8 Gas

National Competition Policy commitments

Between 1992 and 1997, the Council of Australian Governments (CoAG) struck agreements relating to reform of the natural gas industry. These agreements include: the 1994 CoAG Gas Agreement, under which CoAG agreed to a timetable and framework for introducing free and fair trade in natural gas; the 1995 competition policy agreements, which linked reform of the natural gas industry to National Competition Policy (NCP) payments; and the 1997 Natural Gas Pipelines Access Agreement, under which jurisdictions agreed to enact uniform gas access legislation incorporating the National Gas Access Code.

The main aim of the CoAG agreements is to create a national gas market characterised by more competitive supply arrangements. This aim recognises that a well-developed and competitive gas industry is vital to Australia's economic and environmental future. The core elements of the NCP commitments are (1) the removal of all legislative and regulatory barriers to the free trade of gas both within and across State and Territory boundaries, and (2) the provision of third party access to gas pipelines. Other objectives are to introduce uniform national pipeline construction standards; increase the commercialisation of the operations of publicly owned gas utilities; remove restrictions on the uses of natural gas (for example, for electricity generation); and ensure gas franchise arrangements are consistent with free and fair competition in gas markets and third party access. Table 8.1 contains a summary of jurisdictions' NCP commitments.

Table 8.1: Summary of jurisdictions' obligations

Obligation	*Source of obligation*
Corporatisation, vertical separation of transmission and distribution activities and structural reform of government-owned gas utilities	1994 gas agreement and the Competition Principles Agreement
Ringfencing of privately owned transmission and distribution activities	1994 gas agreement
Implementation of AS 2885 to achieve uniform pipeline construction standards	1994 gas agreement

(*continued*)

Table 8.1 continued

Gas access regime	
Enactment of regime	1997 gas agreement, clause 5
Nonamendment of regime without agreement of all Ministers	1997 gas agreement, clause 6
Amendment of conflicting legislation and no introduction of new conflicting legislation (except regulation of retail gas prices)	1997 gas agreement, clause 7
Certification	1997 gas agreement, clause 10.1
Continued effectiveness of regime after certification	1997 gas agreement, clause 10.2
Transitional provisions and derogations that do not go beyond annex H and annex I	1997 gas agreement, clause 12
Licensing principles	1997 gas agreement, annex E
Franchising principles	1997 gas agreement, annex F
Legislation review	
Upstream issues, particularly petroleum (submerged lands) Acts and petroleum Acts	CPA
Industry standards, trade measurement Acts and national measurement Acts	CPA
Consumer protection	CPA
Safety	CPA
Other legislative restrictions (for example, shareholding restrictions, licensing regulations, agreement Acts)	CPA

Progress in meeting NCP commitments

The National Competition Council considers that CoAG's objectives for national free and fair trade in gas are now largely in place. Progress in undertaking NCP gas reform has been slower than CoAG envisaged in its early agreements, largely because the original timetable was ambitious, with many complex issues needing to be resolved. The Council considers that the NCP assessments — which have provided independent monitoring of governments' implementation of their gas reform commitments — have provided a strong incentive to jurisdictions to meet their agreed reform obligations.

Completed reforms

In previous NCP assessments, the Council concluded that completed reforms met many of jurisdictions' NCP obligations in relation to the implementation of a uniform national access regime, the structural reform of gas utilities, and franchising and licensing principles. The Council also assessed jurisdictions

as having met their NCP commitments in relation to the review and reform of a number of legislative restrictions on competition.

Two areas of reform were judged in previous NCP assessments to have been fully implemented: (1) the structural reform of gas utilities and (2) adherence to franchising and licensing principles. Jurisdictions have obligations under the 1994 gas agreement and the Competition Principles Agreement (CPA) relating to the structural reform of government-owned gas utilities. Specifically, jurisdictions are required to corporatise and vertically separate publicly owned transmission and distribution pipeline entities, and to ring-fence privately owned transmission and distribution activities. The Council's 1997 and 1999 NCP assessments found that jurisdictions had complied with these obligations.

Regarding franchising and licensing, jurisdictions have obligations under the 1997 gas agreement to adhere to franchising and licensing principles. The franchising principles require that jurisdictions allow bypass and interconnection of pipelines and not grant new exclusive franchises except in exceptional circumstances. The licensing principles include that licences must be unbundled from other types of licence, must not be used to restrict the construction or operation of competing pipelines, must not limit the services that an operator may provide, and should allow bypass and interconnection to contestable customers. In the 2001 NCP assessment, the Council concluded that jurisdictions had adhered to these franchising and licensing principles so had met their NCP obligations in this area.

In the 2002 NCP assessment the Council identified several outstanding assessment issues. Jurisdictions' progress in addressing these issues, along with their previous progress in implementing related reform, is discussed in the section 'Assessment issues'.

Benefits of reform

The benefits of NCP reform in the gas sector have begun to be realised. The Parer Review found that the Australian gas market is developing and becoming more competitive, dynamic and efficient (CoAG Energy Market Review 2002, p. 190). It found:

> *COAG's implementation of the free and fair trade in gas principles has been a significant factor in the industry's development. Removal of restrictions on interstate trade in gas and provision of access to pipelines (transmission and distribution) and to customers (removal of exclusive franchises) has encouraged new pipelines to be built. … Similarly, exploration for and development of new gas reserves has been encouraged. (CoAG Energy Market Review 2002, pp. 189–90)*

The Parer Review noted that the length of Australia's transmission pipeline system nearly doubled from 9000 kilometres in 1989 to over 17 000 kilometres in 2001. It outlined the significant development in

transmission pipeline infrastructure since 1995, with major new pipelines including: the Goldfields Gas Pipeline, from the north west of Western Australia to the goldfields region; the Culcairn interconnect which allows gas to flow between New South Wales and Victoria; the South West Pipeline in Victoria; the Eastern Gas Pipeline from Victoria to New South Wales and the ACT; the Tasmanian natural gas pipeline from Victoria to Tasmania; and the South East Australia (SEA) Gas Pipeline, which is being constructed between Victoria and South Australia (CoAG Energy Market Review 2002, pp. 186–8). The Parer Review commented that '[i]t is worth noting … that this investment has been made with the Gas Code in operation' (CoAG Energy Market Review 2002, p. 193). It also noted that new gas fields are mooted for development in the near future and that proposals have been made to transport large quantities of gas from Papua New Guinea and Timor (CoAG Energy Market Review 2002, p. 198).

Assessment issues

The Council considered several significant outstanding issues in the 2003 NCP assessment: the enactment and certification of the national gas access regime; the implementation of full retail contestability; progress with the remaining legislative review issues (including the review and reform of acreage management legislation); and implementation of the national gas quality standard.

