

# Appendix B: Water legislation: summary of review and reform activity

Under the Competition Principles Agreement, governments were obliged to review and, where appropriate, reform the stock of legislation that restricts competition. All governments identified water industry legislation for review and reform under the NCP program. This appendix comprises a tabular summary of the review and reform status of the water industry legislation by jurisdiction.

The following abbreviations are used in the 'Agency' column of the water legislation review and reform tables in this appendix.

|       |  |
|-------|--|
| AIS   | Department of Administration and Information Services (South Australia)        |
| CM    | Chief Minister's Department (ACT)  |
| DIER  | Department of Infrastructure, Energy and Resources (Tasmania)                  |
| DIPE  | Department of Infrastructure, Planning and Environment (Northern Territory)    |
| DPINR | Department of Planning, Infrastructure and Natural Resources (New South Wales) |
| DPIWE | Department of Primary Industries, Water and Environment (Tasmania)             |
| DSE   | Department of Sustainability and Environment (Victoria)                        |
| DUS   | Department of Urban Services (ACT)   |
| EH    | Department of Environment and Heritage (South Australia)                       |
| EPA   | Environment Protection Agency (Victoria)                                       |
| FT    | Forestry Tasmania (Tasmania)   |
| H     | Department of Health (Queensland)<br>Department of Health (Western Australia)  |
| HT    | Hydro Tasmania (Tasmania)  |

|      |   |
|------|---|
| LA   | Department of Land Administration (Western Australia)                     |
| LGP  | Department of Local Government and Planning (Queensland)                  |
| NRM  | Department of Natural Resources and Mines (Queensland)                    |
| OWR  | Office of Water Regulation (Western Australia)                            |
| PAW  | Power and Water Corporation (Northern Territory)                          |
| TF   | Department of Treasury and Finance (South Australia)                      |
| WLBC | Department of Water, Land and Biodiversity Conservation (South Australia) |
| WRC  | Water and Rivers Commission (Western Australia)                           |

**Table B3.1:** Water legislation review and reform status, June 2003

## New South Wales

| <i>Name of legislation</i>                             | <i>Agency</i> | <i>Major restrictions</i> | <i>Review activity</i> | <i>Reform activity</i>   |
|--|---------------|---------------------------|------------------------|--|
| <i>Balranald Irrigation Act 1902</i>                   |               |                           |                        | The Act was repealed by the <i>Water Management Act 2000</i> . |
| <i>Crown Lands Amendment Act 1932</i>                  |               |                           |                        | The Act was repealed by the <i>Water Management Act</i> .      |
| <i>Drainage Act 1939</i>                               |               |                           |                        | The Act was repealed by the <i>Water Management Act</i> .      |
| <i>Fish River Water Supply Administration Act 1945</i> |               |                           |                        | The Act was repealed by the <i>Water Management Act</i> .      |
| <i>Glennies Creek Dam Act 1979</i>                     |               |                           |                        | The Act was repealed by the <i>Water Management Act</i> .      |
| <i>Hunter Valley Flood Mitigation Act 1956</i>         |               |                           |                        | The Act was repealed by the <i>Water Management Act</i> .      |
| <i>Irrigation Act 1912 (and as amended)</i>            |               |                           |                        | The Act was repealed by the <i>Water Management Act</i> .      |
| <i>Irrigation and Water (Amendment) Act 1943</i>       |               |                           |                        | The Act was repealed by the <i>Water Management Act</i> .      |
| <i>Irrigation Corporations Act 1944</i>                |               |                           |                        | The Act was repealed by the <i>Water Management Act</i> .      |

