

# 13 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 benefits, but also can 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 regulation of 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 a specific proposal (including specific site characteristics, the proposed site 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

Legislative restrictions on competition in planning, development and construction services occur in the following ways.

- Planning legislation has the potential to impede the entry of new competitors into a market by limiting or preventing commercial development in an area.
- Competition may be inhibited by (avoidable) delays in planning approval. 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 per year (Industry Commission 1995).

- The planning process can allow 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 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 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. Such regulation can maximise positive externalities (by conserving historical buildings or applying urban design principles for example) and minimise negative externalities (such as adverse effects on public health where housing is too close to a hazardous industry). Planning legislation can also increase the provision of desirable public goods, such as open spaces and protected floodways.

Under National Competition Policy (NCP), governments are broadly responsible for balancing objectives in developing 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, it looks at whether planning processes minimise opportunities for existing businesses to inappropriately prevent or delay participation by new competitors. Governments can prevent this restriction on competition, including by limiting the time available for appealing decisions and ensuring appeal opportunities are open to only those with a legitimate and substantive interest in the potential development. 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 looks 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.

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, looks for jurisdictions to have only 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 in which to reduce unnecessary delays.

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

## Review and reform activity

New South Wales, Victoria, Queensland, South Australia, Tasmania, the ACT and the Northern Territory have completed NCP reviews of planning and approvals legislation. Western Australia consolidated its land use and planning legislation into the Urban and Regional Planning Bill 2000. The Government has recently commenced public consultation on the Bill

### New South Wales

The New South Wales Government originally identified 30 projects reviewing competition restrictions in its planning, land use and natural resource approvals systems. It advises that 19 projects are complete (with a number of resulting reforms) and 11 are under way.

New South Wales reformed its development assessment system in 1998 to integrate development consents, provide appropriate assessment and increase competition in compliance functions. There is now a 'one-stop shop' system for the development, building and subdivision approvals under the *Environmental Planning and Assessment Act 1979* (removing the need for subsequent local government approvals). The level of complexity of the approvals process is streamlined to reflect the complexity and the likely environmental impact of a development. Accredited certifiers can compete with councils in the assessment of compliance functions and technical

standards (Government of New South Wales 2000). The Independent Pricing and Regulatory Tribunal also reviewed development assessment and related fees and recommended: deregulating fees subject to competition, regulating fees for noncontestable development assessment, and allowing qualifying consent authorities to set their own fee policies subject to certain conditions (New South Wales Government 2001). The Government agreed in principle to the Tribunal's recommendations.

The New South Wales Government is undertaking a review of plan-making. A White Paper released in February 2001 proposed a new system of planning with the key features of: whole-of-government strategic planning; greater community involvement in plan-making; greater accessibility to planning information and the availability of a variety of planning tools. The White Paper proposed integrating all policies and plans for environmental and land use issues into one instrument for each local government area, one regional strategy for each region and one State planning document. (Department of Urban Affairs and Planning 2001).

The State's review of planning and reform of planning and land-use have already yielded significant improvements. Further reforms based on the Government White Paper are contained in legislative amendments to be introduced into Parliament in 2002. New South Wales considers that local planning provisions can best deal with inappropriate use of planning processes to prevent entry by new competitors and it has advised of changes to the planning process to prevent its potential misuse.

While not yet complete, review and reform activity relating to planning and land use continues to progress. The Council will make a final assessment in 2003.

## Victoria

Victoria completed its review of the *Planning and Environment Act 1987* in early 2001. The review found that Victoria's planning legislation mostly achieves its objective in an effective and efficient manner, and that the competition restrictions identified are in the public interest. The review recommendations aimed to improve the manner in which the Act is administered to enhance planning effectiveness and efficiency. The Government is yet to respond to the review's recommendations but has reported that its response (including any legislative amendment considered necessary) will be finalised by June 2002. The Council will make a final assessment in 2003.

## Queensland

Queensland's review of the *Integrated Planning Act 1997* found that the Act is far less prescriptive than the Act it replaced (the *Local Government (Planning and Environment) Act 1990*) in that it merely sets up a planning framework.

The review reported that the Act does not restrict competition (Queensland Government 2001), so the Government proposed no change to the legislation. The Act allows private certifiers to conduct code assessments and to inspect and certify certain works, and it streamlines development approvals by implementing a process under which development applications are considered by a single assessment manager (usually the local government) rather than several State and local government agencies. The planning assessment system has been designed to remove the arbitrary barriers to the submission and assessment of applications, which were a common feature under the previous system.

Queensland has reviewed its planning legislation and implemented significant reforms. It therefore complies with its CPA clause 5 obligations

## Western Australia

Western Australia listed several planning Acts for review under its NCP program, including the *Town Planning and Development Act 1928*, the *Metropolitan Region Town Planning Scheme Act 1959* and the *Western Australian Planning Commission Act 1985*. The previous Western Australian Government developed the Urban and Regional Planning Bill, which consolidated this legislation. It had put the Bill (as a Green Paper), together with a review of the Bill, out to public consultation.

The current Government is reconsidering its overall approach to planning legislation. It has reactivated the Bill and has commenced a new public consultation process. The Government advised that it will further develop the Bill following consultation with the community and will assess the new Bill against NCP principles via its legislation gatekeeping process. The Government's gatekeeper assessment of the Planning Appeals Amendment Bill 2001 concluded that the requirement that parties to a minor appeal use legal practitioners is in the public interest.

Although Western Australia has not completed the review and reform of its planning legislation by the Council of Australian Governments (CoAG) target date of 30 June 2002, its review activity appears considerably advanced. The Council will make a final assessment in 2003.

## South Australia

South Australia completed a review of the *Development Act 1993* in July 1999. The review report made several recommendations for change or further investigations that may lead to change. The Government has implemented a majority of these recommendations. The recommendations which are still to be implemented or not supported by the Government are discussed below.

- *Application of the same development assessment processes to government business enterprises which engage in business activities for profit and compete directly with the private sector and to the private sector.*

The Government supports the retention of the separate Crown development assessment process on the ground that the process enables the efficient provision of public infrastructure. In response to the review recommendation, however, the Government included two new requirements for the assessment of Crown developments (similar to those imposed on the private sector) in the *Development (System Improvement Program) Amendment Act 2000* effective 2 April 2001.

- *In relation to the application of the Building Rules to Crown development, the principle of occupant safety should not be compromised by exemptions to the Act.*

Crown-owned buildings built before the operation of the Development Act are exempt from the fire safety provisions of the Act. Cabinet is to consider, however, a Cabinet Directive that requires State agencies to upgrade safety and access to all Crown buildings including older buildings exempt from the fire safety provisions. Were Cabinet to support the directive, the outcome would be broadly similar to the review recommendations.

- *The application of private certification to provisional Development Plan consents in the case of complying kinds of development.*

The Government convened a working party to determine the response to this recommendation and now is considering its recommendations. The working party recommended against the immediate use of private certifiers for complying kinds of development. It considered that the arguments for private certification should be reviewed in two years time, when the Government has implemented other recommendations relating to development assessment processes.

- *The removal of the requirement in Regulation 86 of the Development Regulations 1993 for a person with recognised planning qualifications to provide a report on a noncomplying development application, and on an amendment to a development plan.*

On 15 March 2001, the Government amended Regulation 86 to delete the requirement for a report from a qualified planner on noncomplying development applications.

The Government will not, however, delete the requirement for professional planning advice on amendments to development plans. It considers the retention of this requirement is justified by the potentially wide impact of zoning decisions. Councils bear the cost of compliance in relation to Plan amendments so the direct impacts on competition are minimal.

- *The examination of the 8 year period of post graduate experience required to act as a private Building Rules certifier, in the light of lesser periods required in other jurisdictions.*

The Australian Building Codes Board is considering the formulation of a nationally agreed level of experience for private Building Rules certifiers. When the board adopts a nationally agreed position, the Government will amend the Development Regulations in accordance.

Other amendments to the Act are designed to deter the initiation of or financial support for the initiation of court proceedings aimed at delaying a potential competitor's approved development.

South Australia has completed the review of its planning legislation and implemented most review recommendations. Where it does not intend to implement recommendations or where implementation has been delayed, the Government has taken alternative action which delivers a similar outcome to the course of action recommended by the review, or has provided a public benefit case to support its position. South Australia therefore complies with its CPA clause 5 obligations.

## Tasmania

Tasmania completed a review of the *Land Use Planning and Approvals Act 1993*. The review recommended greater use of performance-based regulatory approaches, measures to accelerate planning processes and measures to expose developments on Crown land to the same planning requirements as private sector developments. The Government made the recommended amendments through the *Land Use Planning and Approvals Amendment Act 2001*.

Tasmania has completed its review and implemented reform in this area and therefore complies with its CPA clause 5 obligations.

## The ACT

The ACT released a discussion paper in April 2000 on a review of private certification in the building industry in April 2000 (Purdon Associates 2000). The discussion paper suggested extending private certification into selected development approvals for development proposals that comply with planning guidelines.