National gas access regime

Enactment and certification of the regime

The 1997 gas agreement requires jurisdictions to enact legislation to introduce a uniform Gas Pipelines Access Law (GPAL) and National Gas Access Code establishing a regime for third party access to the services of natural gas pipelines. Jurisdictions are then required to seek certification of their gas access regimes under part IIIA of the *Trade Practices Act 1974* (TPA).

The Council previously assessed that all governments except Tasmania had met their obligations to enact the national access regime. In particular, each jurisdiction has passed a Gas Access Act enacting the GPAL and the National Gas Access Code. The Council notes that, with the exception of Queensland, these governments have now obtained certification of their access regimes. The Council is satisfied that these regimes remained effective post-certification, in line with the requirements of the 1997 gas agreement.

Table 8.2 summarises jurisdictions' positions in relation to the enactment and certification of their gas access regimes. In the 2002 NCP assessment, the Council identified two outstanding issues relating to the enactment and certification of the National Gas Access Regime: (1) the application for certification of the Tasmanian gas access regime and (2) approval for amendments to the New South Wales gas access regime.

Table 8.2: Enactment and certification of access regimes

Jurisdiction	*Legislation enacted*	*Certified effective*
New South Wales	Yes	Certified effective March 2001 for 15 years
Victoria	Yes	Certified effective March 2001 for 15 years
Queensland	Yes	Recommendation of the Council is with the Commonwealth Minister. The recommendation is that the regime does not meet the requirements for effectiveness under part IIIA of the TPA.
Western Australia	Yes	Certified effective May 2000 for 15 years
South Australia	Yes	Certified effective December 1998 for 15 years
Tasmania	Yes	No application yet made to Council
ACT	Yes	Certified effective September 2000 for 15 years
Northern Territory	Yes	Certified effective October 2001 for 15 years

Tasmanian certification

Tasmania was exempted from having to comply with its obligations to enact the National Gas Access Regime and have its regime certified until the State's first natural gas pipeline was approved, or until a competitive tendering process for a natural gas pipeline in the State commenced.[1] In 1998, Tasmania selected Duke Energy International to develop a natural gas supply to Tasmania. Duke constructed and tested a transmission pipeline from Victoria to Tasmania along with lateral pipelines to the south and north west of the State. In 2001, Tasmania commenced a tender process to award an exclusive franchise for the distribution and retail of gas. This process was terminated in 2002 in response to the bids' reliance on financial support and acceptance of risk by the State. Following bilateral discussions, Powerco Limited was selected as the distribution developer.

The Government implemented the National Gas Access Code through its *Gas Pipelines Access (Tasmania) Act 2000*, which was passed in November 2000. It also enacted the *Gas Pipelines Act 2000*, which regulates gas pipeline facilities (through, for example, licensing provisions and the development and approval of gas safety cases) and the *Gas Act 2000*, which regulates the distribution and retailing of natural gas.

[1] This exemption was granted under clauses 4.3 and 10.1 of the 1997 gas agreement.

Tasmania began to prepare an application for certification of its access regime, but informed the Council that it had to delay submitting it due to the termination of the tender process and the need to amend the legislative and regulatory framework. Tasmania also noted that aspects of the distribution franchise arrangements do not comply with the requirements of the national gas access regime — notably, the process for the selection of the franchise distributor, bypass arrangements and the duration of the franchise. Tasmania informed the Council that it received the agreement of all jurisdictions to the transitional derogation relating to these arrangements.

The Council will assess Tasmania's access regime, including retail and distribution arrangements, when it receives Tasmania's application for certification. Given that the transmission pipeline from Victoria to Tasmania has been built, the Council expects Tasmania to apply for the regime's certification in the near future.

New South Wales derogation

Under the 1997 gas agreement, transitional arrangements and derogations from the GPAL are allowed only if they have been approved by all Ministers (clause 12.1) and must be phased out no later than 1 September 2001 except where noted in annex H or annex I to the Agreement or approved by all Ministers (clause 12.2). In the 2002 NCP assessment, the Council found that New South Wales had contravened this requirement by extending a derogation without the approval of all Ministers. It concluded, therefore, that New South Wales had not met fully its national gas reform obligations.

Under transitional provisions in the *Gas Pipelines Access (New South Wales) Act 1998*, a number of pipelines (described as transmission pipelines in schedule A of the National Gas Access Code) were deemed to be distribution pipelines until 1 July 2002. The pipelines were Wilton–Newcastle (including Wilton–Horsley Park, Horsley Park–Plumpton, Plumpton–Killingworth and Killingworth–Walsh Point) and Wilton–Wollongong. The effect of the derogation was that the Independent Pricing and Regulatory Tribunal, rather than the Australian Competition and Consumer Commission, would regulate access to the pipelines.

The New South Wales Government, after undertaking a cost–benefit analysis, decided to extend the derogation for a further five years — this period being chosen to avoid regulatory uncertainty. As required by the 1997 gas agreement, it sought other jurisdictions' approval of the five-year extension, to which all but the Commonwealth Government agreed. The Commonwealth Government approved the extension for a three-year period, on the basis that future developments in the gas industry and prospective changes to the National Gas Access Code might affect the desirability of the derogation.

New South Wales considers that it met the intent of the 1997 gas agreement because the Commonwealth Government had no objection to the extension of the derogation, albeit for a lesser time than proposed. New South Wales

stated that it would be able to amend the derogation to meet any future CoAG agreements on national energy reforms.

In the 2002 NCP Assessment, the Council noted that the Commonwealth Government was willing to reconsider its position on the length of the extension, given appropriate assurances from New South Wales on the derogation's future and support for review and reform of gas regulatory arrangements. Despite discussions between New South Wales and the Commonwealth Government, however, the Commonwealth Government has not approved the extension. It remains concerned that the extension may preclude the earlier implementation of a nationally consistent regulatory framework for natural gas.

The Council notes that the New South Wales Government does not have the approval of all Ministers to extend the derogation for a five-year period. It considers, therefore, that New South Wales has not complied fully with its national gas reform obligations.

Full retail contestability

In the 1997 gas agreement, governments agreed to progressively introduce full retail contestability for all gas consumers. Full retail contestability means providing consumers with the right to choose the retailer from whom they purchase their gas. It results in competition among gas retailers and gas producers, thus promoting improved services, more efficient energy industries and lower prices for customers.

The introduction of full retail contestability is important to realise the benefits of competition in the gas sector as a whole. To promote competition effectively, however, the introduction of full retail contestability requires more than the removal of legal barriers. Governments must also implement a package of business rules, including:

- processes for measuring gas use (whether through metering or other processes);
- protocols for transferring customers from one gas supplier to another;
- consumer protection requirements; and
- safety requirements and gas specification requirements to be met before interconnection can take place.