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**New South Wales** continued

| <i>Name of legislation</i>  | <i>Agency</i> | <i>Major restrictions</i> | <i>Review activity</i> | <i>Reform activity</i>  |
|---|---------------|---------------------------|------------------------|---|
| <i>Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act 1955</i> |               |                           |                        | The Act was repealed by the Water Management Act.   |
| <i>Miscellaneous Acts (Water Administration) Amendment Act 1986</i>                 |               |                           |                        | The Act was repealed by the Water Management Act.   |
| <i>Private Irrigation Districts Act 1973</i>  |               |                           |                        | The Act was repealed by the Water Management Act.   |
| <i>Rivers and Foreshores Improvement Act 1948</i>                                   |               |                           |                        | The Act was repealed by the Water Management Act.   |
| <i>Water (Soil Conservation) Amendment Act 1986</i>                                 |               |                           |                        | The Act was repealed by the Water Management Act.   |
| <i>Water Act 1912 (and as amended)</i>  |               |                           |                        | The Act was repealed by the Water Management Act.   |
| <i>Water Administration (Transfer of Functions) Act 1986</i>                        |               |                           |                        | The Act was repealed by the Water Management Act.   |
| <i>Water Administration Act 1986</i>  |               |                           |                        | The Act was repealed by the Water Management Act.   |
| <i>Water Management Act 2000</i>  | DPINR         |                           |                        | The Water Management Act was passed in December 2000, and replaces various pieces of water legislation. |
| <i>Water Supply Authorities Act 1987</i>  |               |                           |                        | The Act repealed by the Water Management Act.   |

## Victoria

| <i>Name of legislation</i>  | <i>Agency</i> | <i>Major restrictions</i>  | <i>Review activity</i>   | <i>Reform activity</i>   |
|---|---------------|--|--|--|
| <i>Catchment and Land Protection Act 1994</i>   | DSE           | Act removed from legislation review program because the Act does not restrict competition. Its objective is to ensure competition in relevant markets is sustainable in the long term. |  | The provisions of part 7 of the Act, which relate to extraction of material have been superseded by the <i>Extractive Industries Development Act 1995</i> and will be repealed when the Act is next amended. |
| <i>Murray Darling Basin Act 1993 and other legislation relating to interstate sharing and management of resources</i> | DSE           |  | South Australia completed a review of the legislation which found there were no restrictions on competition. |  |
| <i>Pollution of Waters by Oil and Noxious Substances Act 1986</i>   | DSE           | Act assessed as not restricting competition.   |  |  |

(continued)

**Victoria** continued

| <i>Name of legislation</i>   | <i>Agency</i> | <i>Major restrictions</i>   | <i>Review activity</i>   | <i>Reform activity</i>   |
|--|---------------|---|--|--|
| <i>Water Act 1989, Water Industry Act 1994, Melbourne &amp; Metropolitan Board of Works Act 1958, Melbourne Water Corporation Act 1992, Rain Making Control Act 1967</i> | DSE           | Various regulatory controls and market restrictions.  | A major public review by Marsden Jacob consultants was completed in June 2001.   | <p>The Victorian Government accepted most of the review recommendations. Work has begun:</p> <ul style="list-style-type: none"> <li>• on proposals to introduce vetted competition;</li> <li>• on consultation in respect of proposals for water leasing arrangements;</li> <li>• on the proposal to separate the power to require connection to the sewerage system from service delivery and infrastructure provision;</li> <li>• on the introduction of public scrutiny to the By-law making process; and</li> <li>• on the establishment of a legislative framework for water businesses.</li> </ul> |
| <i>Water Industry Act 1994 (part 4)</i>  | DSE           | Act imposes licensing arrangements for use of jetties (s. 135A) and powers to levy rates on households in the metropolis. | Review underway. Issues paper publicly released, with a call for submissions. Targeted consultation with key stakeholders. |  |

## Queensland

| <i>Name of legislation</i>  | <i>Agency</i> | <i>Major restrictions</i>  | <i>Review activity</i>   | <i>Reform activity</i>  |
|---|---------------|--|--|---|
| <i>Canals Act 1958 and Regulation 1992</i>                                | EPA           | Regulates construction, maintenance and use of canals, including a requirement for approval to be granted before construction can begin. Regulations relate to quantitative elements, quality/technical standards and natural resource permits/licences. | The review was completed and published in November 1998. The review concluded that the restrictions in the Act are in the public interest. | Provisions subjected to NCP review have been retained without change. |
| <i>Fluoridation of Public Water Supplies Act 1963 and Regulation 1964</i> | H             | Prescribes a particular brand of testing equipment.  | The Department of Health repealed the restrictive provisions without formal review.  | Anticompetitive provisions were repealed in 1997.                     |
| <i>Gladstone Water Board Act 1984</i>                                     | NRM           | Imposes a statutory monopoly.  | The Department of Natural Resources and Mines completed the review in February 2000.   | The Act was repealed by the <i>Water Act 2000</i> .                   |