The ACT review of parts V and VI of the *Land (Planning and Environment) Act 1991* was completed in August 2000. This legislation relates to grants of leases (particularly concessional grants) and the development approval process. The review recommended improving transparency in the provision of direct grants, and considering introducing a notification scheme for developments that are relatively minor and unlikely to be opposed by the

Government agency or to require conditions. The review considered a contestable approvals process for minor developments, but concluded that the ACT may be too small to sustain a viable, competitive and impartial development certification market. The review also concluded that the relevant department is unlikely to have adequate resources to properly audit private certifications (Allen Consulting Group 2000a). The ACT Government issued a formal response to the review, agreeing to most recommendations in principle (Government of the ACT 2001a). An amending Regulation was signed on 25 January 2001.

ACT planning legislation addresses potentially inappropriate use of planning processes by existing business to delay or prevent market entry by new competitors. There is an open process (via auctions or tenders) for the granting of some leases and also an open process for variations of the Territory Plan. Only people who are affected by the approval of a development may object to the development, with appeals heard by the Administrative Appeals Tribunal. The tribunal does consider commercial matters but places a greater focus on planning considerations.

The ACT has completed its review and implemented reform in this area and therefore complies with its CPA clause 5 obligations.

## The Northern Territory

The Northern Territory's Act was the result of an independent review of the previous legislation. The NCP review considered land use and development restrictions, powers to revoke or modify an approved land use or development, and development contributions. It noted that the Act does not require determinations of development applications to account for market effects. The policy of the consent authority is to consider applications on the basis of planning merit only and not to consider arguments about the commercial aspects of applications (Department of Lands, Planning and the Environment 2000). The review concluded that the restrictions in the Act deliver a net benefit, a finding which was endorsed by the previous Northern Territory Government (Northern Territory Government 2002a).

The review did not consider whether private agents in competition with Government should undertake the approval process. In its 2002 NCP annual report, the Government states that the Territory's small and isolated market means that the potential administrative costs would be likely to undermine any public benefits of introducing contestable development approval processes. The Council accepts the Government's view that the current regulatory approach — whereby minor development proposals require no formal approval, and the Development Consent Authority undertakes all other development approval functions — maximises the public benefit in achieving the objectives of the legislation.



**The Northern Territory has completed its review and reform in this area and has retained anticompetitive restrictions on the recommendation of its legislative review. It therefore complies with its CPA clause 5 obligations.**

**Table 13.1 lists the progress of each jurisdiction's review and reform of planning and approval legislation.**

**Table 13.1:** Review and reform 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) has been completed. Review of plan-making underway, with a White Paper released in February 2001 proposing integration of all policies and plans for environmental and land use issues into one instrument for each local government area, one regional strategy for each region and one State planning document.	Act was amended in 1997 and 1999 to streamline its approval system and allow accredited certifiers to compete with councils for part of planning approval. Further amendments are planned for introduction into Parliament in 2002.	Council to finalise assessment in 2003.
Victoria	<i>Planning and Environment Act 1987</i>	Controls land use. Sets procedures for the issue of planning permits and approval.	Review was completed in 2001. Recommendations are aimed at improving the manner in which the Act is administered, to enhance planning effectiveness and efficiency.	The Government response to the review recommendations is expected by mid-2002.	Council to finalise assessment in 2003.
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 was completed in October 1997. It 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.		Meets CPA obligations (June 2002).

*(continued)*

Table 13.1 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>Town Planning and Development Act 1928</i> <i>Western Australian Planning Commission Act 1985</i> <i>Metropolitan Region Town Planning Scheme Act 1959</i>	Controls land use via town planning schemes and for regional areas.	Legislation was 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 finalise assessment in 2003.
South Australia	<i>Development Act 1993</i> and <i>Development Regulations 1993</i>	Controls land use. Sets procedures for the issue of planning permits and approval.	Review was completed in July 1999. Its 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.	Reform was implemented in 2001.	Meets CPA obligations (June 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 was completed.	Recommended amendments were made through the <i>Land Use Planning and Approvals Amendment Act 2001</i> .	Meets CPA obligations (June 2002).

*(continued)*

Table 13.1 continued

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
ACT	<i>Land (Planning and Environment) Act 1991</i> — parts V and VI (grants of land and development approval processes)	Controls concessional grants of land and development approval processes.	Review issued its final report in May 2000. Its recommendations included improving transparency in the provision of direct grants; and considering introducing a notification scheme for developments that are relatively minor and unlikely to be opposed by the Government agency or to require conditions.	The Government issued a formal response to the review, agreeing to most recommendations in principle. An amending regulation was signed on 25 January 2001.	Meets CPA obligations (June 2002).
Northern Territory	<i>Planning Act</i> (1999 Act replaced 1993 Act)	Controls land use. Sets procedures for the issue of planning permits and approval.	Review of 1999 Act was completed in September 2000. Review report is not public. Review concluded that the anticompetitive provisions deliver a net benefit to the community and recommended no amendments to the Act.	The Government endorsed the outcome of the review.	Meets CPA obligations (June 2002).

## Building regulations and approval

State and Territory building regulations cover a range of technical provisions governing the way in which builders and developers operate. The regulations are aimed at ensuring 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, who may be employed by government authorities or privately employed, generally undertake the inspection and approval.

There has been a high level of coordination across governments 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. 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 Building Code of Australia, so it has national standard-setting obligations under the CPA (see chapter 15). These obligations require standards-setting bodies to show that an appropriate regulatory impact statement has been conducted for the national standards that 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 Building Code of Australia. This performance based code, introduced in 1996 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. The code is 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 Building Code of Australia is the main incorporated document in the State and Territory building regulations, there may be other relevant documents such as planning codes.
- Jurisdictions have the opportunity to introduce some regional variations to account for climate and the building environment.
- Local governments may 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 per year (Industry Commission 1995). Introducing competition in building approvals pre-dates the NCP. A recommendation of the 1991 Building Regulation Review Taskforce (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 in 1991 includes provisions for removing the local government monopoly in the technical assessment and administration of building regulations.

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 Building Code of Australia appears to have reduced building sector costs. One recent review, while noting that it is difficult to quantify the benefits from the new code, estimated that its adoption would lead to savings of 0.5–3 per cent of capital costs (ABCB 2000). This review supported simplifying State-based exceptions in the code and ultimately replacing State-based Acts and regulations with a truly national system.

The Council considers that many aspects of building regulations and approvals are, in principle, justified in the public interest. In assessing NCP compliance — whether restrictions provide a net community benefit and there is a need to restrict competition to achieve the objective of the legislation — the Council looked for the following outcomes:

- Governments should ideally adopt the Building Code of Australia and minimise variations from that code. While the code has been developed to permit State-based variations, excessive variation can increase costs. Where significant State-based variations exist, the Council looked 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 likelihood that this will reduce approval times.
- Governments should have only the minimum necessary entry restrictions to private building certification to achieve the objectives of the legislation. 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.

## Review and reform activity

New South Wales, Victoria, South Australia and the ACT have completed NCP reviews of aspects of building legislation. Tasmania completed a regulatory impact statement for new building legislation. The Queensland and Northern Territory reviews are nearing completion, and Western Australia is developing new legislation that it will examine under gatekeeper provisions.

NCP reviews of legislation in the building area have tended to focus on building certification and occupational licensing more than on building regulations. All States and Territories, however, have adopted the Building Code of Australia with regional variations (ABCB 1999). Victoria and the ACT have provided public interest arguments for regional variations to the code. Other jurisdictions have provided little information about variations in their building regulations from the code but the Council has no evidence to suggest any more than minor variations.

In the 2001 NCP assessment the Council found that New South Wales, Victoria, Tasmania and the ACT had met their CPA clause 5 obligations in relation to building regulations. New South Wales and Tasmania were also assessed as meeting CPA clause 5 obligations in relation to building approvals.

## Victoria

Victoria completed its review of the *Building Act 1993*. (Freehills Regulatory Group 1999). The Act allows competing public and private agents to certify building work. A private building surveyor may issue building permits, carry out inspections of building and building work, and issue occupancy permits and temporary approvals. Private building surveyors must meet entry requirements (qualifications and experience), be registered, have professional indemnity insurance and not act as a building surveyor if there is a conflict of interest.

The Government is considering the review in conjunction with its assessment of the *Architects Act 1991*. Victoria is currently considering its response to the review of architect's legislation, focussing on the Victorian review but also taking into account the Inter-Governmental Working Party's response to the Productivity Commission inquiry. The Government reported that its response (including any amendments to legislation) is on target for completion by mid-2002. The Council will make a final assessment in 2003.

## Queensland

Queensland's review of the *Building Act 1975* is being undertaken by independent consultants under the supervision of an interdepartmental committee. The review is being undertaken in conjunction with a review of Sewerage and Water Supply Act 1949 and the joint review is expected to be completed by mid-2002. The Council will make a final assessment in 2003.