The legal removal of most barriers to competition occurred with the enactment of the GPAL, including the National Gas Access Code (although some barriers may remain). The business rules must make it practical for customers to select from among suppliers, thus encouraging suppliers to compete to secure customers. Similar processes of supplier selection have promoted effective competition in other industries such as telecommunications.

Table 8.3: Contestability timetables for the national gas access regime

Date	*New South Wales*	*Victoria*	*Queensland*	*Western Australia*	*South Australia*	*ACT*	*Northern Territory*
1 July 1999					>10 TJ per year		
1 September 1999		Customers using >100 TJ per year					
1 October 1999	Customers using >1 TJ per year					Customers using >1 TJ per year	No phase-in arrangements
1 January 2000				Customers using >100 TJ per year			
1 July 2000	All customers				Industrial and commercial customers using <10 TJ per year		
1 September 2000		Customers using >10 TJ per year					
1 July 2001			Customers using >100 TJ per year		All customers		
1 September 2001		Customers using >5 TJ per year and <10 TJ per year					
1 January 2002				Customers using >1 TJ per year		All customers[d]	
1 July 2002				All customers[c]			
1 October 2002		All customers[a]					
1 January 2003			All customers[be]				
1 July 2003							

Unit of measurement: 1 terajoule (TJ) = 1012 joules.

[a] Modified from previous timetable of all customers by 1 September 2001.

[b] Modified from previous timetable of all customers by 1 September 2001.

[c] Legal barriers removed but practical implementation delayed till 1 May 2004.

[d] Modified from previous timetable of all customers by 1 July 2000.

[e] Contestability delayed pending decision on implementation.

The 1997 gas agreement nominated 1 September 2001 as the latest date by which governments had to provide access for all customers and suppliers.[2] Governments experienced significant difficulties, however, in introducing effective full retail contestability in accordance with their contestability timetables. Some announced deferrals of up to 18 months for smaller customers. The difficulties relate to:

- the introduction of information technology systems to handle customer billing and transfer;
- a need for the industry to develop market rules to allow for the orderly management of customer transfers between retailers; and
- the choice and costs of a method of metering (that is, how to measure cost effectively the gas use by smaller customers).

The 2002 NCP assessment outlined jurisdictions' progress in removing legal and other barriers to full retail contestability. It noted that the ACT implemented full retail contestability from January 2002. New South Wales implemented full retail contestability in July 2000, but customers were unable to choose their supplier until January 2002 because the necessary market structures were not in place. The 2002 NCP assessment also noted that Western Australian and South Australian gas consumers had been legally contestable from July 2002 and July 2001 respectively, but that full retail contestability had been delayed in practice. Other jurisdictions were yet to implement full retail contestability. Table 8.3 outlines the contestability timetables for the national gas access regime.

Victoria

Victoria introduced full retail contestability for natural gas on 1 October 2002, having deferred the final stage of contestability from September 2001. According to Victoria, the deferral was a result of delays in the development of systems and processes necessary to manage customer transfers and metering data. During 2002, the State completed a number of tasks to allow for full retail contestability, including the development and implementation of customer transfer and metering systems, business-to-business communication systems, industry tests and market readiness strategy, and the approval of retail market rules. Victoria advised that as at 30 June 2003, 104 000 (7 per cent) of domestic and small business customers have elected to change retailer since the implementation of full retail contestability.

Victoria used its reserve pricing power to constrain price rises sought by retailers in standard gas contracts in 2003. According to Victoria, this approach was necessary to protect consumers from the exercise of retail

[2] Except for Western Australia, where the date was 1 July 2002.

market power. Victoria has extended its reserve power of gas price regulation from August 2004 to the end of 2004, when the need for its continuation will be reviewed. Victoria anticipates that the need for price caps will diminish or end once full retail competition is fully effective.

In the 2002 NCP assessment, the Council noted that Victoria had consulted with, but not sought the consent of, all governments before amending its full retail contestability timetable, as required by the 1997 gas agreement. The Council concluded, therefore, that Victoria had not met fully its national gas reform obligations. Given the successful implementation of full retail contestability in the State, however, the Council now considers that Victoria has met its NCP obligations in this area.

Queensland

The Council noted in the 2002 NCP assessment that Queensland had amended its *Gas Act 1965* to defer the introduction of retail contestability for gas users consuming less than 100 terajoules per year from 1 September 2001 to 1 January 2003. Queensland had sought the approval by all jurisdictions of this deferral. It received approval from all governments except the Commonwealth Government. The Council concluded that Queensland, in proceeding with the deferral, had contravened the 1997 gas agreement's requirement that any extension of transitional arrangements be approved by all jurisdictions so had not met its national gas reform obligations.

On 26 July 2003, Queensland released for public consultation a cost–benefit analysis, undertaken by consultants McLennan Magasanik Associates, which found that the introduction of full retail contestability would impose significant net costs. Queensland has informed the Council that it intends, subject to issues raised in the public consultation, not to introduce retail contestability for gas users consuming less than 100 terajoules per year. A final decision will be made after the 30–day public consultation period ends. If the decision is not to introduce full retail contestability, Queensland will seek the agreement of other jurisdictions as required by the 1997 gas agreement. Any such decision would be reviewed in 2007.

Until Queensland completes its consultation on the costs and benefits of full retail contestability, and makes a final decision on implementation, the Council cannot assess Queensland's actions against its commitment to introduce full retail contestability. The Council will therefore defer consideration of this issue until the 2004 NCP assessment.

However, the Council notes that Queensland retains an obligation under the 1997 gas agreement to introduce full retail contestability on 1 September 2001. Queensland still has not received the agreement of all other jurisdictions to defer the implementation of full retail contestability until 1 January 2003. Queensland has now delayed full retail contestability further and for an unspecified period, without having received the agreement of other jurisdictions. Accordingly, the Council considers that, at the time of

the 2003 NCP assessment, Queensland had not complied with the processes required under its national gas reform obligations.

Western Australia

All Western Australian natural gas customers have been legally contestable since 1 July 2002. Contestability has been delayed in practice, however, until an expected date of May 2004 because establishing the necessary rules, systems and regulatory framework is taking longer than expected. To address these issues, the Western Australian Government established a Gas Retail Deregulation Project Steering Group (GRDPSG), comprising gas industry participants, government representatives and consumer interests. The GRDPSG's role is to consider issues necessary to facilitate full retail contestability, including: the determination of a market operator; arrangements to manage customer transfers between retailers; consumer protection and education; and emergency gas supply management and procedures.

Western Australia advised that it made progress in achieving practical full retail contestability. In particular, Western Australia and South Australia jointly established a Retail Energy Market Company (REMCo) to establish and administer retail market administration systems across the two States, and developed retail market rules. Western Australia also finalised a consultant's report on gas metering issues.

