

# 24 Planning, construction and development services

Planning, planning approvals, and building and construction regulations and approvals can have a significant impact on building costs. Occupational licensing of building service providers has a number of benefits, but can also have an impact on building costs. Legislation in all of these areas can have anticompetitive effects. This chapter discusses planning and approval, building regulations and approval and building service providers (architects, engineers, surveyors, valuers and building and related trades).

## Planning and approval

Planning legislation establishes planning schemes for regulating land use. The schemes typically divide land into zones and set out the uses and developments that do not require a planning permit, those that are allowed subject to permit approval with or without conditions, and those that are prohibited. The legislation generally requires planning approval before development or building commences, which is given at either local or State/Territory level. Approval involves considering various aspects of the specific proposal (including specific site characteristics, the proposed use, the impact on surrounding occupiers, traffic and design issues) in the context of the general zoning of the land and the applicable planning instruments, with a view to protecting community amenity.

## Legislative restrictions on competition

Jurisdictions differ in the competition restrictions in their planning legislation. Planning legislation has the potential to restrict the entry of new competitors into a market. This may result from the content of the planning schemes — for example, where schemes contain restrictions that limit or prevent commercial development in an area. All jurisdictions' planning schemes contain this type of restriction.

Competition may also be inhibited by (avoidable) delays in obtaining planning approvals. Such delays may be a result of the regulatory system. The University of Tasmania estimated that delays in development approval may add 5–10 per cent to the cost of development projects and that around one third of these delays may be attributable to regulatory delays. The study estimated that eliminating regulatory delays would save \$350–450 million

annually (Department of Immigration, Local Government and Ethnic Affairs 1989, p. 22, quoted in Industry Commission 1995). Also, the planning process can restrict competition by allowing existing businesses to stop or at least delay the entry of new competitors to the market by objecting to the proposal because they are concerned about commercial competition.

Most jurisdictions' legislation has traditionally restricted competition by reserving planning approval to government. More recently, New South Wales and Queensland opened up parts of planning approval to private certifiers. In New South Wales, accredited private certifiers are able to issue development certificates for development that requires consent but can be certified as meeting predetermined development standards (referred to as 'complying development'). An accreditation body accredits private certifiers, who must have relevant qualifications or experience and compulsory insurance. In Queensland, assessable development may require code and/or impact assessment. Private certifiers are able to conduct code assessments and to inspect and certify certain works. They require relevant qualifications, necessary experience or accreditation and compulsory insurance.

## Regulating in the public interest

Planning legislation regulates the use and development of land to achieve broad social, economic and environmental objectives. Regulating development can maximise positive externalities (such as conserving historical buildings and applying urban design principles) and minimise negative externalities (such as avoiding effects on public health and safety by preventing housing that is too close to hazardous industry). Planning legislation can also increase the provision of desirable public goods, such as open spaces and protected floodways.

Developing planning schemes involves governments balancing a number of objectives. Under NCP, governments are broadly responsible for balancing these objectives in developing appropriate planning schemes that are in the public interest. In its role of assessing compliance with NCP legislation review and reform obligations, the National Competition Council looks for appropriate regulatory outcomes. In particular, the Council looked at whether planning processes provided opportunities for existing businesses to inappropriately stop or at least delay participation by new competitors. Governments can prevent this, including by limiting the time available for appealing decisions and ensuring that appeal opportunities are open to only those with a legitimate and substantive interest in the potential development in question. Good regulation principles suggest planning schemes should also be developed with community involvement and be transparent and accessible.

Planning schemes may unnecessarily add to business costs by involving unwarranted delays. The Council considers that planning approval processes should aim to minimise these delays. The Council's assessment also looked for jurisdictions to have considered and, where appropriate, provided for competition between government and private providers in planning approval

processes. It may be inappropriate for private certifiers to be involved in all planning assessments, but a general model would involve differentiating development proposals by the level of assessment required and who undertakes that assessment. In this context, a general planning model may differentiate between:

- development that does not require approval;
- development that can be certified as meeting predetermined development standards (and can be undertaken by private certifiers); and
- development that requires full assessment (and should be undertaken by government).

Private certification generally involves a registration scheme, entry requirements and compulsory insurance. The Council accepts that these requirements are generally in the public interest but, as with other occupations with entry restrictions, looked for jurisdictions to have implemented the minimum entry restrictions necessary to achieve the objectives of the legislation. Other strategies for achieving effective planning approval legislation include simplifying the approval process and reducing duplication with other approval processes. Statutory time limits are one way to reduce unnecessary delays.

The Council used these broad principles to assess jurisdictions' review and reform activity against Competition Principles Agreement (CPA) obligations. Where restrictions in legislation generally reflect these broad principles, the Council assessed the jurisdiction as having met its CPA obligations. Where legislation contains restrictions on competition in addition to those consistent with the above principles of effective regulation, the Council assessed the NCP compliance on the basis of the relevant government's public benefit arguments for the additional restrictions.

## **Review and reform activity**

Table 24.1 lists each jurisdiction's review and reform of planning and approval legislation, as reported in the most recent NCP annual reports.

**Table 24.1:** Review and reform activity of legislation regulating planning and approval

| <i>Jurisdiction</i> | <i>Legislation</i>  | <i>Key restrictions</i>  | <i>Review activity</i>   | <i>Reform activity</i>   | <i>Assessment</i>                   |
|---------------------|---|--|--|--|-------------------------------------|
| New South Wales     | <i>Environmental Planning and Assessment Act 1979</i>   | Controls land use. Sets procedures for the issue of planning permits and approval. | Legislation is being reviewed in stages. Review of part IV of the Act (integrated development assessment) completed. Review of plan making underway, with White Paper released in February 2001.                                     | Amended in 1997 and 1999 to streamline its approval system and allow accredited certifiers to compete with councils for part of planning approval. | Council to assess progress in 2002. |
| Victoria            | <i>Planning and Environment Act 1987</i>  | Controls land use. Sets procedures for the issue of planning permits and approval. | Review completed. Recommendations aimed at improving the manner in which the Act is administered to enhance planning effectiveness and efficiency.   | The Government is considering the review recommendations.  | Council to assess progress in 2002. |
| Queensland          | <i>Integrated Planning Act 1997</i> (replaces <i>Local Government (Planning and Environment) Act 1990</i> )   | Controls land use. Sets procedures for the issue of planning permits and approval. | Review completed in October 1997. Review found the Integrated Planning Act to be far less prescriptive than the Act it replaced and merely sets up a planning framework. Review reported that the Act does not restrict competition. |  | Council to assess progress in 2002. |
| Western Australia   | <i>Town Planning and Development Act 1928</i><br><i>Western Australian Planning Commission Act 1985</i><br><i>Metropolitan Region Town Planning Scheme Act 1959</i> | Controls land use via town planning schemes and for regional areas.                | Legislation consolidated into the Urban and Regional Planning Bill 2000. A review of the Bill has been drafted for consideration by the Minister for Planning.   |  | Council to assess progress in 2002. |

*(continued)*

Table 24.1 continued

| <i>Jurisdiction</i> | <i>Legislation</i>   | <i>Key restrictions</i>  | <i>Review activity</i>  | <i>Reform activity</i>  | <i>Assessment</i>                   |
|---------------------|--|--|---|---|-------------------------------------|
| South Australia     | <i>Development Act 1993 and Development Regulations 1993</i>   | Controls land use. Sets procedures for the issue of planning permits and approval. | Review completed in July 1999. Recommendations included: requiring Crown developments to be subject to building rules and fire safety requirements consistent with those for private buildings; allowing private certification of private development; and removing the obligation for planning authorities to obtain independent advice for noncomplying developments. | Implementation of reform is scheduled for 2001.   | Council to assess progress in 2002. |
| Tasmania            | <i>Land Use Planning and Approvals Act 1993</i>  | Controls land use. Sets procedures for the issue of planning permits and approval. | Review completed.   | Government is preparing legislation to implement the recommendations of the review.               | Council to assess progress in 2002. |
| ACT                 | <i>Land (Planning and Environment) Act 1991 — parts V and VI (grants of land and development approval processes)</i> | Controls concessional grants of land and development approval processes            | Review issued its final report in May 2000. Recommendations include improving transparency in the provision of direct grants and considering to introducing a notification scheme for developments that are relatively minor and unlikely to be opposed by the government agency or to require conditions.  | Government issued a formal response to the review, agreeing in principle to most recommendations. | Council to assess progress in 2002. |
| Northern Territory  | <i>Planning Act (1999 Act replaced 1993 Act)</i>   | Controls land use. Sets procedures for the issue of planning permits and approval. | Review of 1999 Act completed in September 2000. Review concluded that the anticompetitive provisions deliver a net benefit to the community and recommended no amendments to the Act.   | Government endorsed outcome of review.  | Council to assess progress in 2002. |

## Building regulations and approval

State and Territory building regulations cover a wide range of technical provisions governing the way in which builders and developers operate. The regulations are aimed at ensuring that buildings meet certain health, safety and amenity objectives. Each State and Territory has enacted building legislation, with associated regulations containing the administrative provisions to give effect to the legislation.