## Western Australia

Western Australia has reported that new legislation is currently being drafted to replace the *Local Government (Miscellaneous Provisions) Act 1960* and the Building Regulations 1989. The new legislation will establish building regulations and specify building approval procedures. Western Australia proposes to review the legislation when drafting is near completion. The Council will make a final assessment in 2003.



## South Australia

South Australia completed a review of its *Development Act 1993* in 1999. The Act allows private and public certification of building work against the provisions of the Building Rules. A private certifier must meet entry requirements (qualifications and experience), be registered, have professional indemnity insurance and not act as a private certifier if there is a conflict of interest.

As discussed in the previous section, the review recommendations include reducing the postgraduate experience requirements for private certifiers and requiring Crown developments to be subject to building rules and fire safety requirements consistent with those for private buildings. The Government has agreed to implement the national framework for private certifiers when this is developed, and it is consulting government agencies on a draft directive in relation to fire safety in Crown buildings.

South Australia has committed to action that will meet review recommendations. The Council assesses South Australia as having met CPA clause 5 obligations in this area.

## The ACT

In January 1999, the ACT introduced private certification of building approvals and inspections by changing the *Building Act 1972* and introducing the *Construction Practitioners Registration Act 1998*. The portions of the Building Act that deal with these matters were rewritten as part of the change, and a regulatory impact statement was produced. Private registered building certifiers must meet entry requirements, be registered, have an approved form of professional indemnity insurance and meet conflict-of-interest criteria.

The ACT completed a general review of private certification in the building industry in November 2000. While the report and government response have not yet been released, a discussion paper for the review stated that the private certification arrangements appear to be working satisfactorily and have broad support from industry groups. The discussion paper also highlighted suggested improvements, including potentially extending private certification into selected development approvals that comply with planning guidelines (Purdon Associates 2000).

However, given that the introduction of private certification was accompanied by a regulatory impact statement and that the system had a positive preliminary assessment by the review, the Council assesses the ACT as meeting CPA clause 5 obligations in regard to private certification.

## The Northern Territory

The Northern Territory has completed a review of its *Building Act*. The Territory Government initially delayed implementation of the legislative amendments resulting from the review pending broader amendments to the Act. The Government has decided subsequently, because the broader amendments are yet to be finalised, to proceed with the amendments arising from the NCP review. It estimates that the NCP-related legislative amendments should proceed by mid-2002. The Council will make a final assessment in 2003.

Table 13.2 lists the progress of each jurisdiction's review and reform of its building regulations and approval legislation.

Table 13.2: Review and reform activity of legislation regulating building

<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> <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 was completed.	The Acts were amended in 1997 and 1999 to simplify development procedures and allow for certification of development by accredited certifiers. The State has adopted the 1996 Building Code of Australia.	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 was completed in 1998. It focused on occupational regulation of building practitioners, including building surveyors.	The Government is considering the review report.	Building regulations — meets CPA obligations (June 2001). Building approvals — Council to finalise assessment in 2003.
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.	The review is being undertaken in conjunction with review of <i>the Sewerage and Water Supply Act 1949</i> by independent consultants under the supervision of an interdepartmental committee. The review is expected to be completed by first half of 2002.		Council to finalise assessment in 2003.
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 developing a Bill to replace the Act. The Bill is to be examined under gatekeeper provisions.		Council to finalise assessment in 2003.

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Table 13.2 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 was completed in July 1999. Its 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.	Majority of recommendations implemented. A public interest justification was provided where recommendations were not accepted	Meets CPA obligations (June 2002).
Tasmania	<i>Local Government (Building and Miscellaneous Provisions) Act 1993</i> (part III subdivisions)			Legislation was replaced by the <i>Building Act 2000</i> , which was assessed under the gatekeeper requirements.	Meets CPA obligations (June 2001).
	<i>Local Government (Building and Miscellaneous Provisions) Act 1993</i> (health issues)			Relevant provisions were transferred to the <i>Public Health Act 1997</i> , which was assessed under the gatekeeper requirements.	Meets CPA obligations (June 2001).
	<i>Local Government (Building and Miscellaneous Provisions) Act 1993</i> (except health issues and part III)	Sets building regulations and specifies building approval procedures.		Building provisions were replaced by the <i>Building Act 2000</i> which was 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. The regulatory impact statement on the Building Bill 1999 was released in August 1999. The Act provides a framework for regulation of the building industry and details of the framework are being developed in consultation with the building industry.	The Act received Royal Assent in December 2000, and is expected to commence from 1 January 2003, following the completion of industry consultation.	Meets CPA obligations (June 2001).

(continued)

Table 13.2 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 was completed in August 2000. Review focused on the regulation of building occupations and did not review building regulations. Public benefits for building regulations cover amenity, the safety and health of people who use buildings, and community expectations.		Meets CPA obligations (June 2002).
	<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 was completed in November 2000.		Meets CPA obligations (June 2002).
Northern Territory	<i>Building Act</i>	Sets building regulations and specifies building approval procedures and building practitioners licensing.	A review was undertaken in 1999. The results will be incorporated into a general review of the Act, which is under way.		Council to finalise assessment in 2003.

## Service providers

A number of professions, occupations and trades service the construction and planning industry. Architects, engineers, surveyors, builders and valuers are just some of the building industry workforce. Key restrictions in legislation regulating 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 Council staff paper sets out how these measures restrict competition and explores 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

### Review and reform activity

Individual States and Territories are responsible for the various legislative instruments regulating architects. The Productivity Commission completed a national review of architecture legislation on behalf of all States and Territories except Victoria (PC 2000c), finding that the costs of current regulation outweigh the benefits. It found no net community benefit from the registration of architects and recommended repeal of the various architects Acts in all jurisdictions (with an appropriate notification period of, say, two years to consult with domestic and overseas consumers on the changes). The Productivity Commission found:

*Statutory certification restricts competition to some degree, imposing costs on consumers, architects and non-architects. As the practice of architecture is not restricted by Architects Acts, such costs are unlikely to be large. Nonetheless, evidence suggests they are positive.*

*... On balance, in the Commission's assessment, the costs of current regulation outweigh its benefits because claimed benefits of Architects Acts could be achieved more effectively by a self-regulating profession and other existing legislation. (PC 2000c, p. xiv–xv)*

The Productivity Commission highlighted two possible grounds for intervention in the building design market: spillover effects (where building design affects neighbours and possibly the wider community) and asymmetric information (where consumers have less information than the provider of the building design does). It noted that the harms caused by poor quality architecture could be more effectively addressed through other regulatory mechanisms, particularly fair trading legislation and building codes. The Productivity Commission stated:

*Self-regulation would involve the repeal of Architects Acts but, importantly, this would not leave the profession and the services it provides unregulated. Architects and other providers of building design are subject to a range of regulations designed to address consumer protection and spillovers related to the building industry, and the business community in general. In many cases, these general laws were not in place when Architects Acts were first introduced. (PC 2000c, p. xxxvi)*

The Productivity Commission's alternative approach was to apply the following principles to those States and Territories that require registration of all building practitioners who act as principals (including all building design practitioners):

- that architects be incorporated under general building practitioners boards which have broad representation (including industry-wide and consumer representation);
- that there be no restrictions on the practice of building design and architecture;
- that the use of a title such as 'registered architect' be restricted to those registered but that there be no restrictions on use of the generic title 'architect' and its derivatives;
- that only principals (persons, not companies) to contracts be required to be registered;
- that there be provision for accessible, transparent and independently administered consumer complaints procedures, and transparent and independent disciplinary procedures; and

- that there be scope for contestability of certification (that is, that architects with different levels of qualifications and experience be eligible for registration).

A working party, with a representative from each State and Territory, was established to develop a national response to the review. This group presented its proposed response to Heads of Government for consideration, recommending the adoption of the alternative approach via amendment of existing legislation to remove elements deemed to be anticompetitive and not in the public interest.

The working party recommended that:

- regulatory boards be constituted with broad industry-wide and consumer representation;
- legislation providing for the regulation of architects not include restriction on practice;
- restriction on the use of the titles 'Architect' and 'Registered Architect' remain;
- where an organisation offers the services of an architect, an architect must supervise and be responsible for those services;
- complaints and disciplinary procedures be made more transparent and provide avenues for appeal; and
- architectural boards be encouraged to identify (and implement) means of broadening current certification channels.

Queensland's 2002 NCP annual report advises that the working group response has received broad acceptance from all jurisdictions, although the ACT and the Northern Territory are yet to advise of their formal endorsement. While no government has yet passed legislation to give effect to the reforms proposed by the working party, each has committed to the reform agenda developed by the working party. The Council will make a final assessment of review and reform activity in June 2003.

Table 13.3 lists the progress of 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 protect the public from harm.