The Western Australian Government introduced an Energy Legislation Amendment Bill to Parliament in June 2003. The Bill establishes a legal framework for REMCo and the retail market rules, and enables the approval of retail marketing schemes and the introduction of customer protection measures (such as a gas marketing code of conduct, a gas industry ombudsman scheme and 'supplier of last resort' arrangements). The Bill also allows the granting, after a competitive tender, of exclusive gas distribution and trading licences to reticulate gas to regional communities. The Bill had yet to be passed at the time of publication.

South Australia

In South Australia, all natural gas consumers have been legally contestable since 1 July 2001, but full retail contestability has been delayed in practice by a lack of access to infrastructure, limited gas supply and the lack of information systems to allow for the orderly management of customer transfer between retailers. The South Australian Government noted that full retail contestability is expected in 2004 as these impediments are overcome.

- Problems associated with access to infrastructure were largely addressed by the Australian Competition and Consumer Commission's approval of the transmission pipeline access agreement in August 2002 and the South Australian Independent Pricing and Access Regulator's final approval of the distribution system access arrangements in April 2003.

- Lack of gas supply will be mitigated by construction of the SEA Gas Pipeline from Port Campbell in Victoria to Adelaide, which is expected to be completed by late 2003.

- Amendments to the *Gas Act 1997* (operational 1 July 2003) provides for the licensing of a retail market administrator, retail market rules and customer protection provisions. The regulatory framework adopted is consistent with the South Australian *Electricity Act 1997*. This will facilitate the development of dual-fuel products and convergence of energy markets.

Legislative restrictions on competition

For natural gas, jurisdictions have an obligation to review legislation that restricts competition and to remove restrictions that cannot be shown to provide a net community benefit and to be necessary to achieve the objectives of the legislation. Legislation relating to natural gas generally falls into one or more of the following categories: petroleum (onshore and submerged lands) legislation; pipelines legislation; restrictions on shareholding in gas sector companies; standards and licensing legislation; and State and Territory agreement Acts. Additional areas that may be relevant are mining legislation (particularly to the extent that it deals with coal and oil shale, which can produce coal methane gas) and environmental planning legislation.

Governments' progress in reviewing and reforming relevant legislation is reported in table 8.5. Review and reform of natural gas legislation were completed in most areas, although some reviews have not been finalised and some necessary reform has yet to be implemented. For the 2003 NCP assessment, the most significant issue was the review and reform of offshore and onshore petroleum acreage management legislation (upstream issues).

Upstream issues

An efficient gas production sector is essential to ensure gas sales markets are able to develop and grow. In 1998, the Upstream Issues Working Group reported to CoAG, identifying three areas that were significant in the development of a more competitive upstream gas sector: marketing arrangements used by gas producers; third party access to upstream processing facilities; and acreage management legislation.

All jurisdictions are engaged in the review and reform of their acreage management legislation, both offshore and onshore. The offshore legislation — the petroleum (submerged lands) Acts — was reviewed through a national process. Each State and Territory with onshore acreage management legislation is reviewing that legislation individually.

Submerged lands legislation

All States and the Northern Territory have petroleum (submerged lands) legislation that forms part of a national scheme that regulates exploration for, and the development of, undersea petroleum resources. These Acts were reviewed in 1999-2000. The Australian and New Zealand Minerals and Energy Council Ministers endorsed the national review report, which was made public in March 2001, following consideration by CoAG.

The review's main conclusion was that the legislation is essentially pro-competitive and that any restrictions on competition (in relation to safety, the environment and resource management, for example) are appropriate given the net benefits to the community. The review recommended two specific legislative amendments, focusing on administrative streamlining and measures to enhance the certainty and transparency of decision-making. One amendment sought to address potential compliance costs associated with retention leases and the other sought to expedite the rate at which exploration acreage can be made available to explorers. A third recommendation was to rewrite the *Commonwealth Petroleum (Submerged Lands) Act 1967.*

The two specific legislative amendments were incorporated into the Commonwealth's *Petroleum (Submerged Lands) Amendment Act 2002,* which was enacted in October 2002. The Council understands that the rewriting of the Commonwealth Petroleum (Submerged Lands) Act is under way, and that a Bill incorporating the changes is expected to be introduced to the Commonwealth Parliament in late 2003. All relevant jurisdictions indicated that they will amend their legislation to reflect the changes to the Commonwealth legislation, but none has done so to date. The Council notes that review and reform in this area are incomplete, but that jurisdictions are committed to implementing reform when the Commonwealth's outstanding matters are resolved.

Onshore acreage management legislation

The Council previously assessed that New South Wales, Victoria and South Australia had met their NCP obligations to review and reform their onshore acreage management legislation. The Commonwealth, ACT and Tasmania do not have onshore acreage management legislation.

Queensland has reviewed the *Petroleum Act 1923* in conjunction with the Gas Act, and drafted the Petroleum and Gas (Production and Safety) Bill and the Gas Supply Bill to replace these two Acts. The Petroleum and Gas (Production and Safety) Bill regulates exploration, production and processing, pipeline and facility licensing, and safety and technical standards. It regulates all exploration and production tenures granted after December 1996. The Petroleum Act 1923 may need to be retained in a limited way to preserve the rights of holders of petroleum tenures granted before that date. Queensland noted that the Bill incorporates all acreage management reforms identified by the Upstream Issues Working Group. It expects the Bill

to be enacted by mid 2004. The Council notes that the Bill is yet to be enacted but that Queensland's implementation of reform in this area is near completion.

Western Australia reviewed the *Petroleum Act 1967* and Petroleum Regulations 1987. The review, which was endorsed by the Government in February 2003, recommended that the State implement the findings of the national review of the submerged lands legislation. It also recommended that potentially restrictive provisions in the Act and Regulations — provisions covering drilling reservations, exploration permit splitting and special prospective authorities with an acreage option — be retained on the grounds that they do not restrict competition and that they provide a net public benefit. The Council notes that amendments arising from the national review of the submerged lands legislation have not been implemented but that Western Australia has committed to doing so.

The Northern Territory reviewed the *Petroleum Act* and the Government approved implementation of the review recommendations. Some recommendations were implemented by the *Petroleum Amendment Act 2003*. The Northern Territory is preparing a proposal to draft a Bill to amend the Petroleum Act to implement the remaining review recommendations. The Northern Territory intends to introduce the Bill to the Legislative Assembly in September 2003. The Council notes that the Bill has yet to be enacted but that the Northern Territory's implementation of reforms in this area is near completion.