Building approvals involve inspection and approval at specific stages of the construction process in accordance with the relevant State or Territory building legislation. Building certifiers generally undertake the inspection and approval. They may be building surveyors employed by government authorities, privately employed building surveyors, engineers or architects (ABCB 1999).

Across governments there has been a high level of coordination in this area. The Australian Building Codes Board and its predecessor, the Australian Uniform Building Regulations Co-ordinating Council, developed a model Building Act and the Building Code of Australia (BCA). Consequently, there is a high degree of commonality in the legislation to be assessed.

The Australian Building Codes Board sets national standards (such as the BCA), so it has national standards-setting obligations under the CPA (see chapter 26). These obligations require standards-setting bodies to show that an appropriate regulatory impact statement has been conducted for the national standards it sets.

## Legislative restrictions on competition

Building regulations may restrict competition by specifying a standard of product that suits a particular raw material, production method, or production plant (ABCB 1997). Imposing a particular standard can increase costs and reduce the scope for innovation. More broadly, building regulations affect business costs. The former Industry Commission estimated in 1995 that reform of government building regulations could lead to an annual saving of around \$350 million, equivalent to some 1.5 per cent of total building activity (then valued at around \$25 billion) each year (Industry Commission 1995, p. 134). This estimate was based on lowering stringent standards without reducing safety or amenity.

A significant change since the Industry Commission's 1995 report is that all jurisdictions' legislation now provides for (but does not necessarily mandate) the incorporation of the BCA. The BCA contains technical provisions for the design and construction of buildings and other structures, covering matters

such as structure, fire resistance, access, fire-fighting equipment, mechanical ventilation, lift installations and certain aspects of health and safety.

A new performance-based BCA was released in 1996. The code was designed to achieve cost savings in building and construction by allowing flexibility and innovation in the use of materials, forms of construction and design.

Building regulations continue to vary across jurisdictions for a number of reasons.

- Although the BCA is the main incorporated document in the State and Territory building regulations, there may be other documents such as planning codes.
- Jurisdictions have the opportunity to introduce some regional variations to take account of climate and the building environment.
- Local governments may also make laws that have the same power as a building regulation but apply only within the local government area.

Building approvals also affect business costs. The University of Tasmania estimated that reducing delays in building approvals could save \$300–400 million annually (Department of Immigration, Local Government and Ethnic Affairs 1989, p. 21–2, quoted in Industry Commission 1995). Introducing competition in building approvals pre-dates the NCP. One of the recommendations of the Building Regulation Review Taskforce (1991, quoted in Department of Infrastructure, Energy and Resources 1999) was that State and Territory governments make legislative and administrative provisions for private certification. As well, the model building Act developed by the Australian Uniform Building Regulations Co-ordinating Council, includes provisions for removing the local government monopoly in the technical assessment and administration of building regulations (AUBRCC 1991).

Private certification was introduced first by Victoria in 1994 and more recently by other States and Territories. Suitably qualified and appropriately insured private certifiers are now able to provide building approvals in all jurisdictions except Tasmania and Western Australia. Tasmania passed new building legislation in 2000, which includes provisions for private certification. This legislation has not yet commenced. Private certification has led to the establishment of competitive markets for these services, with the private sector now accounting for a large proportion of total inspection/approval activity.

## Regulating in the public interest

Building regulations have benefits in terms of public health, safety and amenity. The Industry Commission found that most aspects of building regulations meet the public interest test, although some regulations and the way in which they are applied are unnecessarily stringent, reduce the

competitiveness of the industry and serve no safety or other public interest objective (Industry Commission 1995, p. 134).

The new performance-based building code, introduced in 1996, appears to have reduced building sector costs compared with those under the previous code. One recent review, while noting that it is difficult to quantify the benefits from the new code, estimated savings of 0.5–3 per cent of capital costs through adoption of the performance-based code (ABCB 2000). This review supported simplifying State-based exceptions in the performance-based BCA and ultimately replacing State-based Acts and regulations with a truly national system.

The Council believes that many aspects of building regulations and approvals are, in principle, justified in the public interest. In assessing NCP compliance, the Council looks for jurisdictions to adopt the performance-based BCA and minimise variations from that code. While the code has been developed to permit State-based variations, excessive regulation can increase costs. Where significant State-based variations exist, the Council looks for jurisdictions to have provided a public benefit case for these variations.

Building approval processes should aim to minimise unwarranted delays. The Council's assessment looks for jurisdictions to have considered introducing competition in the building approval and certification processes, given the likely public benefits of reducing approvals times.

Private building certification typically involves a registration scheme, entry requirements and compulsory insurance. The Council accepts that these requirements are generally in the public interest but, as with other occupations with entry restrictions, looks for jurisdictions to have implemented the minimum necessary entry restrictions to achieve the objectives of the legislation.

The Council used these broad principles to assess jurisdictions' review and reform activity against CPA obligations (table 24.2). Where restrictions in legislation reflect this broad framework, the Council assessed the jurisdiction as meeting its CPA obligations in relation to building. Where legislation contains restrictions on competition in addition to those consistent with the above principles of effective regulation, the Council assessed the NCP compliance on the basis of the relevant government's public benefit arguments.

## **Review and reform activity**

Table 24.1 lists each jurisdiction's review and reform of its building regulations and approval legislation.



**Table 24.2:** Review and reform activity of legislation regulating building regulations and approval

| <i>Jurisdiction</i> | <i>Legislation</i>  | <i>Key restrictions</i>  | <i>Review activity</i>   | <i>Reform activity</i>  | <i>Assessment</i>   |
|---------------------|---|--|--|---|---|
| New South Wales     | <i>Environmental Planning and Assessment Act 1979</i><br><i>Local Government Act 1993</i> | Sets building regulations and specifies building approval procedures and accreditation of building certifiers. | Review of assessment procedures in both Acts completed.  | Amended in 1997 and 1999 to simplify development procedures and allow for certification of development by accredited certifiers. Adopts 1996 BCA. | Meets CPA obligations (June 2001).  |
| Victoria            | <i>Building Act 1993</i>  | Sets building regulations and specifies building approval procedures and accreditation of building surveyors.  | Review completed in 1998. Review focused on occupational regulation aspects of building practitioners, including building surveyors.           | Government considering review report.   | Building regulations — meets CPA obligations (June 2001).<br>Building approvals — Council to assess progress in 2002. |
| Queensland          | <i>Building Act 1975</i> and Standard Building Law and Building Regulation 1991           | Sets building regulations and specifies building approval procedures and accreditation of building certifiers. | Department review underway. Department is preparing draft framework for scoping and conducting the review. Review to be finalised during 2001. |   | Council to assess progress in 2002.   |
| Western Australia   | <i>Local Government (Miscellaneous Provisions) Act 1960</i> and Building Regulations 1989 | Sets building regulations and specifies building approval procedures.  | Not for review. The Government is currently developing a Bill to replace the Act. Bill to be examined under gatekeeper provisions.             |   | Council to assess progress in 2002.   |

