Date Introduced: 28 August 1979
House: House of Representatives
Presented by: Hon. I. McPhee, Minister for Productivity

Short Digest of Bill

Purpose

To amend the Patents Act 1952 to enable accession by Australia to the Patent Cooperation Treaty.

Background

The Patent Cooperation Treaty is administered by the World Intellectual Property Organization and commenced operation on 1 June 1978. There are at present 24 participating States including the USA, EEC member countries and some developing countries. Cabinet has approved accession by Australia which is expected later this year. This Bill makes the necessary changes to Australian patent law and approves Australia's accession to the Treaty.

The main effects of the Treaty are to avoid duplication by providing that patent applications lodged in participating States are to be recognized as applications in any other participating States designated in the application. Selected patent offices are to be made International Searching Authorities and International Preliminary Examining Authorities, also to avoid duplication of effort. It is hoped that preliminary searches will prevent time-wasting and costly applications where the invention is obviously unpatentable. It is also hoped to avoid unnecessary duplication of effort by making a single authority responsible for the publishing and printing of applications and resulting documents.

The Minister states that Australia will be a Searching and Examining Authority for Australian applicants under the Treaty and for applicants from developing countries.

Main Provisions

Clause 3 grants formal approval to Australia's accession to the Treaty. This is to operate from Royal Assent. Clause 6 inserts a copy of the Treaty in Schedule 2 to the Act.
Clause 5 inserts new Part IVA. This is to operate from a date to be fixed by Proclamation not earlier than the date the Treaty enters into force for Australia; article 63(2) of the Treaty provides that this is three months after the instrument of accession is deposited by Australia. Part IVA provides for the treatment under Australian law of international applications; if Australia is specified as a designated state the application is to be treated as an application for a standard patent, or for a petty patent, lodged in the Patent Office on the international filing date ascertained in accordance with the Treaty (new section 58B); and the Act is modified in relation to such applications as set out in new section 58C. Clause 58E covers the situation where an international application is lodged at the Patent Office as a receiving office under the Treaty.

A detailed explanation of the new provisions and their relationship to the Treaty is set out in the Notes on Clauses circulated by the Minister.