Queensland has completed its review of the *Professional Engineers Act 1988*. 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. 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 has considered the review report and submissions and proposed a Bill for introduction during 2002 to amend the Act in line with review recommendations. The Council will make a final assessment in 2003.

## 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.

## Review and reform activity

The ACT completed a review of the *Surveyors Act 1967* and passed a new Act in 2001. In the 2001 NCP assessment, the Council assessed the ACT as having met

review and reform obligations in this area. Western Australia was also assessed as meeting CPA obligations for the *Strata Titles Act 1985* in June 2001 NCP assessment.

New South Wales, Victoria, Queensland, Western Australia, South Australia and Tasmania have completed reviews of legislation regulating surveyors but have yet to pass legislation to implement the review recommendations. Details are provided below. Although these jurisdictions are yet to pass new legislation arising from their reviews, all have indicated their commitment to reform. The Council will make a final assessment of these jurisdictions in connection with surveyors in June 2003. The Northern Territory has completed a review of the *Licensed Surveyors Act* and retained restrictions in accordance with review recommendations.

### New South Wales

The review of the *Surveyors Act 1929* was completed in August 2001. It recommended that the Government clarify the objects of the Act and retain the system of registration of surveyors and the Board of Surveyors. It also recommended that current standards and requirements be substantially retained but subject to ongoing review; that the Government consider deregulating restrictions on the naming and ownership of surveying firms and on advertising; and that the Government change the Surveyors (Practice) Regulation 2001 to make it less prescriptive about the methods of surveying.

In October 2001, the Government accepted the review's recommendations, in principle and approved the preparation of amending legislation. It has also undertaken further public consultation on these reforms.

### Victoria

Victoria's review of the *Surveyors Act 1978* was completed in July 1997. The review recommended:

- retaining restrictions on entry;
- altering the composition of the Surveyors Board so it is not dominated by surveyors;
- changing entry requirements to:
  - allow surveyors to gain practical training through course work as an alternative to training under a supervising surveyor;
  - make integrity criteria specific;
- reducing some commercial restrictions to:

- remove the requirement for surveyors or related professions to form a majority of members/directors of a firm engaging in cadastral survey work;
- remove the power of the Surveyors Board to set fees; and
- reducing barriers to the interstate mobility of surveyors.

The Victorian Government has substantially accepted the recommendations of the review. Amending legislation was introduced into Parliament in 2001 but is yet to be passed by Parliament.

### Queensland

Queensland completed a review of the *Surveyors Act 1977* in 1997. The review supported retaining the licensing system for cadastral surveyors and the requirement for consulting surveyors to hold insurance. The Government accepted this recommendation, considering that licensing helps maintain the stability and integrity, and public confidence in, the land title system. The review recommended removing a number of restrictions on competition — namely business name approval, fee setting by the Surveyors Board of Queensland and removing the requirement that the majority of directors of bodies corporate must be registered surveyors. The Government endorsed these review recommendations and announced that it plans to introduce legislation into Parliament in 2002. The Government also endorsed scope to move to a co-regulatory model in the future.

### Western Australia

The Western Australian review of the *Licensed Surveyors Act 1909* and the *Strata Titles Act 1985* was completed in 1998. The review concluded that licensing of surveyors is in the public interest and generally set at the minimum level necessary to address the community's lack of awareness of procedural and technical surveying knowledge. The review recommended:

- re-composing the Land Surveyors Licensing Board to have equal numbers of members who are licensed surveyors and members of consumer/user groups;
- clarifying entry standards — that is, more rigorously defining good fame and character with regard to a previous criminal record (including business fraud and/or dishonest business practices), and changing the competency requirements from practical field training of 24 months and an exam to practical field training of at least 12 months and an exam;
- maintaining the requirement for continuing professional development;
- removing the restriction on the number of graduates that a licensed surveyor is permitted to supervise;

- retaining the requirement for professional indemnity insurance, but removing the power of the board to approve insurers and prescribe the form of insurance certificates; and
- retaining the reservation of practice in relation to strata titles.

The review also concluded that the restrictions in the Strata Titles Act were in the public interest and should be retained. The Government of Western Australia endorsed the recommendations of the review and it has reported that these reforms are being implemented in the Acts Amendment and Repeal (Competition Policy) Bill. The Bill has yet to be introduced to Parliament.

### South Australia

The *Survey Act 1992* contains competition restrictions that relate to the licensing, registration, entry requirements, reservation of title (and derivatives), reservation of practice, disciplinary processes, business conduct (including ownership restrictions) and business licensing of surveyors. A review was completed in 1999 and the report was released in 2002. The review supports the retention of licensing and entry requirements and recommended reforms to company and partnership controls. The Government is considering the review recommendations.

### Tasmania

The Tasmanian review of the *Land Surveyors Act 1909* was completed in July 1999. It recommended retaining the restrictions in relation to registration, annual licensing, disciplinary processes, experience and minimum standards. It also recommended replacing the requirement for two years of supervised training with an appropriate course of postgraduate training, developing less prescriptive and more output focused standards, removing restrictions on the number of graduates under supervision and on the power of the board to set fees.

The Tasmanian Government released its draft response to the review recommendations, proposing an alternative, less restrictive, competency-based co-regulation model. The model involves a single public register of all surveyors, with mandatory registration of land surveyors, voluntary registration of surveyors in noncadastral 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.

Tasmania has advised that legislation will be introduced during the 2002 Spring session of Parliament to implement deregulation of the surveying profession to a greater extent than envisaged by the review.

## The Northern Territory

The Northern Territory completed a review of the *Licensed Surveyors Act* in October 1999. The review concluded that potentially anticompetitive provisions could be justified under the CPA. The Government endorsed the review outcomes in February 2000.

Although the review report has not been publicly released, the Northern Territory provided public benefit arguments in its 2002 annual report to support the retained competition restrictions, particularly in relation to entry standards. The Government considers that the entry standards for licensed surveyors in the Northern Territory are consistent with national entry standards, and serve to reduce the extent of information asymmetry in the provision of professional surveying services. The Government deems it unlikely that confidence in the integrity of the Territory's cadastre could be maintained if entry standards for licensed surveyors were lowered.

The Northern Territory has completed its review and reform activity in this area and provided a public benefit case to support retained restrictions. It therefore has met its CPA clause 5 obligations.

Table 13.4 lists the progress of each jurisdiction's review and reform of legislation regulating surveying.

## Valuers

Valuers assess the value of properties, especially in property transactions where a purchase is being made with a loan from a financial institution. 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, directly or indirectly injure the professional reputation of another valuer, or damage 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 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 consumer protection is the objective of the legislation, 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.

## Review and reform activity

Since the working party review, Victoria has repealed its legislation for registering valuers and therefore has no review obligations under the NCP. New South Wales, Queensland and South Australia have completed reviews and completed or announced reform for legislation regulating land valuers. Other jurisdictions have completed legislation reviews.

### New South Wales

New South Wales completed a review of the *Valuers Registration Act 1975* in 2000. The review recommended a negative licensing scheme to replace the current system. The proposed scheme involves core legislation that provides for qualification and practice requirements and disciplinary action, similar to the regulatory approach introduced in South Australia in 1994 under the *Land Valuers Act 1994*. The Director-General would have power to take disciplinary action (including prohibiting conducting land valuation). The criterion of 'good character' would be replaced with the requirement of not having been convicted of an offence involving dishonesty and not having been prohibited from acting as a land valuer in any Australian jurisdiction. Continuing professional development and professional indemnity insurance would not be a compulsory condition to carry on business as a valuer.

In April 2000, the Government accepted the review's recommendations, in principle, and approved the preparation of an exposure Bill for public consultation during 2000-01. Additional information has subsequently been prepared on the public benefits and costs of alternative regulatory options. A final reform proposal is expected to be submitted soon for Government endorsement. Amending legislation will be introduced into Parliament during 2002. The Council will complete a final assessment in 2003.

### Queensland

Queensland completed a review of the *Valuers Registration Act 1992* in October 1999. The review found that deregulation in the medium to long term is likely to deliver a net public benefit, but that in the short term there is a risk to infrequent users of valuers. The review recommended retaining registration (with a further review in three years) and removing other geographic and price control restrictions (Queensland Government 2001). The Government endorsed the review recommendations in February 2000 and introduced amending

legislation to Parliament in March 2001. The amendments include a re-composition of the board, a reduction in practical experience requirements from five to three years, and a new requirement for continuing professional development for registration renewal.

The Council will look for Queensland to undertake a further review of its registration requirement in 2002, in line with the review recommendation. The Council will complete a final assessment in 2003.

#### Western Australia

The Department of Consumer and Employment Protection reviewed the *Land Valuers Licensing Act 1978* in 1999. It recommended that land valuers no longer be required to be registered and that the Land Valuers Licensing Board be abolished. The review was not finalised at the time, pending the outcomes of the Gunning Committee of Inquiry into the operations of the boards and committees in the Fair Trading portfolio and the Temby Royal Commission into the finance broking industry.