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Table 24.2 continued

| <i>Jurisdiction</i> | <i>Legislation</i>   | <i>Key restrictions</i>  | <i>Review activity</i>  | <i>Reform activity</i>   | <i>Assessment</i>  |
|---------------------|--|--|---|--|--|
| South Australia     | <i>Development Act 1993</i> and <i>Development Regulations 1993</i>                                      | Sets building regulations and specifies building approval procedures and accreditation of building certifiers. | Review completed in July 1999. Recommendations included: requiring Crown developments to be subject to building rules and fire safety requirements consistent with those for private buildings; allowing private certification of private development; and removing the obligation for planning authorities to obtain independent advice for noncomplying developments. | Implementation of reform is scheduled for 2001.  | Council to assess progress in 2002.                                      |
| Tasmania            | <i>Local Government (Building and Miscellaneous Provisions) Act 1993</i> (Part III subdivisions)         |  |   | Legislation replaced by the <i>Building Act 2000</i> assessed under the gatekeeper requirements.                           | Meets CPA obligations (June 2001).                                       |
|                     | <i>Local Government (Building and Miscellaneous Provisions) Act 1993</i> (health issues)                 |  |   | Relevant provisions transferred to the <i>Public Health Act 1997</i> , assessed under regulatory gatekeeping arrangements. | Meets CPA obligations (June 2001).                                       |
|                     | <i>Local Government (Building and Miscellaneous Provisions) Act 1993</i> (except health issues & pt III) | Sets building regulations and specifies building approval procedures.  |   | The building provisions have been replaced by the <i>Building Act 2000</i> assessed under the gatekeeper requirements.     | Meets CPA obligations (June 2001).                                       |
|                     | <i>Building Act 2000</i>   | Sets building regulations and specifies building approval procedures and accreditation of building certifiers. | New legislation. Regulatory impact statement on Building Bill 1999 released in August 1999. Act received Royal Assent on 20 December 2000. The Act is expected to commence in 2001.   |  | Meets CPA obligations for building regulations and approval (June 2001). |

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Table 24.2 continued

| <i>Jurisdiction</i> | <i>Legislation</i>                                      | <i>Key restrictions</i>  | <i>Review activity</i>   | <i>Reform activity</i> | <i>Assessment</i>   |
|---------------------|---|--|--|------------------------|---|
| ACT                 | <i>Building Act 1972</i>                                | Sets building regulations and specifies building approval procedures. Also sets building practitioners licensing.  | Targeted public review completed in August 2000. Review focused on regulation of building occupations and did not review building regulations. Public benefits for building regulations are amenity, safety and health of people who use buildings and community expectations. |                        | Building regulations — meets CPA obligations (June 2001). |
|                     | <i>Construction Practitioners Registration Act 1998</i> | Registration, entry requirements, disciplinary processes, business conduct (professional indemnity insurance with approved insurer, no conflict of interest) | New legislation to introduce private certification of building work. Review completed in November 2000.  |                        | Building approvals — Council to assess progress in 2002.  |
| Northern Territory  | <i>Building Act</i>                                     | Sets building regulations and specifies building approval procedures. Also building practitioners licensing.   | A review was undertaken in 1999, the results of which will be incorporated into a general review of the Act, which is underway.  |                        | Council to assess progress in 2002.                       |

## Service providers

The construction and planning industry is serviced by a number of professions, occupations and trades. Architects, engineers, surveyors, builders and valuers are just some of the elements of the building industry workforce. Key restrictions to be considered in NCP reviews of these vocations include licensing requirements, entry requirements (rules or standards governing who may provide services), the reservation of practice (where only certified practitioners are allowed to perform certain areas of practice), ownership and other commercial restrictions. A National Competition Council staff paper sets out how these measures restrict competition and explores many of the issues raised by professional regulation (Deighton-Smith, Harris and Pearson 2001). It also highlights principles for regulating professions and occupations, including the desirability of:

- regulatory objectives being clearly identified;
- links between specific restrictions and the reduction of harms being identifiable;
- regulations and other rules of conduct being transparent and public;
- restrictions being consistently applied, with a presumption against 'grandfather clauses';
- enforcement actions being open, accountable and consistent;
- regulatory bodies having broad representation, with strong community involvement; and
- regulation being the minimum necessary to achieve the government's objectives.

## Architects

Individual States and Territories are responsible for the various legislative instruments regulating architects. The Productivity Commission recently completed a national review of architecture legislation on behalf of all States and Territories, except Victoria (PC 2000a). It identified a number of restrictive aspects of architects' regulation, including entry standards, registration requirements, the reservation of title and disciplinary processes. It also found significant commercial restrictions in many jurisdictions, including advertising and ownership restrictions. Table 24.3 lists each jurisdiction's review and reform of legislation regulating architecture.

## Engineers

Queensland is the only State that legislates for the registration of all professional engineers. Queensland's *Professional Engineers Act 1988* includes restrictions on entry, a requirement to register, the reservation of title and practice, a disciplinary process, commercial restrictions and business licensing.

Several jurisdictions require professional engineers to be registered for specific areas of work, such as building work (Victoria and South Australia) and certification (New South Wales and the Northern Territory). Generally, jurisdictions use the National Professional Engineers Register (managed by the Institution of Engineers, Australia) as the benchmark criteria for qualifications and experience required to practice as a professional engineer. Jurisdictions also rely on quality standards (such as building codes) to achieve the objective of protecting the public from harm.

Queensland's review of the Professional Engineers Act is underway. A review report was completed in February 2000 and publicly released in October 2000, seeking submissions by late January 2001. An independent consultant conducted the review, under the auspices of a steering committee of department officers, a consumer representative and a professional engineer. The review recommended a co-regulatory approach, whereby the 'regulatory environment and market outcomes would be largely unchanged' (Department of Public Works 2000, p. 19). Under the proposed approach, the profession would take responsibility for assessing applicants for registration and the Government would be responsible for administration of the legislation, including accreditation of professional bodies and disciplinary action where misconduct is identified. The current business licensing of units and associated professional indemnity insurance requirements would remain. The Government is considering the review report and submissions. The review is anticipated to be finalised in 2001 (Queensland Government 2001).

## Surveyors

Cadastral (land and property) surveyors have an important role in affirming property rights. Each State and Territory requires surveyors to be licensed and registered with the jurisdiction's surveyors' board.

Legislation regulating surveyors includes entry standards, the reservation of title and a requirement to register. There are also disciplinary processes, reserved areas of practice and business conduct restrictions in all jurisdictions. In New South Wales, surveyors cannot advertise in a way that is false, misleading or deceptive, claims or suggests superiority to other surveyors, or is likely to bring the surveying profession into disrepute. In addition to restrictions imposed on surveyors, some legislation grants the right to surveyors to access property in any manner necessary to conduct a survey.

Regulation of surveyors aims to maintain the integrity of the land tenure system supporting the land and property markets. Accordingly, the Council considers there are public benefit arguments to support, in principle, licensing and registration of cadastral surveyors. Table 24.4 lists each jurisdiction's review and reform of legislation regulating surveying.

## Valuers

Valuers assess the value of properties, especially in the case of real property transactions where a purchase is being made with a loan from a financial institution (Department of Fair Trading 2000c). Five jurisdictions license land valuers — New South Wales, Queensland, Western Australia, South Australia and Tasmania.

Occupational licensing for valuers includes entry requirements, registration requirements, the reservation of title, reserved areas of practice, disciplinary processes and business conduct regulations. Queensland also has restrictions on advertising (which must not be false or misleading or, directly or indirectly, injure the professional reputation of another valuer or damages the profession).

All governments have recognised the questions that arise where professions and occupations are licensed in some but not all jurisdictions, along with the implications for mutual recognition. Governments established a working party — the Vocational Education, Employment and Training Committee (VEETAC) Working Party on Mutual Recognition — in the early 1990s to determine whether occupations that were registered in some but not all jurisdictions should be deregistered or fully registered in all jurisdictions.

