the protection of trade secrets in the international Agreement on Trade-related Aspects of Intellectual Property Rights.

The Bill defines what is meant by a trade secret, states that the owner of a trade secret has the right for it to remain undisclosed, and sets out the remedies available to the owner if the trade secret is acquired, used or disclosed without authority.

REPUBLIC OF VANUATU

BILL FOR THE

TRADE SECRETS ACT

NO. OF 1999

Arrangement of sections

1. Interpretation
2. Protection of trade secrets
3. Remedy of owner
4. Jurisdiction of Courts
5. Commencement

REPUBLIC OF VANUATU

BILL FOR THE
TRADE SECRETS ACT
NO. OF 1999

An Act to provide for the protection of trade secrets and other undisclosed information

BE IT ENACTED by the President and parliament as follows:

INTERPRETATION

1. In this Act, unless the contrary intention appears:

“Court” means the Supreme Court;

“owner”, for a trade secret, means the person entitled to the information that the trade secret consists of;

“trade secret” means:

- (a) any information:
 - (i) that is not generally known among, or readily accessible to, persons who normally deal with information of that kind; or
 - (ii) that is about a person’s business or professional affairs and disclosure would, or could reasonably be expected to, unreasonably affect that person adversely in respect of his or her lawful business or professional affairs; and
- (b) that has commercial value because of this.

PROTECTION OF TRADE SECRETS

2. A person who is the owner of a trade secret has the right to that secret remaining undisclosed.

REMEDY OF OWNER

3. (1) If a trade secret is acquired, used or disclosed by a person without the authority of the owner of the trade secret, the owner has the right to apply to the Court for a declaration that the trade secret has been acquired, used or disclosed without authority.
- (2) If the Court is satisfied that:
 - (a) the person is the owner of the trade secret; and
 - (b) the trade secret has been acquired, used or disclosed without the person's authority; and
 - (c) the person has taken reasonable steps to prevent the unauthorised acquisition, use or disclosure of the trade secret;the Court may:
 - (d) grant an injunction preventing anyone from dealing with, or otherwise using, the secret in a commercial way; and
 - (e) if it is satisfied that the owner has suffered damage because of the unauthorised disclosure—award damages to the owner.
- (3) In making a decision under this section, the Court may have regard to:
 - (a) the extent to which the information is known outside the business of the owner of the information; and
 - (b) the extent to which the information is known by persons engaged in the owner's business; and
 - (c) measures taken by the owner to guard the secrecy of the information; and
 - (d) the value of the information to the owner and to his or her competitors; and
 - (e) the effort and money spent by the owner in developing the information; and
 - (f) the ease or difficulty with which others might acquire or duplicate the secret.

JURISDICTION OF COURTS

4.
 - (1) The Court has jurisdiction to deal with matters under this Act.
 - (2) An appeal lies to the Court of Appeal from a decision of the Supreme Court.

COMMENCEMENT

5. This Act commences on the day on which it is published in the Gazette.