Victorian significant producer legislation

In the 1999 NCP assessment, the Council raised concerns regarding the significant producer provisions of the Gas Industry Act. These provisions restrict the conduct of significant producers (entities that hold a petroleum production licence in the Commonwealth waters adjacent to Victoria and have a substantial degree of market power in one or more Victorian gas markets). In particular, the provisions prohibit significant producers from engaging in conduct that discriminates among gas retailers in a manner that would be likely to substantially lessen competition, and from retailing gas to any customer using less than 5 petajoules per year. The Council noted that elements of the legislation could be anticompetitive, but recognised Victoria's objective of seeking to ensure the behaviour of dominant upstream players does not frustrate increased downstream competition. The Parer Review also noted that the provisions may restrict significant producers' ability to separately market gas, which the review considered may increase intra-basin competition (CoAG Energy Market Review 2002, p. 219).

In accordance with the Government's intention at the time of the 1999 NCP assessment, Victoria's Essential Services Commission undertook a review of the significant producer provisions. The review's terms of reference directed the Commission to consider whether the provisions are necessary to enable a competitive wholesale market to develop for the supply of natural gas in

Victoria. The review was completed and forwarded to the Minister on 30 June 2003. The Council notes that review and reform of the significant producer provisions are incomplete, but that the provisions form part of new legislation. The Council will consider Victoria's response to the review in its 2004 NCP assessment.

Outstanding legislation review and reform matters

Review and/or reform is incomplete for three other pieces of natural gas legislation: Victoria's *Pipelines Act 1967*, Queensland's Gas Act and Tasmania's *Launceston Gas Company Act 1982*.

Victoria's Pipelines Act regulates the construction and operation of gas pipelines in the State. An NCP review of the Act was completed in February 1997, to which the Victorian Government responded in July 2002. The Government is undertaking a broader review of the Act to develop a regulatory framework contemporary with other forms of infrastructure. The Government accepted most recommendations of the initial review except some that it considered had been superseded, were impractical or would conflict with the National Gas Access Code. The Government is progressing its implementation of the accepted recommendations and considering some in the context of the current review. Victoria expects the new legislation to be in operation by 2005. The Council accepts that this timeframe is not unreasonable for updating regulation in this area.

Queensland is reviewing the Gas Act in conjunction with the Petroleum Act, and drafted the Petroleum and Gas (Production and Safety) Bill and the Gas Supply Bill to replace these two Acts. As discussed above, Queensland expects to enact the Petroleum and Gas (Production and Safety) Bill by mid 2004. The Gas Supply Bill regulates distribution pipeline licensing, retail sale of fuel gas and insufficiency of supply. It was passed by Parliament and became operational on 1 July 2003. The Council notes that the Petroleum and Gas (Production and Safety) Bill has yet to be enacted, but that Queensland's implementation of reform in this area is near completion.

Tasmania's Launceston Gas Company Act gives that company powers that are not available to potential competitors in the gas supply market. Tasmania substantially amended the Act by new legislation and intends to repeal the remaining sections once an accurate map of the pipeline network has been completed. The Council notes that reform of the Act has not been completed but that Tasmania has demonstrated a firm commitment to the reform.

Industry standards

The Australian gas industry has been developing a national gas quality standard so processed gas can move through all interlinked pipeline networks without adversely affecting pipelines or gas appliances. The Council considers

that such a standard is important to achieving a national gas market through the removal of barriers to interstate gas trade, and to implementing free and fair trade in gas.

Following a gas quality appliance testing program, undertaken by the Australian Gas Association and funded by governments and industry, the Natural Gas Quality Specification Committee was formed to write a new gas quality standard specification for general purpose natural gas. The standard, known as AS 4564/AG 864, defines the requirements for providing natural gas suitable for transportation in transmission and distribution systems within or across State borders, and provides the range of gas properties consistent with the safe operation of natural gas appliances supplied to the Australian market. Relevant gas sales contracts, legislation and/or government guidelines provide temporary departures from the standard.

AS 4564/AG 864 was endorsed in January 2003. All jurisdictions other than Western Australia and Tasmania stated their intention to implement the standard, although none had done so. Jurisdictions' positions on this matter are outlined in table 8.4.

The Council notes the intention of New South Wales, Victoria, Queensland and South Australia to legislate to implement the national standard. While these jurisdictions have not completed this reform, the Council considers that they have demonstrated a commitment to doing so.

Western Australia's Gas Standards (Gas Supply and System Safety) Regulations 2000 call up the national standard, but provide for deviations from the national standard's specification of hydrocarbon dewpoints, heating values, mercury levels and sulphur levels. Western Australia requested that a review of the national standard consider its concerns about these matters. It does not intend to amend its standards to reflect the national standard until such a review is carried out. Western Australia also noted that its gas quality regulations and proposed broadest specification for transmission pipelines are more detailed than the national standard because they cover high pressure, long distance pipelines. Each of the major transmission pipelines in the State has its own gas quality specifications. Western Australia noted no serious intention at this stage to connect any pipelines to any other State; any such pipeline would be purpose built and have its own gas specification to suit a national agenda.

Adoption of the national standard is an important element in building a national gas market, and its implementation needs to be effective. The Council accepts that, for those jurisdictions that do not have interstate pipelines, a decision not to implement the national standard will not create a barrier to interstate trade in natural gas at this stage. Nevertheless, the Council notes that the inconsistent application of the standard across jurisdictions may have adverse impacts in other areas, for instance the construction, sale or use of gas appliances. The Council intends to monitor how jurisdictions are implementing the national standard and any issues that may arise as a result of its partial application.

The Council understands that Tasmania has not made a formal decision on whether to adopt the national standard and that the Government is discussing the matter with other jurisdictions. The Council considers that it would be appropriate for Tasmania to implement the standard as part of the roll-out of gas supply in the State.

The ACT and the Northern Territory indicated that they intend gas industry participants to adopt the national standard. The Council considers that, in order for the national standard to be effective in reducing barriers to interstate trade in gas, it needs to be clearly implemented. Adopting the national standard legislatively would be a suitable way of achieving this.

Table 8.4: Implementation of AS 4564/AG 864

Jurisdiction	*Action*
New South Wales	The Government has adopted gas specifications that are identical to the national standard. The NSW Regulations will be amended to reference the standard later this year.
Victoria	The Government undertook, in consultation with industry, to amend its Regulations to ensure consistency with the national standard. Current Regulations are substantially consistent with the final draft version.
Queensland	The Government is advising stakeholders pending implementation of the standard under Regulation, which was expected to occur by July 2003.
Western Australia	The State's gas quality standards for distribution and transmission networks differ from the national standard in some areas, and the Government does not intend to align them with the national standard at this stage.
South Australia	The South Australian Regulations set the same natural gas quality specifications as those in the national standard. The Government intends to amend the Regulations (prior to the end of 2003) so they call up the standard rather than specifying the parameters and values directly.
Tasmania	The Government is discussing the adoption of the standard with other jurisdictions.
ACT	The ACT gas distributor will adopt the standard in time to replace the gas specifications set out in the existing access arrangement.
Northern Territory	The Government understands that the national standard is a technical standard and is to be applied by the gas industry on a national basis. It will consider the application of the standard as part of the national standard-setting process.