This working party examined valuers' legislation. It noted that the objective of the legislation is consumer protection, but that the majority of valuers' clients are banks, legal practitioners, finance companies and other financial intermediaries (who seek a valuation as part of the loan assessment process). These consumers employ their own staff for valuations or have a panel of valuers on whom to call. In addition, members of the public who use valuation services tend to carry out these transactions through other professionals, institutions or the courts, who are well-informed consumers.

The public interest evidence supporting the registration of valuers did not persuade the working party, which recommended abolishing registration (VEETAC 1993). At the time, valuers were registered in all jurisdictions except the ACT and the Northern Territory. Table 24.4 lists each jurisdiction's review and reform of legislation regulating land valuation.

## Building and related trades

Service providers of building and related trades' include builders, plumbers, electricians and tradespeople such as painters. Occupational licensing in the

building trades can involve entry standards, registration requirements, the reservation of title, reserved areas of practice and disciplinary processes.

All jurisdictions legislate to ensure those who undertake electrical, plumbing, draining and gasfitting work have a minimum level of training and experience to undertake that work. All jurisdictions also license or register builders (or building practitioners). Some jurisdictions provide specific licences for other trades too. Table 24.6 summarises each jurisdiction's review and reform of legislation regulating building and related trades. Given the wide scope of regulation, the Council's assessment covers only those regulations where review and reform activity was complete at June 2001.

## Electrical workers

All jurisdictions require electrical workers to be licensed. All jurisdictions also distinguish between the types of electrical work and levels of competency. Generally, jurisdictions aim to maintain a degree of commonality in basic requirements and qualifications to improve mobility across jurisdiction boundaries. Differences across States and Territories include licence renewal periods, the length of additional experience required for contractors, and the definition of electrical work (CIE 2000b).

The regulation of electrical workers (such as electricians) is aimed at protecting public safety. It is designed to address information asymmetry (where consumers tend to lack the information to be able to assess independently whether a tradesperson has the skills to perform the task safely) and negative externalities (where the electrical work may cause harm to third parties).

## Plumbers, drainers and gasfitters

Regulation of workers in the plumbing and gasfitting trades is designed to protect public health and safety and the integrity of the water, sewerage and drainage infrastructure (Plumbers and Gasfitters Registration Review Group 1998).

In 1994 the Labour Ministers' Council agreed to reforms to plumbing and gasfitting occupational licensing arrangements. These reforms were consistent with decisions of heads of government on mutual recognition and partially licensed occupations, and with the public and occupational health and safety rationale for licensing (Plumbers and Gasfitters Registration Review Group 1998, pp. 49–51). Ministers agreed that licensing of plumbers and gasfitters should be nationally consistent, based on the core areas of sanitary plumbing, water plumbing, draining (drainage from a building, essentially below-ground drains beyond the building line) and gasfitting. To meet these core areas, Ministers agreed to change licensing including:

- in New South Wales, to discontinue licensing workers for metal roofing, mechanical services, duct fitting and sprinkler fitting;

- in Victoria, to discontinue licensing workers for metal roofing, mechanical services, duct fitting and sprinkler fitting;
- in Tasmania, to discontinue licensing workers for metal roofing and mechanical services;
- in the ACT, to discontinue licensing workers for sprinkler fitting;
- in South Australia and the Northern Territory, to amend licensing arrangements to allow separate licensing of water plumbers; and
- in Victoria and Tasmania, to change the licensing of mechanical services plumbers to cover unrestricted water plumbing.

Ministers also agreed that all licensing should be based on national core curriculums and any future competency standards, that licensing authorities should discontinue assessment or examination that duplicates training authorities' assessment or examination, that formal demonstration of competence be the only criterion for licensing, and that all reference to time serving (except completion of contracts of training) should be removed from legislation. Reforms were also agreed for levels of licensing and contractor licensing.

## Builders or building practitioners

The regulation of builders (or building practitioners), as with other related trades, is designed to protect public safety by overcoming information asymmetries and negative externalities. Builders' mistakes can have significant effects, including loss of life where a building collapses (Allen Consulting Group 2000b).



**Table 24.3:** Review and reform activity of legislation regulating architecture

| <i>Jurisdiction</i> | <i>Legislation</i>         | <i>Key restrictions</i>   | <i>Review activity</i>  | <i>Reform activity</i>   | <i>Assessment</i>                   |
|---------------------|----------------------------|---|---|--|-------------------------------------|
| New South Wales     | <i>Architects Act 1921</i> | Registration, entry requirements, the reservation of title, disciplinary processes, business restrictions   | Productivity Commission review completed in August 2000. Review recommended repeal of Act. Previous State review commenced but not completed.   | A States and Territories working group is developing a national response to the review.                                | Council to assess progress in 2002. |
| Victoria            | <i>Architects Act 1991</i> | Registration, entry requirements, the reservation of title, disciplinary processes, business restrictions (ownership provisions that at least two thirds of directors of the company must be registered architects) | Review completed February 1999. Review recommended retention of title restriction and registration requirements, and reduced business restrictions (including reducing ownership provisions to at least one director or partner is a registered architect). | Government is developing its response to the review and is also considering the Productivity Commission review report. | Council to assess progress in 2002. |
| Queensland          | <i>Architects Act 1985</i> | Registration, entry requirements reservation of title, disciplinary processes, business restrictions, business licensing  | Productivity Commission review completed in August 2000. Review recommended repeal of Act.  | A States and Territories working group is developing a national response to the review.                                | Council to assess progress in 2002. |
| Western Australia   | <i>Architects Act 1921</i> | Registration, entry requirements, the reservation of title, disciplinary processes, business conduct (including require Architects Board approval for advertising), business licensing                              | Productivity Commission review completed in August 2000. Review recommended repeal of Act. State review being completed to address recommendations.   | A States and Territories working group is developing a national response to the review.                                | Council to assess progress in 2002. |

*(continued)*

**Table 24.3** continued

| <i>Jurisdiction</i> | <i>Legislation</i>         | <i>Key restrictions</i>  | <i>Review activity</i>   | <i>Reform activity</i>  | <i>Assessment</i>                   |
|---------------------|----------------------------|--|--|---|-------------------------------------|
| South Australia     | <i>Architects Act 1939</i> | Registration, entry requirements, the reservation of title, disciplinary processes, business conduct (including advertising - accuracy, ownership), business licensing, advertising restrictions | Productivity Commission review completed in August 2000. Review recommended repeal of Act. Previous State review completed.            | Outcomes of State review to be reconsidered following outcomes of Productivity Commission review. | Council to assess progress in 2002. |
| Tasmania            | <i>Architects Act 1929</i> | Registration, entry requirements, the reservation of title, disciplinary processes, business restrictions, business licensing  | Productivity Commission review completed in August 2000. Review recommended repeal of Act.   | A States and Territories working group is developing a national response to the review.           | Council to assess progress in 2002. |
| ACT                 | <i>Architects Act 1959</i> | Registration, entry requirements, the reservation of title, disciplinary processes   | Productivity Commission review completed in August 2000. Review recommended repeal of Act.   | A States and Territories working group is developing a national response to the review.           | Council to assess progress in 2002. |
| Northern Territory  | <i>Architects Act</i>      | Registration, entry requirements, the reservation of title, disciplinary processes   | Productivity Commission review completed in August 2000. Review recommended repeal of Act. Previously completed NT review put on hold. | A States and Territories working group is developing a national response to the review.           | Council to assess progress in 2002. |