The Gunning Committee of Inquiry was commissioned in April 2000 and published its final report on 1 September 2000. The Temby Royal Commission into the Finance Broking Industry was commissioned on 11 June 2001 to investigate whether there have been unlawful or improper activities or practices relating to the finance broking industry since 1 January 1994. It considered the conduct of finance brokers, borrowers and those who provide services to them and to lenders, including (but not limited to) advisers, accountants, auditors, bankers, lawyers and valuers. The Royal Commission's final report (published on 21 December 2001) found that:

*Valuers perform a necessary social role. They must be, and are, trained. It would be a bad thing if anybody, irrespective of skill or character, could adopt the title and carry out the functions of a land valuer. It follows that land valuers should be licensed, as happens presently under the Land Valuers Licensing Act 1978. That Act should be retained, along with the Land Valuers Licensing Board. (Department of Treasury and Finance 2002)*

The Government has endorsed the findings of the Royal Commission, which constitutes a public interest argument to support the licensing of land valuers. The NCP review is being updated to reflect this endorsement. Western Australia expects the updated review to be finalised June 2002. The Council accepts that additional time for Western Australia to complete NCP review and reform activity is warranted, given the Gunning Commission of Inquiry and the Temby Royal Commission, and acknowledges that the Royal Commission provides a public interest case to support continuation of licensing. The Council will make a final assessment in June 2003.

## South Australia

South Australia's *Land Valuers Act 1994* involves negative licensing and disciplinary provisions aimed at ensuring consumer protection. These arrangements work by excluding valuers deemed to have acted illegally or improperly. South Australia's review of the Act found the regulation of land valuers in this way to be justified, with consumers placed at risk of significant financial loss if valuers are incompetent, negligent or dishonest. The review panel concluded, however, that the required postgraduate qualifications are too onerous and that the Government should re-examine the current requirements and broaden the number and type of acceptable qualifications (Office of Consumer and Business Affairs 1999b). The Government has endorsed the review recommendations and is awaiting approval of a national training package, which it has undertaken to implement. The Council will make a final assessment in 2003.

## Tasmania

Tasmania completed a review of the *Land Valuation Act 1971* and the *Valuers Registration Act 1974* in July 1998. The Government accepted the recommendations of the review, and Parliament passed the *Valuation of Land Act 2001* and the *Land Valuers Act 2001* which implement the review recommendations in 2001. Tasmania assessed the Acts under its legislation gatekeeper requirements. The Acts were due to be proclaimed before mid-2002 (after the regulations were finalised), but only the former Act was in operation at 30 June 2002.

Tasmania has significantly progressed its review and reform activity in this area. The Council will make a final assessment in 2003.

Table 13.5 lists the progress of 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 13.6 summarises the progress of each jurisdiction's review and reform of legislation regulating building and related trades.



## Electrical workers

All governments require electrical workers to be licensed. All governments also distinguish between the types of electrical work and levels of competency. Generally, governments 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 2000c).

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).

### Review and reform activity

In the 2001 NCP assessment, the Council assessed Victoria as having met its CPA legislation review obligations in relation to the *Electricity Safety (Installation) Regulations 1999*. Other governments' progress with completing review and reform activity is discussed below.

#### *New South Wales*

The *Home Building Act 1989* regulates the entry of tradespeople into the residential building sector and stipulates the activities for which a licence must be obtained including electrical workers and plumbers. In September 1996, the Government released a Green Paper outlining options for licensing of the building industry. A working group chaired by the Department of Fair Trading was set up to review and consult relevant industry and community stakeholders. The review reported in March 1998 and recommended reforms to remove unnecessary components of the licensing system, subject to an assessment of the expected impact on the home warranty insurance scheme.

This report considered that much of the need for licensing would be eliminated given the impact of the home warranty insurance scheme. During consultation, however, approved insurers advised that some licensing requirements are needed to underpin the insurance system.

In response to the report, in November 2000 the Government announced a comprehensive package of reforms for the home building industry covering licensing, home warranty insurance, dispute resolution and building contracts. An issues paper and draft exposure Bill were released in February 2001 for public comment by the end of March 2001. The draft Bill proposes retaining the builders licensing system because the home warranty insurance scheme is not yet able to keep out unscrupulous builders. The draft Bill proposes to tighten existing licensing arrangements and speed up the disciplinary process.

New South Wales enacted the *Home Building Legislation Amendment Act 2001* was enacted in July 2001, proclaiming various elements on 10 August 2001, 30 November 2001 and 1 January 2002. The remaining parts of the Act are expected to be introduced progressively during 2002. As a result of uncertainties in the insurance market affecting the home warranty scheme, New South Wales anticipates that further changes to the Home Building Act and the Home Building Regulation. These changes will establish new arrangements in relation to the insurance requirements of the Act. The Council assess New South Wales as having met its CPA obligations for the 2002 assessment and it will make a final assessment in 2003.

#### *Queensland*

Queensland has reviewed the *Electricity Act 1994* in the context of preparing new electrical safety legislation. The Act establishes the framework for the occupational regulation of the electrical trades and includes provisions for licensing, registration, disciplinary processes and business conduct. The review assessed provisions relating to occupational regulation and technical standards. Independent consultants under the supervision of an interdepartmental committee prepared a public benefit test report. The Cabinet endorsed the report's recommendations and an implementation strategy in February 2002. The Council will make a final assessment in 2003

#### *Western Australia*

Western Australia's *Electricity Act 1945* and *Electricity (Licensing) Regulations 1991* establish the framework for the occupational regulation of electricians. They provide for licensing and the reservation of practice, and establish entry requirements and disciplinary procedures. A review of the legislation is under way.

Western Australia has not completed review and reform in this area, but appears to be progressing consistent with completing its NCP activity by June 2003. The Council will make a final assessment of Western Australia's compliance with its CPA clause 5 obligations in 2003.

#### *South Australia*

The *Plumbers, Gas Fitters and Electricians Act 1995* establishes entry requirements for tradespeople and contractors and provides for registration (for tradespeople), licensing (for contractors) and reservation of practice. The review of the Act is nearing completion.

South Australia has not completed review and reform in this area, but appears to be progressing consistent with completing its NCP activity by June 2003. The Council will make a final assessment of South Australia's compliance with its CPA clause 5 obligations in 2003.

### *Tasmania*

Tasmania's *Electrical Industry Safety and Administration Act 1997* imposes a number of competition restrictions, including:

- requiring electricians to be licensed/registered;
- requiring persons wishing to practise as electricians, electrical technicians or contractors meet certain prerequisites aimed at ensuring the person has suitable qualifications and experience;
- ensuring certain services are provided only by licensed/registered electricians;
- establishing a disciplinary process aimed at ensuring electricians who do not provide services of satisfactory quality are prevented from practising; and
- imposing business conduct obligations such as mandatory insurance against liability for injury or property damage.

Tasmania's annual NCP report for 2001 stated that the Government did not intend to review the Act. Tasmania advised the Council that the Tasmanian licensing regime for electrical technicians and electrical contractors is essentially the same as that of other States and Territories and that NCP reviews and other assessments in these jurisdictions have found this regulatory regime to be in the public benefit.

The Council accepts that the Tasmanian restrictions are similar to those in other jurisdictions and that NCP reviews in those other jurisdictions establish public benefit justifications that are likely to apply to the Tasmanian regime. While it is preferable that governments undertake their own reviews to ensure appropriate consideration of localised factors and that legislation is up to date, the Council acknowledges that the NCP provides scope for governments to develop regulatory arrangements on the basis of relevant experience in other jurisdictions. Such an approach, presuming it originate from objective analysis, will at least enhance the prospects for national consistency in jurisdictions' regulation. The Council assesses Tasmania as having met its CPA clause 5 obligations in this area.

### *The ACT*

The ACT conducted a joint review of the occupational regulation aspects of the *Building Act 1972*, the *Electricity Act 1971* (electricians licensing) and the *Plumbers, Drainers and Gasfitters Board Act 1982*. The review, undertaken by the Allen Consulting Group, involved public consultation following the release of a directions paper. It concluded that the information asymmetries and negative externalities that would otherwise result broadly justify the Government's role in ensuring that tradespeople have the appropriate skills to undertake building and construction. The review recommended: replacing legislation with a single new Act for licensing builders, electricians, plumbers, drainers and gasfitters;

replacing existing boards with a single registrar (supported by separate advisory panels); making various changes to remove duplication and streamline licensing arrangements; and changing the disciplinary system. The review also recommended against requiring the holder of an electrician's or electrical worker's licence to undertake ongoing professional development and hold insurance. It proposed, however, transferring the requirement to hold housing indemnity insurance in a new Act under the oversight of the Department of Justice and Community Safety (Allen Consulting Group 2000c).