Table 8.5: Review and reform of legislation relevant to natural gas

Jurisdiction	*Legislation*	*Key restrictions*	*Review activity*	*Reform activity*	*Assessment*
Commonwealth	*Petroleum (Submerged Lands) Act 1967*	Regulates exploration for, and the development of, undersea petroleum resources. This legislation forms part of a national scheme.	National review was completed in 1999-2000 and endorsed by the Australian and New Zealand Minerals and Energy Council (ANZMEC) Ministers.	Two specific legislative amendments flowed from the review. One addresses potential compliance costs associated with retention leases and the other expedites the rate at which exploration acreage can be made available to explorers. These amendments were incorporated into the *Petroleum (Submerged Lands) Amendment Act 2002,* which was enacted in October 2002. A third recommendation was for the *Commonwealth Petroleum (Submerged Lands) Act 1967* to be rewritten. The Council understands that the rewriting is under way and that a Bill incorporating the changes is expected to be introduced to Parliament in late 2003. These amendments are to be reflected in mirror State and Territory legislation.	Review and reform incomplete (the Council assesses below the States' and Territories' progress in amending their petroleum (submerged lands) Acts and rewriting counterpart legislation)
New South Wales	*Petroleum (Submerged Lands) Act 1982*	Regulates exploration for, and the development of, undersea petroleum resources. This legislation forms part of a national scheme.	National review was completed in 1999-2000 and endorsed by ANZMEC Ministers.	Amendments made by the Commonwealth Government are to be reflected in State and Territory legislation. New South Wales is awaiting the completion of Commonwealth amendments before amending its own legislation.	Review and reform incomplete

(*continued*)

Table 8.5 continued

Jurisdiction	*Legislation*	*Key restrictions*	*Review activity*	*Reform activity*	*Assessment*
New South Wales (continued)	*Energy Administration Act 1987*	Establishes the Ministry of Energy and the Energy Corporation of New South Wales, and defines their functions.	Review was completed.	Licence and approval requirements were repealed by the *Electricity Supply Act 1995*. Sections 35A and 35B were dealt with as part of structural reform of the gas industry.	Meets CPA obligations (June 1999)
	Gas Industry Restructuring Act 1986	Makes provisions regarding the structure of AGL.	Review was unnecessary due to repeal of Act.	Act was repealed by the *Gas Supply Act 1996*, which corporatised AGL.	Meets CPA obligations (June 1997)
	Liquefied Petroleum Gas Act 1961 and *Liquefied Petroleum Gas (Grants) Act 1980*		Review was completed.	Act was repealed by the Gas Supply Act, among others.	Meets CPA obligations (June 1997)
	Petroleum (Onshore) Act 1991	Regulates the search for, and mining of, petroleum.	Review was completed.	Review recommendations were dealt with under the licence reduction program. Authority for exploration is retained. Business compliance costs are minimised.	Meets CPA obligations (June 1999)
	Pipelines Act 1967	Regulates the construction and operation of pipelines in New South Wales.	Review was completed, finding that the legislation did not contain any significant anticompetitive provisions.	No reform is planned.	Meets CPA obligations (June 2001)
Victoria	*Energy Consumption Levy Act 1982*			Act was repealed.	Meets CPA obligations (June 2001)

(*continued*)

Table 8.5 continued

Jurisdiction	*Legislation*	*Key restrictions*	*Review activity*	*Reform activity*	*Assessment*
Victoria (continued)	*Gas Industry Act 1994* and Amendment Acts	Provide for: (1) a licensing regime administered by the Office of Regulator-General; (2) market and system operation rules for the Victorian gas market; (3) cross-ownership restrictions to prevent re-aggregation of the Victorian gas industry; and (4) prohibitions on significant producers (the Bass Strait producers) engaging in anticompetitive conduct.		The *Gas Industry Act 1994* was replaced by the *Gas Industry Act 2001* and the *Gas Industry (Residual Provisions) Act 1994* on 1 September 2001. The Gas Industry Act gives effect to Victorian reforms that are in line with the introduction and implementation of full retail contestability. The Gas Industry (Residual Provisions) Act contains provisions of historical import, particularly the restructure and privatisation of the gas industry. A review of the significant producer provisions of the new Gas Industry Act is under way. The 'safety net' provisions, which include interim reserve price regulation power, will be reviewed before their scheduled expiry on 31 December 2004.	Meets CPA obligations (June 2003)
	Gas Safety Act 1997 and Regulations	Introduce new restrictive regulations in relation to the Gas Appeals Board, gas installations, and gas quality and safety. Uniform gas quality specifications aim to ensure gas in distribution pipelines is safe for end use.		Efforts were made to minimise compliance costs by limiting the scope of restrictions to minimum functional requirements and avoiding the prescription of style or format. No further reforms are planned.	Meets CPA obligations (June 2001)

(*continued*)

Table 8.5 continued

Jurisdiction	*Legislation*	*Key restrictions*	*Review activity*	*Reform activity*	*Assessment*
Victoria (continued)	*Petroleum (Submerged Lands) Act*	Regulates exploration for, and the development of, undersea petroleum resources. This legislation forms part of a national scheme.	National review was completed in 1999-2000 and endorsed by ANZMEC Ministers.	Amendments made by the Commonwealth are to be reflected in State and Territory legislation. Victoria will amend the Act to mirror the Commonwealth amendments by 2004.	Review and reform incomplete
	Petroleum Act 1958			Act was repealed and replaced by the *Petroleum Act 1998*. New Act retains Crown ownership of petroleum resources and permits a lease system, and removes obstacles to exploration, production and administrative efficiency.	Meets CPA obligations (June 1999)
	Pipelines Act 1967	Regulates the construction and operation of pipelines in Victoria.	Review was completed in February 1997. A broader review of the Act is under way.	The Government released its response to the initial review in July 2002. It accepted most recommendations, except some that had been superseded, were impractical or would have been in conflict with the National Gas Access Code. The Government is progressing its implementation of the accepted recommendations and considering some in the context of the current review.	Review and reform incomplete

(*continued*)