**Table 24.4:** Review and reform activity of legislation regulating surveying

| <i>Jurisdiction</i> | <i>Legislation</i>        | <i>Key restrictions</i>  | <i>Review activity</i>  | <i>Reform activity</i>  | <i>Assessment</i>                   |
|---------------------|---------------------------|--|---|---|-------------------------------------|
| New South Wales     | <i>Surveyors Act 1929</i> | Licensing, registration, entry requirements (qualification, exam, two years experience, aged at least 21 years, good fame and character), the reservation of title and practice, disciplinary processes, business conduct (regulating the making of surveys and advertising) | Review underway. Issues paper released in December 2000.  |   | Council to assess progress in 2002. |
| Victoria            | <i>Surveyors Act 1978</i> | Licensing, registration, entry requirements (education, experience, integrity criteria), the reservation of title and practice, disciplinary processes, business conduct (ownership restrictions, fees)  | Review completed. Recommendations included: retaining restrictions on entry; making integrity criteria specific; reducing some commercial restrictions, such as the requirement for surveyors or related professions to form a majority of members/directors of a firm engaging in cadastral survey work and removing the power of the regulatory body to set fees for surveying services; and reducing barriers to the interstate mobility of surveyors. | Government accepted most of the review recommendations and is introduced amending legislation during the autumn 2001 sitting of Parliament. The Government has put in place a transitional surveyors board with a greater proportion of nonsurveyors as members in response to the recommendation that nonsurveyors should form a greater proportion of members of the regulatory body. | Council to assess progress in 2002. |

*(continued)*

Table 24.4 continued

| <i>Jurisdiction</i> | <i>Legislation</i>                 | <i>Key restrictions</i>   | <i>Review activity</i>   | <i>Reform activity</i>   | <i>Assessment</i>                   |
|---------------------|------------------------------------|---|--|--|-------------------------------------|
| Queensland          | <i>Surveyors Act 1977</i>          | Licensing, registration, entry requirements (education, experience, good fame and character), the reservation of title and practice, disciplinary processes, business conduct (including business name approval, fee setting, professional indemnity insurance, ownership restrictions) | Review completed in November 1997, but report not yet released (brief summary included in 2001 NCP annual report). Recommendations included retaining registration, removing business name approval and fee setting by the Surveyors Board of Queensland, and removing requirement that directors of bodies corporate have qualifications. | Government endorsed review recommendations to retain registration for non-exempt surveyors (including mining and engineering surveyors) and remove anticompetitive provisions of business name approval and fee setting by the Surveyors Board of Queensland, and qualifications of directors of bodies corporate. Also endorsed scope to move to a co-regulatory model in the future. | Council to assess progress in 2002. |
| Western Australia   | <i>Licensed Surveyors Act 1909</i> | Licensing, entry requirements (competency — education and experience, age, good fame and character, continuing professional development), the reservation of title and practice, disciplinary processes, business conduct (including professional indemnity insurance)                  | Review, in conjunction with review of <i>Strata Titles Act 1985</i> , completed in 1998. Recommendations included re-composing the board, clarifying entry standards, and retaining restrictions on professional indemnity insurance.  | Government endorsed review recommendations. Government is drafting amendments to legislation.  | Council to assess progress in 2002. |
|                     | <i>Strata Titles Act 1985</i>      | Only licensed surveyors can 'certify' a strata plan, survey-strata plan, or notice of resolution where a strata company is requesting a conversion from a strata scheme to a survey-strata scheme   | Review, in conjunction with review of <i>Licensed Surveyors Act 1909</i> , completed in 1998. Review concluded restrictions are in the public interest and should be retained.   | Government endorsed review recommendation.   | Meets CPA obligations (June 2001).  |

(continued)

Table 24.4 continued

| <i>Jurisdiction</i> | <i>Legislation</i>             | <i>Key restrictions</i>  | <i>Review activity</i>  | <i>Reform activity</i>  | <i>Assessment</i>                   |
|---------------------|--------------------------------|--|---|---|-------------------------------------|
| South Australia     | <i>Survey Act 1992</i>         | Licensing, registration, entry requirements (education, experience, fit and proper), the reservation of title (and derivatives), the reservation of practice, disciplinary processes, business conduct (including ownership restrictions), business licensing  | Review completed in 1999, but report not yet released. Review involved public consultation.   | Report with Government for consideration.   | Council to assess progress in 2002. |
| Tasmania            | <i>Land Surveyors Act 1909</i> | Licensing, registration, entry requirements (age, good fame and character, competency (education, experience and exam)), the reservation of practice, disciplinary processes, business conduct (number of supervised graduates, discretionary power for Surveyors Board to publish and enforce a scale of fees, survey practice standards) | Review completed in July 1999 and report released in December 2000. Review recommended retaining the following restrictions: registration, annual licensing, disciplinary processes, experience (but replacing two years of supervised training with appropriate course of postgraduate training) and minimum standards (but less prescriptive and more output focused). Review recommended removing the following restrictions: the number of graduates under supervision and power for the board to set fees. | Government released a draft response for comment, proposing an alternative, less-restrictive, competency-based co-regulation model. The model would establish a single public register of all surveyors, with mandatory registration of land surveyors, voluntary registration of surveyors in non-cadastral disciplines and voluntary registration of multidisciplinary competency certification for all registered surveyors. The Government would not be directly involved in the assessment of competency. Rather, an accredited professional organisation would assess professional competency. Government sought comments on model by April 2001. | Council to assess progress in 2002. |

*(continued)*

Table 24.4 continued

| <i>Jurisdiction</i> | <i>Legislation</i>                                     | <i>Key restrictions</i>   | <i>Review activity</i>   | <i>Reform activity</i>  | <i>Assessment</i>                   |
|---------------------|--|---|--|---|-------------------------------------|
| ACT                 | <i>Surveyors Act 1967</i><br><i>Surveyors Act 2001</i> | Licensing, entry restrictions (educational prerequisites), the reservation of title and practice, ability of board (made up of mostly surveyors) to make regulations and undertake disciplinary processes                               | Review report released in December 1998. Recommendations included retaining registration, having less rigorous entry standards and abolishing the board in favour of powers of a Chief Surveyor. | The Government accepted all recommendations but deferred considering removing compulsory postgraduate entry requirements until all jurisdictions have completed their reviews of surveyors legislation. The new Act gives powers to a Commissioner for Surveys, (not a Chief Surveyor). A new <i>Surveyors Act 2001</i> was passed in February 2001. The Act is expected to commence on 26 July 2001. | Meets CPA obligations (June 2001).  |
| Northern Territory  | <i>Licensed Surveyors Act</i>                          | Licensing, registration, entry requirements (education, experience, possibly exams, fit and proper), the reservation of title and practice, disciplinary processes, business conduct (including practice standards), business licensing | Review completed in October 1999 but report not yet released. Review concluded that potentially anticompetitive provisions could be justified under the CPA.                                     | Government endorsed review outcomes in February 2000.   | Council to assess progress in 2002. |

**Table 24.5:** Review and reform activity of legislation regulating land valuation

| <i>Jurisdiction</i> | <i>Legislation</i>                                   | <i>Key restrictions</i>  | <i>Review activity</i>  | <i>Reform activity</i>   | <i>Assessment</i>                   |
|---------------------|--|--|---|--|-------------------------------------|
| New South Wales     | <i>Valuers Registration Act 1975</i>                 | For real estate valuers: licensing, registration, entry requirements (education, supervised training, good character), disciplinary processes, the reservation of practice. It also confers functions on the Property Services Council.  | Department review completed in 2000, recommending a 'negative licensing' scheme to replace the current system. The scheme would involve core legislation with entry requirements (qualifications, practice requirements and good character). Continuing professional development and professional indemnity insurance would not be a compulsory pre-condition to carry on business as a valuer. | Government accepted all review recommendations. Legislation is being prepared to repeal the Act and modify the system for the regulation of valuers.   | Council to assess progress in 2002. |
| Queensland          | <i>Valuers Registration Act 1992 and Regulations</i> | Licensing, registration, entry requirements (education, five years practical experience and exam or certificate of competence, good fame and character, fit and proper), the reservation of title and practice, disciplinary processes, business conduct (including advertising) | Department review completed in October 1999. Review found deregulation in medium to long term is likely to deliver net public benefit, but in short term is a risk to infrequent users of valuers. Review recommended retaining registration (with further review in three years) and removing other geographic and price control restrictions.   | Government endorsed review recommendations in February 2000. Amending legislation was introduced to Parliament in March 2001. Amendments included re-composition of the board, reduction in practical experience requirements from five to three years, and a new requirement for continuing professional development for renewal of registration. | Council to assess progress in 2002. |