The ACT Government accepted the majority of the 22 recommendations and drafted legislation, but the 2001 ACT elections meant that the introduction of legislation was postponed until 2002. The only recommendation that the Government did not accept was a provision for a peer group to overturn the registrar's decisions on strictly technical matters. The Government's model involves a panel of people with qualifications at the same level or above who provide technical advice to the registrar before the registrar makes a decision. Further, decisions are appealable through the Administrative Appeals Tribunal (ACT Government 2001).

The ACT is progressing review and reform activity in this area. The Council will make a final assessment in 2003

#### *The Northern Territory*

The Northern Territory Government commissioned the Centre for International Economics to review the *Electrical Workers and Contractors Act* in 2000. Public consultation during the review, which was completed in October 2000, involved a publicly released issues paper, consultation with stakeholders and requests for submissions. The review recommendations included:

- maintaining licensing, but affording comparable status to other means of signalling competence;
- removing additional experience requirements for contractors. If they are to be retained, then the Electrical Workers and Contractors Licensing Board should articulate the objectives of this requirement and demonstrate that experience is the best way of achieving the objective;
- amending the 'fit and proper person' test to signal the criteria against which it is assessed;
- removing licensing requirements exemptions for the Power and Water Authority; and
- conducting a more general review of the Act, looking at incorporating the NCP review recommendations, reducing duplication in assessment and accreditation, changing the composition of the board, updating the language in the Act and reviewing the level of enforcement (CIE 2000c).

The Government approved the review recommendations in November 2000 and indicated that it will make the necessary amendments following a review of the administrative structures supporting the Act. The Northern Territory has significantly progressed review and reform activity in this area. The Council will make a final assessment in 2003.

## 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. The Labour Ministers' Council agreed in 1994 to reforms to plumbing and gasfitting occupational licensing arrangements (Plumbers and Gas-fitters Registration Review Group 1998). These reforms were consistent with Heads of Government decisions on mutual recognition and partially licensed occupations, and with the public and occupational health and safety rationale for licensing. 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 the completion of training contracts) should be removed from legislation. They also agreed on reforms for levels of licensing and contractor licensing.

## Review and reform activity

All governments are reviewing legislation regulating plumbers and gasfitters under the NCP. In the 2001 NCP assessment, the Council found both Victoria and Western Australia to have met CPA clause 5 obligations in this area. Victoria enacted the *Building (Plumbing) Act 1998*, which introduced a new licensing requirement for refrigeration mechanics and for plumbers who perform the same work. The Government set out a public interest justification for regulating refrigeration mechanics and plumbers in this way. Western Australia transferred responsibility for plumber licensing from the Water Corporation to a new Plumbers Licensing Board in 2000 via the *Water Services Coordination Amendment Act 1999* and the *Water Services Coordination (Plumbers Licensing) Regulations 2000*. Western Australia's review of the *Water Services Coordination Amendment Act* recommended that the Government retain restrictions to prevent unlicensed persons from performing plumbing work and to maintain the power of the board to set licence conditions (Department of Treasury and Finance 2001).

All other jurisdictions are yet to complete review and reform activity relating to plumbers and gasfitters. This section reviews progress by New South Wales, Queensland, Tasmania, the ACT and the Northern Territory. The previous section on electrical workers notes that South Australia is currently reviewing its Plumbers Gas Fitters and Electricians Act.

### *Queensland*

Independent consultants are reviewing the *Sewerage and Water Supply Act 1949* under the supervision of an interdepartmental committee. The Act establishes the occupational regulation framework for plumbers and drainers in Queensland and provides for licensing, registration, and entry requirements. The review being undertaken in conjunction with review of the Building Act, expected to be completed in 2002. The review is considering a proposal to integrate plumbing approvals and appeal processes in the Integrated Planning Act.

Queensland has not completed review and reform in this area, but appears to be progressing consistent with completing its NCP activity by June 2003. The Council will make a final assessment of Queensland's compliance with its CPA clause 5 obligations in 2003.

### *Tasmania*

Tasmania completed a review of the *Plumbers and Gas-fitters Registration Act 1951* in October 1998. The Act restricts competition by requiring licensing and registration of plumbers and gasfitters and specifying entry requirements, the reservation of practice for activities and disciplinary processes. The review recommendations include reducing areas of reservation of practice; limiting the qualifications and experience required for registration to a demonstration of competence; implementing an appropriately constituted self-certification system;

and amalgamating registration and plumbing inspection systems to reduce overlap and reduce the regulatory burden on plumbers.

The Government has not yet responded to the review recommendations but has advised the Council that it expects to do so in 2002. The Council will make a final assessment in 2003.

#### *The ACT*

The ACT conducted a review of the *Plumbers, Drainers and Gasfitters Board Act 1982* in conjunction with a review of the occupational regulation aspects of the Building Act and the Electricity Act. This review and the Government's response are discussed in the previous section on electrical workers.

The ACT legislation reserves certain areas of practice for persons qualified to be plumbers. The ACT also requires persons undertaking work as sprinkler fitters to be licensed, despite agreeing in the mid-1990s to abolish the requirement for licensing. Occupational regulation, of which this is an example, is in the public interest where restrictions are directly linked to reducing identified and important harms. The Council accepts that it is appropriate that some plumbing and gas fitting practices are reserved to suitably qualified persons. The ACT has not yet explained its public interest reasoning supporting these restrictions. The Council is seeking evidence from the ACT on this matter for the 2003 assessment.

#### *The Northern Territory*

The Northern Territory Government commissioned the Centre for International Economics to review the *Plumber and Drainers Licensing Act* in 2000. Public consultation during the review, which was completed in September 2000, involved a publicly released issues paper, consultation with stakeholders and requests for submissions. The review recommendations included:

- amending the Act to specifically state its objectives and explicitly recognise the national competencies-based approach to trades qualifications;
- making widely known the board's options in dealing with complaints;
- maintaining the 'fit and proper person' test power of the board, provided appeal mechanisms are clear and accessible;
- reviewing membership of the board to establish whether the continued Power and Water Authority membership is desirable; and
- conducting a more general review of the Act, partly to examine the case for compliance certificates and the case for restricted plumbing licences to meet the needs of other trades (CIE 2000e).

The Northern Territory Government approved the recommendations of the review report (Government of the Northern Territory 2001) but has not yet

implemented the review recommendations. The Council will make a final assessment in June 2003.

## 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, some as significant as loss of life if, for example, a building collapses (Allen Consulting Group 2000c).

### Review and reform activity

Legislation covering builders in New South Wales, the ACT and the Northern Territory has been discussed in earlier sections that deal with building regulations and approvals, and with specific occupations. This section discusses review and reform progress in the remaining jurisdictions.

#### *Victoria*

Victoria completed a review of the *Building Act 1993* in 1998. Recommendations included: integrating the Act with the Architects Act; making companies and partnerships subject to registration requirements; retaining the 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 (while retaining exemptions that exempt certain high security Crown buildings from the requirement to lodge permit documents with the relevant council); and basing the building permit levy on a formula that is cost-reflective and includes incentives for cost-effective administration of legislation.

The Government has not yet responded to the review recommendations, partly because the States and Territories working party determining the approach to the regulation of architects following the PC review, did not finalise its position until late in 2001. Victoria advised that it anticipates finalising its response to the review of this Act and the Architects Act by 30 June 2002. The Council will make a final assessment in June 2003.

#### *Queensland*

The review of the *Queensland Building Services Authority Act 1991* and the *Queensland Building Services Authority Regulation 1992* has commenced. The review process is a targeted public review, which examines similar or identical restrictions across the various States' building industry legislation. The NCP review was publicly advertised and submissions were invited. An independent consultant was engaged for the purpose of conducting the review and to



undertake public consultation. An industry reference group comprising consumer, building industry and insurance industry representatives was established to assist with the consultative process.

The major restrictions contained in the legislation are the licensing of builders and tradespeople, restrictions on entry, the reservation of practice, disciplinary processes, business conduct restrictions and the monopoly provision of home warranty insurance. The consultant's findings were delivered in late December 2001. Following significant changes in the provision of home warranty insurance in other States and the conduct of a national review at the direction of the Ministerial Council on Consumer Affairs, the consultants were requested to update their report in June 2002. The Government will consider the report in the second half of 2002. The Council will make a final assessment in June 2003.

#### *Western Australia*

The Cabinet has endorsed the completed reviews of the *Builders Registration Act 1939* and the *Home Building Contracts Act 1991*. The former Act prescribes licensing, registration, entry requirements, the reservation of practice and business licensing for builders. The latter Act contains mandatory insurance provisions for builders. The review of the *Building Legislation Amendment Act 2000* (which amended the above two Acts) has also been completed and endorsed by Cabinet. The majority of the amendment Act was proclaimed on 1 August 2001 with the remainder being proclaimed on 1 November 2001.

The Council assesses Western Australia as having met its CPA obligations in this area.

#### *South Australia*

In 2001, South Australia completed a review of the *Building Work Contractors Act 1995*. The Act prescribes licensing, registration, entry requirements, the reservation of practice, disciplinary processes and business conduct restrictions that apply to builders and some tradespeople. The review panel issued a supplementary issues paper in October 2001 for public and industry comment. The Government is considering its response to the review.