Table 8.5 continued

Jurisdiction	*Legislation*	*Key restrictions*	*Review activity*	*Reform activity*	*Assessment*
Queensland	*Gas Act 1965* and Gas Regulations 1989	Establish a virtual statutory monopoly via provisions on granting of gas franchises and requirements for Government approval of large gas contracts. Legislation also enables the Government to place quantitative restrictions on the supply of gas in certain (emergency) situations, and gives the Gas Tribunal the power to recommend price restrictions.	Queensland reviewed the *Petroleum Act 1923* in conjunction with the *Gas Act 1965*. The review covered those parts of the two Acts that were not the subject of the national review of the *Petroleum (Submerged Lands) Act*.	Queensland drafted the Gas Supply Bill to replace the existing Act. The Gas Supply Bill regulates distribution pipeline licensing, retail sale of fuel gas and insufficiency of supply. The Gas Supply Bill was passed by Parliament and became operational on 1 July 2003.	Meets CPA obligations (June 2003)
	Gas Suppliers (Shareholding) Act 1972	Statutory limitation on the level of ownership of shares in a nominated gas supplier.	Review not undertaken.	Act was repealed in October 2000.	Meets CPA obligations (June 2001)
	Petroleum Act 1923		Act was reviewed in conjunction with the Gas Act (see above).	Queensland drafted the Petroleum and Gas (Production and Safety) Bill to replace the existing Act. The Petroleum and Gas (Production and Safety) Bill regulates exploration, production and processing, gathering and transmission pipeline and petroleum facility licensing and safety and technical standards. Queensland expects the Bill to be enacted by mid 2004.	Review and reform incomplete

(*continued*)

Table 8.5 continued

Jurisdiction	*Legislation*	*Key restrictions*	*Review activity*	*Reform activity*	*Assessment*
Queensland (continued)	*Petroleum (Submerged Lands) Act 1982*	Regulates exploration for, and the development of, undersea petroleum resources. This legislation forms part of a national scheme.	National review was completed in 1999-2000 and endorsed by ANZMEC Ministers.	Amendments made by the Commonwealth are to be reflected in State and Territory legislation. Queensland will prepare amending legislation once reform of the Commonwealth legislation has been finalised.	Review and reform incomplete
Western Australia	Dampier-to-Bunbury Pipeline Regulations 1998		No review undertaken.	Regulations were repealed on 1 January 2000.	Meets CPA obligations (June 2001)
	Energy Coordination Act 1994	Amended to introduce a gas licensing system that provides for the regulation of companies operating distribution systems and supplying gas to customers using less than 1 TJ per year.	Review of new provisions found restrictions were minimal and the most cost-effective means of protecting small customers.	No reform is planned.	Meets CPA obligations (June 2001)
	Energy Operators (Powers) Act 1979 (formerly *Energy Corporations (Powers) Act 1979*)	Provides monopoly rights over the sale of LPG and provides energy corporations with powers of compulsory land acquisition and disposal, powers of entry, certain planning approval and water rights, and indemnity against compensation claims.	Review was completed in 1998. It recommended removing the monopoly over sale of LPG and retaining the land use powers of energy corporations. Land use powers are necessary to facilitate energy supply.	Restrictions on LPG trading were lifted with the enactment of the *Energy Coordination Amendment Act 1999* and *Gas Corporation (Business Disposal) Act 1999*.	Meets CPA obligations (June 2001)

(*continued*)

Table 8.5 continued

Jurisdiction	*Legislation*	*Key restrictions*	*Review activity*	*Reform activity*	*Assessment*
Western Australia (continued)	*Gas Corporation Act 1994*	Creates the Gas Corporation to run certain publicly owned gas assets.		Act was repealed December 2000.	Meets CPA obligations (June 2001)
	Gas Transmission Regulations 1994	Access provisions.		Regulations were repealed. Access and related matters are now regulated under the *Gas Pipelines Access (WA) Act 1998*.	Meets CPA obligations (June 2001)
	North West Gas Development (Woodside) Agreement Act 1979		Not for review.	Act was repealed and replaced by the 1994 Act of same name (see next entry).	Meets CPA obligations (June 1999)
	North West Gas Development (Woodside) Agreement Amendment Act 1994	Differential treatment.	Review completed in 1998.	Act was retained without reform in view of sovereign risk implications of unilateral amendment or repeal.	Meets CPA obligations (June 1999)

(*continued*)

Table 8.5 continued

Jurisdiction	*Legislation*	*Key restrictions*	*Review activity*	*Reform activity*	*Assessment*
Western Australia (continued)	*Petroleum Act 1967*	Regulates exploration for, and the development of, onshore petroleum reserves.	Review was endorsed by the Government in February 2003. Review recommended that findings of the national review of submerged lands Acts be implemented. It also recommended that potentially restrictive provisions in the Act — provisions that cover drilling reservations, exploration permit splitting and special prospective authorities with an acreage option — be retained on the grounds that they do not restrict competition and that they provide a net public benefit.	Recommendations of the national review of submerged lands Acts were to be implemented in the proposed 2003 Western Australian petroleum legislation amendment program. No other reform arose from the review of the Petroleum Act.	Review and reform incomplete

(*continued*)

Table 8.5 continued

Jurisdiction	*Legislation*	*Key restrictions*	*Review activity*	*Reform activity*	*Assessment*
Western Australia (continued)	*Petroleum (Submerged Lands) Act 1982* and Regulations	Regulate exploration for, and the development of, undersea petroleum resources. This legislation forms part of a national scheme.	National review was completed in 1999-2000 and endorsed by ANZMEC Ministers.	Amendments made by the Commonwealth are to be reflected in State and Territory legislation. Western Australia is to amend its legislation during the proposed 2003 petroleum legislation amendment program. Acts to be amended include the Petroleum (Submerged Lands) Act and the Petroleum Act.	Review and reform incomplete
	Petroleum Pipelines Act 1969 and Regulations	Regulate the construction and operation of petroleum pipelines in Western Australia.	Review was completed in 2001. Recommended one amendment with respect to issuing pipeline licences.	Review recommendation is to be implemented via legislative amendment.	Meets CPA obligations (June 2001)
South Australia	*Cooper Basin (Ratification) Act 1975*	Ratifies the contract for the supply of gas by Cooper Basin producers to AGL.	Review was completed, finding substantial public benefits in continuing granted concessions and exemptions on grounds of sovereign risk.	Amendments to be introduced to Parliament in mid-2003.	Meets CPA obligations (June 1997)
	Gas Act 1997	Provides for separate licences to operate pipelines and to undertake gas retailing.	Review in 1999 found restrictions to be in the public interest.	No reform is planned.	Meets CPA obligations (June 1999)

(*continued*)

Table 8.5 continued

Jurisdiction	*Legislation*	*Key restrictions*	*Review activity*	*Reform activity*	*Assessment*
South Australia (continued)	*Natural Gas (Interim Supply) Act 1985*	Provides for Ministerial power to restrict the production and sale of gas from outside the Cooper Basin, determine the use of ethane from the basin, and restrict the Natural Gas Authority from interstate trading in gas.	Reviewed was completed in 1996.	Key restrictions were repealed in 1996.	Meets CPA obligations (June 1997)
	Natural Gas Pipelines Access Act 1995	Establishes the access regime for natural gas pipelines in South Australia.		Act was repealed by s. 50 of the *Gas Pipelines Access (South Australia) Act 1997*. For transitional purposes, the Act continues until access arrangements are set under the National Gas Access Code and any continuing arbitration proceedings are finalised.	Meets CPA obligations (June 1999)
	Petroleum (Submerged Lands) Act 1982	Regulates exploration for, and the development of, undersea petroleum resources. This legislation forms part of a national scheme.	National review was completed in 1999-2000 and endorsed by ANZMEC Ministers.	Amendments made by the Commonwealth are to be reflected in State and Territory legislation. South Australia intends to amend its legislation following the completion of Commonwealth legislative amendments for the creation of the National Offshore Petroleum Safety Authority.	Review and reform incomplete