*(continued)*

Table 24.5 continued

| <i>Jurisdiction</i> | <i>Legislation</i>                                     | <i>Key restrictions</i>  | <i>Review activity</i>  | <i>Reform activity</i>   | <i>Assessment</i>                   |
|---------------------|--|--|---|--|-------------------------------------|
| Western Australia   | <i>Land Valuers Licensing Act 1978 and Regulations</i> | Licensing, entry requirements (member of Institute of Valuers or education and four years experience, and possibly exams), the reservation of title and practice, business conduct (including board setting maximum fees, code of conduct) | Review completed.   | Government is examining review recommendations in light of the Gunning Inquiry. (Gunning Inquiry recommended replacing seven licensing boards including the Land Valuers Licensing Board, with a single authority to license finance brokers, builders, car dealers, land valuers, and real estate and settlement agents.) | Council to assess progress in 2002. |
|                     | <i>Valuation of Land Act 1987</i>                      | Valuer-General powers and activities   | Review completed. Review undertaken by intra-agency committee. Public consultation involved submissions following release of an information paper. Recommended less narrowly define the eligibility for the position of Valuer General (dropping requirement to be a member of the Australian Property Institute), remove restriction that any person making valuation for rating and taxing purposes must be licensed under Land Valuers Licensing Act, and encourage greater flow of information for the purposes of making valuations. | Government endorsed review recommendations.  | Council to assess progress in 2002. |
| South Australia     | <i>Land Valuers Act 1994</i>                           | Negative licensing, entry requirements (qualifications or membership of various professional associations), the reservation of practice, disciplinary processes  | Review completed. Review concluded that the current qualification requirements are too onerous in relation to the postgraduate qualifications and that the Government should consider re-examining the current requirements and broadening the number and type of acceptable qualifications.  |  | Council to assess progress in 2002. |

*(continued)*



Table 24.5 continued

| <i>Jurisdiction</i> | <i>Legislation</i>                   | <i>Key restrictions</i>   | <i>Review activity</i>  | <i>Reform activity</i>   | <i>Assessment</i>                   |
|---------------------|--------------------------------------|---|---|--|-------------------------------------|
| Tasmania            | <i>Land Valuation Act 1971</i>       | Gives the Valuer-General a monopoly on the provision of valuation services to local government for the setting of valuations for the purpose of determining local rates.  | Major review completed in conjunction with review of Valuers Registration Act. Review recommended tendering for all statutory mass valuation work and retaining the role of the Valuer-General. The Valuer-General would be responsible for developing and monitoring valuation standards and information requirements, determining the length of the revaluation cycle, administering valuation lists and coordinating the collection of information, and being the avenue of appeal. Also recommended greater administrative separation of the Valuer-General and Government Valuation Services, and the abolition of the Valuers Registration Board. | Government plans to introduce legislative changes to Parliament during the Spring 2001 session.  | Council to assess progress in 2002. |
|                     | <i>Valuers Registration Act 1974</i> | Licensing, registration, entry requirements (education and experience or 10 years experience, good fame and character), the reservation of title and practice, disciplinary processes, business conduct (Conduct that may result in deregistration includes professional misconduct, taking excessive amounts of alcohol and drugs, suffering from a mental disorder or committing an offence.) | Major review completed. in conjunction with review of Land Valuation Act.   | Government plans to introduce new legislation to Parliament during the Spring 2001 session, to abolish the Valuers Registration Board, introduce negative licensing, and repeal and replace the current legislation. | Council to assess progress in 2002. |

**Table 24.6:** Review and reform activity of legislation regulating building trades

| <i>Jurisdiction</i> | <i>Legislation</i>   | <i>Key restrictions</i>  | <i>Occupations</i>   | <i>Review activity</i>  | <i>Reform activity</i>   | <i>Assessment</i>                   |
|---------------------|--|--|--|---|--|-------------------------------------|
| Commonwealth        | <i>Tradesmen's Rights Regulation Act 1946</i>                                  | National recognition of metal and electrical trade skills developed informally   | Metal and electrical trade work  | Review completed. Recommendations included repealing the Act. Also recommended that the Commonwealth Government vacate the domestic skills recognition field (and that Registered Training Organisations established under the Australian Recognition Framework undertake skill recognition on a free competition basis) and that detailed consideration be given to the implementation arrangements. | Government accepted the review recommendations. Bill to repeal legislation introduced into Parliament. Government is continuing consultations with industry about the new arrangements for domestic skills recognition and migration skills assessment.  | Meets CPA obligations (June 2001).  |
| New South Wales     | <i>Building Services Corporation Act 1989</i><br><i>Home Building Act 1989</i> | Licensing, registration, entry requirements (qualifications or pass exams, experience, age, character), the reservation of practice (building work, electrical wiring work, plumbing and drainage work, roof plumbing work, refrigeration work, air-conditioning work), business conduct (including insurance for building work over \$5000 from approved private insurer), business licensing | Residential building work, 'specialist work' (plumbing, gasfitting, electrical, refrigeration and air-conditioning work) and supply of kit homes | Review completed in March 1998, recommending reforms to remove unnecessary components of the licensing system, subject to an assessment of the expected impact on the home warranty insurance scheme. Consultations concluded that some licensing requirements were needed to underpin the insurance system.  | Changed name to <i>Home Building Act 1989</i> , privatised compulsory insurance and abolished business licensing. Government released a White Paper in February 2001 proposing: a tighter licensing system; faster disciplinary process; increased penalties for noncompliance; changes to insurance scheme; an early intervention dispute resolution system; and strategies to raise consumer awareness of available remedies when things go wrong. Government is considering comments. | Council to assess progress in 2002. |

*(continued)*

Table 24.6 continued

| <i>Jurisdiction</i> | <i>Legislation</i>                                  | <i>Key restrictions</i>   | <i>Occupations</i>  | <i>Review activity</i>  | <i>Reform activity</i>   | <i>Assessment</i>                   |
|---------------------|---|---|---|---|--|-------------------------------------|
| Victoria            | <i>Building Act 1993</i>                            | Licensing, the reservation of title and practice (plumbing: mechanical services, residential and domestic fire sprinklers, roofing (stormwater), sanitary, water supply, draining, gasfitting), registration requirements, permit requirements, business conduct (insurance)  | Engineers, quantity surveyors, building surveyors, building practitioners, plumbers, drainers, gasfitters | Review completed in 1998. Recommendations included: integrating Act with Architects Act; making companies and partnerships subject to registration requirements; retaining Minister's power to issue compulsory insurance orders; increasing the use of audits of building surveyors to ensure standards are maintained; repealing exemptions to public sector employees, public authorities and the Crown retain those that exempt certain high security Crown buildings from requirement to lodge permit documents with relevant council; and basing the building permit levy should on a formula that is cost-reflective and includes incentives for cost-effective administration of legislation. | Government is considering review report.   | Council to assess progress in 2002. |
|                     | Electricity Safety (Installations) Regulations 1999 | Licensing (workers and inspectors), registration (electrical contractors), entry requirements (qualifications, also training course for person responsible for business management and administration), business conduct (insurance), prescribed methods for carrying out installation work, standards for the quality of materials, fittings and apparatus | Electrical trade work   | New legislation assessed under Victoria's legislation gatekeeping arrangements.   | Act is designed to address information asymmetries. Government notes regulations are justified because unskilled workers or inspectors or the use of inappropriate methods or substandard materials can result in loss of life, injury, industry downtime and property damage. | Meets CPA obligations (June 2001).  |
|                     | <i>Building (Plumbing) Act 1998</i>                 | Licensing, registration   | Refrigeration mechanics   | New legislation assessed under Victoria's legislation gatekeeping arrangements.   | Act removes exemption from licensing for registration applying to refrigeration mechanics.   | Meets CPA obligations (June 2001).  |