South Australia has yet to respond to the review recommendations. The Council will consider South Australia's response to the review in the 2003 NCP assessment.

#### *Tasmania*

Tasmania's new *Building Act 2000*, includes provisions that regulate building practitioners (and also includes provisions for building regulations and approval — see discussion in earlier section). The Act establishes a co-regulatory accreditation scheme, whereby building practitioners are assessed by authorised industry or professional organisations against accreditation criteria. The

legislation also requires mandatory insurance and replaces joint and several liability with proportionate liability. The Act has received Royal Assent and is expected to operate from 1 January 2003 following consultation with the building industry on details of the regulatory framework. The Council assesses Tasmania as having met its CPA clause 5 obligations in this area.

## Other building trades

Queensland's *Queensland Building Services Authority Act 1991* requires licensing for other building trades, such as pest control, painting, insulating and swimming pool construction. The State's progress in reviewing and reforming this Act is discussed earlier in this chapter.

The review of Western Australia's *Painters Registration Act 1961* found that the current system of mandatory licensing is too restrictive and should be removed (Government of Western Australia 1999). The review recommended that the Government develop a certification scheme to allow consumers to readily identify painters who possess particular skills. It proposed negative licensing to support a certification system, whereby persons who do not adhere to basic standards of commercial conduct are removed from the industry.

Western Australia's review found these changes will reduce business costs but still enable some control of the industry and increased certainty for consumers. The Government endorsed the recommendations of the review. The original legislation review was overtaken by the Gunning Committee of Inquiry, which was commissioned in April 2000 to conduct an inquiry into the operations of the boards and committees in the Fair Trading portfolio. The final report by the Gunning Committee was published on 1 September 2000. A wider review of the industry was undertaken in response to this report and is currently being considered by the Minister.

Western Australia's 2002 annual NCP report advises that, following the NCP review, the Government is now undertaking a general review of the *Painters Registration Act 1961*, which is expected to be completed in mid-2002. The Council will make its final assessment in June 2003.

Table 13.6 lists the progress of each jurisdiction's review and reform of legislation regulating building and related trades.

**Table 13.3:** Review and reform 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 was completed in August 2000 and recommended repeal of the Act. Previous State review was commenced but is not completed.	A States and Territories working group was established to develop a national response to the review. The working group recommended amendments to existing legislation to remove elements deemed to be anticompetitive and not in the public interest. All jurisdictions have accepted the approach of the working group.	Council to finalise assessment in 2003.
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 company directors must be registered architects)	Review was completed February 1999. It recommended retaining title restriction and registration requirements, and reducing business restrictions (including reducing ownership provisions that at least one director or partner must be a registered architect).	See above.	Council to finalise assessment in 2003.
Queensland	<i>Architects Act 1985</i>	Registration, entry requirements reservation of title, disciplinary processes, business restrictions, business licensing	Productivity Commission review was completed in August 2000 and recommended repeal of the Act	See above.	Council to finalise assessment in 2003.

*(continued)*

Table 13.3 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>Architects Act 1921</i>	Registration, entry requirements, the reservation of title, disciplinary processes, business conduct (including Architects Board approval for advertising), business licensing.	Productivity Commission review was completed in August 2000 and recommended repeal of the Act. State review being completed to address recommendations.	See above.	Council to finalise assessment in 2003.
South Australia	<i>Architects Act 1939</i>	Registration, entry requirements, the reservation of title, disciplinary processes, business conduct (including accuracy of advertising, ownership), business licensing, advertising restrictions	Productivity Commission review was completed in August 2000 and recommended repeal of the Act. Previous State review completed.	See above.	Council to finalise assessment in 2003.
Tasmania	<i>Architects Act 1929</i>	Registration, entry requirements, the reservation of title, disciplinary processes, business restrictions, business licensing	Productivity Commission review was completed in August 2000 and recommended repeal of the Act.	See above.	Council to finalise assessment in 2003.
ACT	<i>Architects Act 1959</i>	Registration, entry requirements, the reservation of title, disciplinary processes	Productivity Commission review was completed in August 2000 and recommended repeal of the Act.	See above	Council to finalise assessment in 2003.
Northern Territory	<i>Architects Act</i>	Registration, entry requirements, the reservation of title, disciplinary processes	Productivity Commission review was completed in August 2000 and recommended repeal of the Act. Previously completed NT review has been put on hold.	See above.	Council to finalise assessment in 2003.

Table 13.4: Review and reform 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, age at least 21 years, good fame and character), the reservation of title and practice, disciplinary processes, business conduct (regulation of the making of surveys and advertising)	Review was completed in August 2001. The review recommended: clarifying the objects of the Act and retaining the system of registration of surveyors and the Board of Surveyors; substantially retaining current standards and requirements subject to ongoing review; giving consideration to deregulating restrictions on the naming and ownership of surveying firms and on advertising; and possibly changing the Surveyors (Practice) Regulation 2001 to make it less prescriptive about the methods of surveying.	The Government has accepted the review's recommendations and approved the preparation of amending legislation.	Council to finalise assessment in 2003.
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 was completed. Its 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; removing the power of the regulatory body to set fees for surveying services; and reducing barriers to the interstate mobility of surveyors.	The Government accepted most of the review recommendations and 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.  Parliament is yet to pass the legislation.	Council to finalise assessment in 2003.

*(continued)*

Table 13.4 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 was completed in November 1997, but report is not yet released (brief summary included in 2001 NCP annual report). Review recommendations include retaining registration; removing business name approval and fee setting by the Surveyors Board of Queensland; and removing the requirement that directors of bodies corporate have qualifications.	The Government endorsed the review recommendations to retain registration for nonexempt 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. It also endorsed scope to move to a co-regulatory model in the future.  The Government plans to introduce legislation into Parliament in 2002 to effect review recommendations.	Council to finalise assessment in 2003.

*(continued)*

Table 13.4 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>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 the review of <i>Strata Titles Act 1985</i> , was completed in 1998. Its recommendations included re-composing the board; clarifying entry standards; and retaining restrictions on professional indemnity insurance.	The Government endorsed the review recommendations. It is drafting amendments to legislation.	Council to finalise assessment in 2003.
	<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> , was completed in 1998. It concluded that the restrictions are in the public interest and should be retained.	The Government endorsed the review recommendation.	Meets CPA obligations (June 2001).
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 was completed in 1999 and report was released in 2002. Review supports the retention of licensing and entry requirements. It also recommended reforms to company and partnership controls.	Report is with the Government for consideration.	Council to finalise assessment in 2003.

*(continued)*

Table 13.4 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 Surveyors Act 1909</i>	Licensing, registration, entry requirements, the reservation of practice, disciplinary processes, business conduct (number of supervised graduates, discretionary power for the surveyors board to publish and enforce a scale of fees, survey practice standards)	Review was completed in July 1999 and the 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 an 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 the board's power to set fees.	The 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 noncadastral 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.  Legislation to implement deregulation of the surveying profession, to a greater extent than envisaged by the review, will be introduced in 2002.	Council to finalise assessment in 2003.

*(continued)*



Table 13.4 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> <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 was 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 the removal of 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.	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 was completed in October 1999 but the report is not yet released. Review concluded that potentially anticompetitive provisions could be justified under the CPA. A public benefit case to support restrictions is provided in the 2002 NCP report.	The Government endorsed the review outcomes in February 2000.	Meets CPA obligations (June 2002).

**Table 13.5:** Review and reform 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 was 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 condition to carry on business as a valuer.	The Government accepted all review recommendations. Legislation is being prepared to repeal the Act and modify the system for the regulation of valuers.	Council to finalise assessment in 2003.
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 was 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 and will be proclaimed in 2002. Amendments included the re-composition of the board, a reduction in practical experience requirements from five to three years, and a new requirement for continuing professional development for renewal of registration.	Council to finalise assessment in 2003.

*(continued)*

Table 13.5 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)	The 1999 review of the Act (by the Department of Consumer and Employment Protection) was not finalised as a result of the Gunning Inquiry and the Temby Royal Commission into the finance broking industry. The Review recommended the discontinuation of licensing and the Land Valuers Licensing Board. The Temby Commission recommended that valuers be licensed. The Government endorsed the findings of the Royal Commission. The NCP review is being updated to reflect this and is expected to be completed by June 2002.		Council to finalise assessment in 2003.
	<i>Valuation of Land Act 1987</i>	Valuer-General powers and activities	Review was completed. It was undertaken by an intra-agency committee. Public consultation involved submissions following release of an information paper. The Review recommended defining the eligibility for the position of Valuer General less narrowly (dropping requirement to be a member of the Australian Property Institute); removing the restriction that any person making valuation for rating and taxing purposes must be licensed under Land Valuers Licensing Act; and encouraging a greater flow of information for the purposes of making valuations.	The Government endorsed the review recommendations. Recommendations are being implemented via the Acts Amendment and Repeal (Competition Policy) Bill 2002	Council to finalise assessment in 2003.