(*continued*)

Table 8.5 continued

Jurisdiction	*Legislation*	*Key restrictions*	*Review activity*	*Reform activity*	*Assessment*
South Australia (continued)	*Petroleum Act 1940*	Regulates onshore exploration for and development of petroleum reserves.		Act was replaced by the *Petroleum Act 2000*. The new Act incorporates principles proposed by the ANZMEC Petroleum Sub-Committee in regard to acreage management. The Government directed efforts to facilitate new explorers entering Cooper Basin and to encourage the development of a voluntary access code for access to production facilities.	Meets CPA obligations (June 2001)
	Santos Limited (Regulation of Shareholdings) Act 1989	Restricts any one shareholder from having more than a 15 per cent shareholding in Santos Limited.	Review was completed in July 2001.	In July 2001, the Government announced that it had considered the findings of the independent review and resolved to make no change to the Act. The Government considered that the benefits of the restrictions outweighed the costs, and that the objectives of the legislation could be achieved only through restrictions on competition. The main reason is the importance to South Australia of gas supply from the Cooper Basin where Santos has a majority interest in the production of gas.	Meets CPA obligations (June 2002)

(*continued*)

Table 8.5 continued

Jurisdiction	*Legislation*	*Key restrictions*	*Review activity*	*Reform activity*	*Assessment*
South Australia (continued)	*Stony Point (Liquids Project) Ratification Act 1981*	Authorises behaviour contrary to the TPA.	Review was completed in October 2000. It concluded, given that many of the benefits to the producers constituted past or historic benefits, that no significant continuing effect would amount to a restriction on competition. No reform was recommended.	No reform is planned.	Meets CPA obligations (June 2002)
Tasmania	*Gas Act 2000*	Regulates the distribution and retailing of gas in Tasmania. It includes provisions for the appointment of the Director of Gas and the Director of Gas Safety and for the licensing of gas distributors and retailers.	Assessed as complying with the legislation review program gatekeeper requirements.	Gas (Safety) Regulations 2002 were made under the Act in June 2002. Further regulations are expected to be made in mid-2003 to deal with applications for distribution and retail licences and the contestability arrangements for the retail gas market.	Review and reform incomplete
	Gas Franchises Act 1973			Act was repealed.	Meets CPA obligations (June 2001)
	Hobart Town Gas Company's Act 1854			Act was repealed	Meets CPA obligations (June 2001)
	Hobart Town Gas Company's Act 1857			Act was repealed.	Meets CPA obligations (June 2001)

(*continued*)

Table 8.5 continued

Jurisdiction	*Legislation*	*Key restrictions*	*Review activity*	*Reform activity*	*Assessment*
Tasmania (continued)	*Launceston Gas Company Act 1982*	Gives the Launceston Gas Company powers that are not available to potential competitors in the gas supply market — for example, the power to 'break up public roads' without council approval, needing to give only 24 hours notice.		Act was substantially amended by new legislation. Remaining sections are to be repealed once an accurate map of the pipeline network has been completed.	Review and reform incomplete
	Petroleum (Submerged Lands) Act 1982	Regulates exploration for, and the development of, undersea petroleum resources. This legislation forms part of a national scheme.	National review was completed in 1999-2000 and endorsed by ANZMEC Ministers.	Amendments made by the Commonwealth are to be reflected in State and Territory legislation. Tasmania is to amend its legislation to reflect the Commonwealth amendments.	Review and reform incomplete
ACT	*Essential Services (Continuity of Supply) Act 1992*		Review not required.	Act was repealed and replaced by the *Utilities Act 2000*.	Meets CPA obligations (June 2001)
	Gas Act 1992			Act was repealed.	Meets CPA obligations (June 1999)
	Gas Levy Act 1991			Act was repealed in 1998.	Meets CPA obligations (June 1999)
	Gas Supply Act 1998			Act was repealed and replaced by the *Utilities Act 2000* and the *Gas Safety Act 2000*.	Meets CPA obligations (June 2001)

(*continued*)

Table 8.5 continued

Jurisdiction	*Legislation*	*Key restrictions*	*Review activity*	*Reform activity*	*Assessment*
Northern Territory	*Energy Pipelines Act*	Establishes the regulatory framework for the construction, operation and maintenance of energy pipelines in the Northern Territory.	Review was completed and found anticompetitive provisions in the Act were justified in the public interest. Impact of restrictions was considered to be low. Approaches such as negative licensing, co-regulation and self-regulation were rejected as being unlikely to achieve the objective of the Act more efficiently than the existing legislative framework achieves it.	No reform is planned.	Meets CPA obligations (June 2001)
	Oil Refinery Agreement Ratification Act	Imposes conditions on the Mereenie Joint Venture in relation to the proposed oil refinery in Alice Springs. Refinery was not constructed because it is uneconomic, so legislation is of no practical effect.	Review was completed. Act is not considered to be anticompetitive.	Act was repealed effective November 2002.	Meets CPA obligations (June 2003)

(*continued*)

Table 8.5 continued

Jurisdiction	*Legislation*	*Key restrictions*	*Review activity*	*Reform activity*	*Assessment*
Northern Territory (continued)	*Petroleum Act*	Regulates onshore exploration and recovery of petroleum in the Territory; grants exclusive rights; and provides for technical and financial prescriptions.	Review was completed in 2002.	Some recommendations were implemented by the *Petroleum Amendment Act 2003*. The Northern Territory is preparing a proposal to draft a Bill to amend the Petroleum Act to implement the remaining review recommendations. It intends to introduce the Bill to the Legislative Assembly in September 2003.	Review and reform incomplete
	Petroleum (Submerged Lands) Act	Regulates exploration for, and the development of, undersea petroleum resources. This legislation forms part of a national scheme.	National review was completed in 1999-2000 and endorsed by ANZMEC Ministers.	Amendments made by the Commonwealth are to be reflected in State and Territory legislation. The Northern Territory intends to amend its legislation following the completion of Commonwealth legislative amendments.	Review and reform incomplete
	Petroleum (Prospecting and Mining) Act			Act was repealed by the *Petroleum Act*.	Meets CPA obligations (June 1999)