*(continued)*

Table 24.6 continued

| <i>Jurisdiction</i>     | <i>Legislation</i>  | <i>Key restrictions</i>   | <i>Occupations</i>   | <i>Review activity</i>   | <i>Reform activity</i>  | <i>Assessment</i>                   |
|-------------------------|---|---|--|--|---|-------------------------------------|
| Victoria<br>(continued) | <i>Building Control (Plumbers Gasfitters &amp; Drainers) Act 1981</i> |   | Plumbers, gasfitters and drainers  |  | Act repealed and replaced by <i>Building Act 1993</i> .           | Meets CPA obligations (June 2001).  |
|                         | <i>Electric Light and Power Act 1958</i>                              |   | Electrical trade work  |  | Act repealed and replaced by <i>Electricity Safety Act 1998</i> . | Meets CPA obligations (June 2001).  |
| Queensland              | <i>Queensland Building Services Authority Act 1991</i>                | Licensing, registration, entry requirements (qualifications and experience, fit and proper, financial requirements), the reservation of practice, disciplinary processes, business conduct (ownership; advertising and sign at building site — whereby workers must state whether licensed, name licensed under and identifying numbers; written contract; compulsory insurance administered by the QBSA; warranty) | Building work: 90 licence categories in the areas of plumbing, draining, gasfitting, pest control, demolition and residential building and design (such as painting, insulating, swimming pool construction) | Department review yet to begin. Draft framework for scoping and conducting the review completed in March 2001. |   | Council to assess progress in 2002. |

(continued)

Table 24.6 continued

| <i>Jurisdiction</i>       | <i>Legislation</i>  | <i>Key restrictions</i>  | <i>Occupations</i>                            | <i>Review activity</i>   | <i>Reform activity</i>  | <i>Assessment</i>                   |
|---------------------------|---|--|---|--|---|-------------------------------------|
| Queensland<br>(continued) | <i>Electricity Act 1994</i> and<br><i>Electricity Regulation 1994</i>   | Licensing, registration, entry requirements (qualifications and experience, also suitable person financial requirements for electrical contractor), disciplinary processes, business conduct (advertising whereby workers must state whether licensed, name licensed under and identifying number; public liability insurance for electrical contractor) | Electrical workers,<br>electrical contractors | Review underway, to be completed by late 2001.   |   | Council to assess progress in 2002. |
|                           | <i>Sewerage and Water Supply Act 1949</i> and<br><i>Regulations</i>   | Licensing, registration, entry requirements (qualifications and prescribed practical experience), the reservation of practice, disciplinary processes., provision for head of power for the making of plumbing and drainage standards  | Plumbers and<br>drainers                      | NCP matters related to that part of the Act administered by the Department of Local Government and Planning are being reviewed as part of proposal to integrate plumbing approvals and appeal processes in the Integrated Planning Act. Expected to be completed by the end of 2001. |   | Council to assess progress in 2002. |
| Western<br>Australia      | <i>Country Towns Sewerage Act 1948</i> and<br>bylaws<br><br><i>Metropolitan Water Supply, Sewerage and Drainage Bylaws 1981</i> | Licensing, registration, entry requirements (certificate of knowledge and competence, five years experience, fit and proper, aged over 21), the reservation of practice (either licensed or under licensed supervision), disciplinary processes, business conduct  | Plumbers                                      | Review completed.  | Plumbers licensing provisions transferred to the Water Services Coordination (Plumbers Licensing) Regulations 2000 in 2000. Transfer also shifted responsibility for plumbers licensing from Water Corporation to new Plumbers Licensing Board. | Meets CPA obligations (June 2001).  |

*(continued)*

Table 24.6 continued

| <i>Jurisdiction</i>           | <i>Legislation</i>   | <i>Key restrictions</i>  | <i>Occupations</i>  | <i>Review activity</i>   | <i>Reform activity</i>                          | <i>Assessment</i>                   |
|-------------------------------|--|--|---|--|---|-------------------------------------|
| Western Australia (continued) | <i>Water Services Coordination Act 1995</i> and <i>Water Services Coordination (Plumbers Licensing) Regulations 2000</i> | Licensing, registration, entry requirements (competency or six years experience and qualification, fit and proper), the reservation of practice (either licensed or under licensed supervision), disciplinary processes  | Plumbers, tradepersons (under general direction of plumber) | Review of <i>Water Services Coordination Amendment Act 1999</i> completed, recommending retaining restrictions to prevent unlicensed persons from performing plumbing work and maintaining the power of the Board to set licence conditions.   | Government endorsed review recommendation.      | Meets CPA obligations (June 2001).  |
|                               | <i>Painters Registration Act 1961</i>  | Licensing and registration (for persons carrying on a painting business in their own right and not as employees and for painting valued greater than \$200), entry requirements (degree/apprenticeship/experience and exams, age, good character), the reservation of title and practice, disciplinary processes, business licensing | Painters  | Review completed in 1998, concluding that the current system of mandatory licensing is too restrictive and should be removed. The review recommended a certification scheme be developed to allow consumers to readily identify painters who possess particular skills. It also recommended negative licensing to support a certification system, allowing for the removal from the industry of persons who do not adhere to basic standards of commercial conduct. These changes will reduce business costs but will still enable some control of the industry and certainty for consumers. | Government endorsed the review recommendations. | Council to assess progress in 2002. |
|                               | <i>Gas Standards Act 1972</i> and <i>Gas Standards (Gasfitting and Consumer Gas Installations) Regulations 1999</i>      | Licensing, registration, entry requirements (knowledge and skills, fit and proper), the reservation of practice  | Gasfitters  | Review underway.   |   | Council to assess progress in 2002. |

(continued)

Table 24.6 continued

| <i>Jurisdiction</i>              | <i>Legislation</i>   | <i>Key restrictions</i>  | <i>Occupations</i> | <i>Review activity</i>  | <i>Reform activity</i> | <i>Assessment</i>                   |
|----------------------------------|--|--|--------------------|---|------------------------|-------------------------------------|
| Western Australia<br>(continued) | <i>Electricity Act 1945 and Electricity (Licensing) Regulations 1991</i> | Licensing, entry requirements (apprenticeship/training and experience/exam, fit and proper), the reservation of practice, disciplinary processes   | Electricians       | Review underway.  |                        | Council to assess progress in 2002. |
|                                  | <i>Builders Registration Act 1939 and Regulations</i>                    | Licensing, registration, entry requirements (training and seven years practical experience, age, good character, 'sufficient material and financial resources'), the reservation of practice, business licensing | Builders           | Review, in conjunction with review of the <i>Home Building Contracts Act 1991</i> , underway. Discussion paper completed in June 2000. Proposed recommendations included reducing restrictions on owner builders, expanding the scope of conditional licences, and expanding the coverage of the Act to the whole State. Government sought comments by November 2000.   |                        | Council to assess progress in 2002. |
|                                  | <i>Home Building Contracts 1996</i>                                      | Requirement of written contracts, conditions (including mandatory insurance)   | –                  | Review, in conjunction with review of the <i>Builders Registration Act 1939</i> , underway. Discussion paper completed in June 2000. Proposed recommendations included retaining requirements for written contracts and maximum amount for deposit, the 'warranty' period and home indemnity insurance (but with further examination of the differences in requirements in Western Australia and the rest of Australia). Also recommendation that insurance authorisation be modified so Minister approves policies, rather than insurers. Government sought comments by November 2000. |                        | Council to assess progress in 2002. |