*(continued)*

Table 13.5 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>Land Valuers Act 1994</i>	Negative licensing, entry requirements (qualifications or membership of various professional associations), the reservation of practice, disciplinary processes	Review was completed. It concluded that the current postgraduate qualification requirements are too onerous and that the Government should broaden the number and type of acceptable qualifications.	The Government has endorsed the review recommendations and is awaiting approval of a national training package which it has undertaken to implement.	Council to finalise assessment in 2003.
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 was 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, coordinating the collection of information, and being the avenue of appeal. Review also recommended greater administrative separation of the Valuer-General and Government Valuation Services, and the abolition of the Valuers Registration Board.	<i>Valuation of Land Act 2001</i> , implementing reforms, was passed in 2001.	Meets CPA obligations (June 2002).

*(continued)*

Table 13.5 continued

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
	<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 was completed in conjunction with the review of Land Valuation Act.	<i>Land Valuers Act 2001</i> , implementing reforms, was passed in 2001, but is not yet proclaimed.	Council to finalise assessment in 2003.

**Table 13.6:** Review and reform 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 trades	Review was completed. Its recommendations included repealing the Act. It 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 the implementation arrangements be given detailed consideration.	The Government accepted the review recommendations. Bill to repeal legislation was 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>  <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 workers, 'specialist workers' (plumbing, gasfitting, electrical, refrigeration and air-conditioning workers) and suppliers of kit homes	Review was 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.  The 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.	The Building Services Corporation Act was renamed the <i>Home Building Act 1989</i> , which privatised compulsory insurance and abolished business licensing.  <i>The Home Building Legislation Amendment Act</i> containing reforms was enacted in July 2001 and is progressively coming into operation.	Meets CPA obligations (June 2002).

*(continued)*

Table 13.6 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. Its recommendations included: integrating the Act with the Architects Act; making companies and partnerships subject to registration requirements; retaining the 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 (except those that exempt certain high security Crown buildings from requirement to lodge permit documents with the relevant council); and basing the building permit levy on a formula that is cost-reflective and includes incentives for cost-effective administration of legislation.	Government is considering review report.	Council to finalise assessment in 2003.
	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 was assessed under Victoria's legislation gatekeeping arrangements.	Act is designed to address information asymmetries. The Government notes that 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 was 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 13.6 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 (continued)	<i>Building Control (Plumbers Gasfitters and Drainers) Act 1981</i>		Plumbers, gasfitters, 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; 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)	The consultants were requested to update their report in June 2002 following significant changes in the provision of home warranty insurance in other States and the conduct of a national review at the direction of the Ministerial Council on Consumer Affairs. The Government will consider the report in the second half of 2002.		Council to finalise assessment in 2003.

(continued)



Table 13.6 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 (continued)	<i>Electricity Act 1994</i> and <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, electrical contractors	A public benefit test report was prepared by independent consultants under the supervision of an interdepartmental committee. The report's recommendations and an implementation strategy were endorsed by Cabinet in February 2002		Council to finalise assessment in 2003.
	<i>Sewerage and Water Supply Act 1949</i> and <i>Regulations</i>	Licensing, registration, entry requirements (qualifications and prescribed practical experience), the reservation of practice, disciplinary processes, provision for the making of plumbing and drainage standards	Plumbers, drainers	The review is being undertaken by independent consultants under the supervision of an interdepartmental committee. It is being undertaken in conjunction with a review of the Building Act and is expected to be completed in 2002. Review is considering a proposal to integrate plumbing approvals and appeal processes in the Integrated Planning Act.		Council to finalise assessment in 2003.
Western Australia	<i>Country Towns Sewerage Act 1948</i> and <i>Bylaws</i>  <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, age over 21), the reservation of practice (either licensed or under licensed supervision), disciplinary processes, business conduct	Plumbers	Review was completed.	Plumber licensing provisions were transferred to the Water Services Coordination (Plumbers Licensing) Regulations 2000. Transfer also shifted responsibility for plumber licensing from the Water Corporation to a new Plumbers Licensing Board.	Meets CPA obligations (June 2001).

*(continued)*

Table 13.6 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 was completed, recommending retaining restrictions to prevent unlicensed persons from performing plumbing work and maintaining the power of the board to set licence conditions.	The Government endorsed the 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 was completed in 1998, concluding that the current system of mandatory licensing is too restrictive and should be removed. The review recommended that 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 still enable some control of the industry and certainty for consumers.  A general review of the <i>Painters Registration Act 1961</i> , following the NCP review, is being finalised and is expected to be completed in mid-2002.	The Government endorsed the review recommendations.	Council to finalise assessment in 2003.

(continued)

Table 13.6 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>
	<i>Gas Standards Act 1972 and 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 is under way.		Council to finalise assessment in 2003.
Western Australia (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 is under way.		Council to finalise assessment in 2003.
	<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 a review of the <i>Home Building Contracts Act 1991</i> , was completed. Its recommendations included reducing restrictions on owner builders, expanding the scope of conditional licences, and expanding the coverage of the Act to the whole State.	The <i>Building Legislation Amendment Act 2000</i> was proclaimed in 2001.	Meets CPA obligations (June 2002).
	<i>Home Building Contracts 1996</i>	Requirement of written contracts, conditions (including mandatory insurance)		Review, in conjunction with a review of the <i>Builders Registration Act 1939</i> was completed. Its recommendations included retaining requirements for written contracts and a maximum deposit amount, the 'warranty' period and home indemnity insurance (but with further examination of the differences in requirements in Western Australia and the rest of Australia). It also recommended that insurance authorisation be modified so the Minister (rather than insurers) approves policies.	See above.	Meets CPA obligations (June 2002).

(continued)

Table 13.6 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, building industry tradespeople	Review was completed in 2002. The Government is considering its response.		Council to finalise assessment in 2003.
	<i>Plumbers, Gas Fitters and Electricians Act 1995</i>	Licensing (contractors), registration (workers), entry requirements (for contractor: qualifications, experience, no undischarged bankruptcy, 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, electricians	Review is nearing completion.		Council to finalise assessment in 2003.

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Table 13.6 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, reservation of practice, disciplinary processes, business conduct (electrical contractor to have insurance)	Electrical contractors and technicians	No review was undertaken. The Government assessed the restrictive provisions of this Act as essentially the same as those of other jurisdictions in which NCP reviews and other assessments have established the public benefit of the restrictions		Meets CPA obligations (June 2001).
	<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, gasfitters	Review was completed. Its recommendations included: reducing areas of reservation of practice; limiting qualifications and experience required for registration to demonstrate competence; implementing an appropriately constituted self-certification system; and amalgamating registration and plumbing inspection systems to reduce overlap and the regulatory burden on plumbers.	The Government is considering the review recommendations.	Council to finalise assessment in 2003.
	<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. The regulatory impact statement on the Building Bill 1999 was released in August 1999. The Act provides a framework for regulation of the building industry and details of the framework are being developed in consultation with the building industry.	The Act received Royal Assent in December 2000, and is expected to commence from 1 January 2003, following the completion of industry consultation.	Meets CPA obligations (June 2002).

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Table 13.6 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> was completed in August 2000. It recommended replacing legislation by a single new Act for licensing builders, electricians, plumbers, drainers and gasfitters; abolishing existing boards and replacing them with a single registrar supported by separate advisory panels; making changes to remove duplication and streamline the licensing arrangements; and changing the disciplinary system.	The Government announced its response to the review, agreeing with most recommendations. It does not agree with the recommendation for a peer group to have the power to overturn registrar's decisions on strictly technical matters.  Legislation drafted in 2001 but introduction into Parliament postponed until 2002.	Council to finalise assessment in 2003.
	<i>Electricity Act 1971</i> (electricians licensing) <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, electrical workers	See discussion of Building Act.	See discussion of Building Act.	Council to finalise assessment in 2003.

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Table 13.6 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 (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, gasfitters	See discussion of Building Act.	See discussion of Building Act.	Council to finalise assessment in 2003.
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, with the results to be incorporated into a general review of the Act, which is under way.		Council to finalise assessment in 2003.

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Table 13.6 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 (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 was 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 for the Power and Water Authority should be removed. The review recommended a more general review of the Act.	The Government approved the review recommendations in November 2000. The necessary amendments are to be made following a review of the administrative structures supporting the Act.	Council to finalise assessment in 2003.
	<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, drainers	Review by Centre for International Economics was completed in September 2000, recommending that: the Act should give explicit recognition of national competencies-based approach; the board's options in dealing with complaints should be made widely known; 'fit and proper person' test 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. Review also recommended a more general review of the Act, to examine the case for compliance certificates and the case for restricted plumbing licences to meet the needs of other trades.	The Government approved the review recommendations.	Council to finalise assessment in 2003.