*(continued)*

Table 24.6 continued

| <i>Jurisdiction</i> | <i>Legislation</i>                                     | <i>Key restrictions</i>   | <i>Occupations</i>                          | <i>Review activity</i> | <i>Reform activity</i> | <i>Assessment</i>                   |
|---------------------|--|---|---|------------------------|------------------------|-------------------------------------|
| South Australia     | <i>Building Work Contractors Act 1995</i>              | Licensing (building work contractors), registration (building work supervisors), entry requirements (for contractors: qualifications, experience, sufficient business knowledge and experience and financial resources, fit and proper, not bankrupt within last ten years; for supervisor: qualifications and experience), the reservation of practice, disciplinary processes, business conduct (written contracts, product or service standards, statutory warranty) | Builders and building industry tradespeople | Review underway.       |                        | Council to assess progress in 2002. |
|                     | <i>Plumbers, Gas Fitters and Electricians Act 1995</i> | Licensing (contractors), registration (workers), entry requirements (for contractor: qualifications, experience, not undischarged bankrupt, fit and proper, sufficient business knowledge and experience and financial resources; for worker: qualifications and experience), the reservation of practice (for plumbing: water, sanitary or draining work or the installing or testing of backflow prevention devices), disciplinary processes                          | Plumbers, gasfitters and electricians       | Review underway.       |                        | Council to assess progress in 2002. |

*(continued)*



Table 24.6 continued

| <i>Jurisdiction</i> | <i>Legislation</i>   | <i>Key restrictions</i>   | <i>Occupations</i>  | <i>Review activity</i>   | <i>Reform activity</i>                                | <i>Assessment</i>                   |
|---------------------|--|---|---|--|---|-------------------------------------|
| Tasmania            | <i>Electricity Industry Safety and Administration Act 1997</i> | Licensing, registration, entry requirements (qualification, experience, suitable person, fit and proper person, nominated manager of electrical contracting business: electrical technician licence and either experience or completed course), reservation of practice, disciplinary processes, business conduct (electrical contractor to have insurance) | Electrical contractors and technicians                            | No review undertaken. Government assessed the restrictive provisions of this Act as being in the public benefit.   |   | Council to assess progress in 2002. |
|                     | <i>Plumbers and Gas-fitters Registration Act 1951</i>          | Licensing, registration, entry requirements (qualification or experience, apprenticeship and exam), the reservation of practice (sanitary, mechanical services, water and backflow prevention plumbing, draining and roof plumbing, any other plumbing work, gasfitting), disciplinary processes  | Plumbers and gasfitters   | Review completed. Recommendations included reducing areas of reservation of practice; limiting qualifications and experience required for registration to demonstrate competence; and implementing an appropriately constituted self-certification system; and amalgamating registration and plumbing inspection systems to reduce overlap and reduce the current regulatory burden on plumbers. | Government is considering the review recommendations. | Council to assess progress in 2002. |
|                     | <i>Building Act 2000</i>                                       | Mandatory accreditation, entry requirements (including continuing professional development), the reservation of practice, disciplinary processes, business conduct (insurance)  | Building practitioners for building and plumbing work over \$5000 | New legislation. Regulation impact statement on the draft Building Bill 1999 released in August 1999. Act received Royal Assent on 20 December 2000. The Act is expected to commence in 2001.  |   | Council to assess progress in 2002. |

*(continued)*

Table 24.6 continued

| <i>Jurisdiction</i> | <i>Legislation</i>   | <i>Key restrictions</i>   | <i>Occupations</i>                  | <i>Review activity</i>  | <i>Reform activity</i>  | <i>Assessment</i>                   |
|---------------------|--|---|-------------------------------------|---|---|-------------------------------------|
| ACT                 | <i>Building Act 1972</i>   | Licensing, registration, entry requirements (training, course work, practical experience or qualifications and supervised building work, business capacity), the reservation of practice, disciplinary processes, business conduct (insurance)  | Building practitioners              | Targeted public review, in conjunction with review of the <i>Electricity Act 1971</i> (electricians licensing) and the <i>Plumbers, Drainers and Gasfitters Board Act 1982</i> completed in August 2000. Review recommended replacement of legislation by a single new Act for licensing of builders, electricians, plumbers, drainers and gasfitters; abolition of existing boards and replacement by a single registrar supported by separate advisory panels; various changes to remove duplication and streamline licensing arrangements; and changes to disciplinary system. | Government announced response to review. Agrees with most recommendations. Does not agree with recommendation for a peer group to have the power to overturn Registrar's decisions in relation to strictly technical matters. | Council to assess progress in 2002. |
|                     | <i>Electricity Act 1971</i> (electricians licensing)<br><i>Electricity Safety Act 1971</i> | Licensing, registration, entry requirements (skills, qualifications, experience, business capacity), the reservation of practice (installing, altering or repairing an electrical installation, other than an electrical installation that operates at extra low voltage), disciplinary processes, business conduct (insurance) | Electricians and electrical workers | See discussion under <i>Building Act 1972</i> .   | See discussion under <i>Building Act 1972</i> .   | Council to assess progress in 2002. |

(continued)

Table 24.6 continued

| <i>Jurisdiction</i> | <i>Legislation</i>                                      | <i>Key restrictions</i>  | <i>Occupations</i>                | <i>Review activity</i>  | <i>Reform activity</i>                          | <i>Assessment</i>                   |
|---------------------|---|--|-----------------------------------|---|---|-------------------------------------|
| ACT<br>(continued)  | <i>Plumbers, Drainers and Gasfitters Board Act 1982</i> | Licensing, registration, entry requirements (skills, experience, qualifications, age 18 years or over, fit and proper), the reservation of practice (installing/fitting a fire-fighting sprinkler, sanitary plumbing, water supply plumbing, laying or repairing drains, installing/repairing/inspecting/testing consumer natural gas piping and gas appliances), disciplinary processes | Plumbers, drainers and gasfitters | See discussion under <i>Building Act 1972</i> .   | See discussion under <i>Building Act 1972</i> . | Council to assess progress in 2002. |
| Northern Territory  | <i>Building Act</i>                                     | Licensing and provision for establishment of building technical standards, registration of building practitioners and certifiers, regulation of building matters (including the registration of building products), the granting of permits, the establishment of appeals processes  | Building practitioners            | A review was undertaken in 1999, the results of which will be incorporated into a general review of the Act, which is underway. |   | Council to assess progress in 2002. |

*(continued)*

Table 24.6 continued

| <i>Jurisdiction</i>               | <i>Legislation</i>                            | <i>Key restrictions</i>   | <i>Occupations</i>    | <i>Review activity</i>  | <i>Reform activity</i>   | <i>Assessment</i>                   |
|-----------------------------------|---|---|-----------------------|---|--|-------------------------------------|
| Northern Territory<br>(continued) | <i>Electrical Workers and Contractors Act</i> | Licensing, registration, entry requirements (qualifications, experience, fit and proper), the reservation of practice (electrical work unless extra low voltage)  | Electrical workers    | Review by Centre for International Economics completed in October 2000. Consultation involved public release of issues paper, consultation with stakeholders and submissions. Recommendations included that licensing should be maintained, but also that other means of signalling competence should be afforded comparable status, the board should consider removing additional experience requirements for contractors, the fit and proper person test should be amended to signal the criteria against which it is assessed, and exemptions to licensing requirements to the Power and Water Authority should be removed. Recommended more general review of Act.  | Government approved review recommendations in November 2000. The necessary amendments are to be made following a review of the administrative structures supporting the Act. | Council to assess progress in 2002. |
|                                   | <i>Plumbers and Drainers Licensing Act</i>    | Licensing, registration, entry requirements (qualifications or experience, fitness of character), the reservation of practice (for plumbing: installing, altering, removing or repairing fixtures, fittings and pipes designed to receive and carry sewage or water, and the ventilation of those fixtures, fittings and pipes), business conduct (supervision) | Plumbers and drainers | Review by Centre for International Economics completed in September 2000, recommending that: the Act should give explicit recognition of national competencies-based approach, the board's range of options in dealing with complaints should be made widely known, 'fit and proper person' test power of the board should be maintained so long as appeal mechanisms are clear and accessible, and membership of the Board should be reviewed to establish whether the continued Power and Water Authority membership is desirable. Also recommended a more general review of the Act to in part examine the case for compliance certificates and the case for restricted plumbing licences to meet the needs of other trades. | Government approved review recommendations.  | Council to assess progress in 2002. |