(continued)

**Queensland** continued

| <i>Name of legislation</i>  | <i>Agency</i> | <i>Major restrictions</i>   | <i>Review activity</i>   | <i>Reform activity</i>  |
|---|---------------|---|--|---|
| <p><i>Metropolitan Water Supply and Sewerage Act 1909</i></p> <p><i>Sewerage and Water Supply Act 1949 and Regulation 1987</i></p> <p><i>Standard Water and Sewerage Laws</i></p> | NRM<br>LGP    | <p>The Acts impose restrictions including a statutory monopoly, licensing/registration requirements and constraints on business. The Acts prescribe requirements on water supply and sanitary plumbing, sanitary drainage, sewer installation, the management of water supply, sewerage and drainage utilities and licensing requirements for plumbing and drainage work.</p> <p>Standard sewerage and water supply laws are administered by local governments and prescribe the purposes and uses of domestic water. The laws provide for the control/supply of water to the Brisbane metropolitan area to be the sole responsibility of the Brisbane City Council. Provisions now largely set by City of Brisbane Act ordinances.</p> | The Department of Natural Resources and Mines and the Department of Local Government and Planning jointly administer the Acts. Restrictions in provisions administered by the Department of Natural Resources and Mines were substantively dealt with by the <i>Water Act 2000</i> . All other restrictions were considered in the NCP review of occupational licensing (plumbers and drainers). | <p>The restrictive elements requiring amendment were incorporated into the Water Act. This commenced in part on 13 September 2000, with the remaining provisions commencing on 19 April 2002.</p> <p>The <i>Plumbing and Drainage Act 2002</i> repealed the Sewerage and Water Supply Act and came into force on 1 July 2003. Non-legislative recommendations for training and information programs for local governments and industry are being delivered.</p> |
| <p><i>South East Queensland Water Board Act 1979 and Townsville/Thuringowa Water Supply Board Act 1987</i></p>  | NRM           | Both Acts impose a statutory monopoly.  | Review completed.  | Both Acts have been repealed. A commercialised Townsville/Thuringowa Water Supply Board was created by amendment of the <i>Local Government Act 1993</i> .  |

(continued)



**Queensland** continued

| <i>Name of legislation</i>  | <i>Agency</i> | <i>Major restrictions</i>   | <i>Review activity</i>  | <i>Reform activity</i>   |
|---|---------------|---|---|--|
| <i>Water Resources Act 1989, Water Resources (Watercourse Protect) Regulations 1993, Water Resources (Rates and Charges) Regulations 1992, and Natural Resources Amendment Act 1996</i> | NRM           | Licensing or registration, pricing restrictions and business conduct. | Review completed in February 2000. Review completed as part of broader CoAG water reform agenda. Discussion papers on modules for new legislation were progressively released for discussion during 1999. A draft of the revised legislation was released for consultation early in 2000. | <p>The restrictive elements that required amendment were incorporated into the Water Act which commenced in part on 13 September 2000, with the remaining provisions coming into force on 19 April 2002.</p> <p>The Water Regulation 2002 commenced in part on 19 April 2002 with remaining provisions commencing on 30 June 2002.</p> |

## Western Australia

| <i>Name of legislation</i>  | <i>Agency</i> | <i>Major restrictions</i>                     | <i>Review activity</i>   | <i>Reform activity</i>   |
|---|---------------|---|--|--|
| Carnarvon Irrigation District By-laws                                 | WRC           | Differential treatment.                       | The Water and Rivers Commission completed the review in January 2000. The review found minor restrictions to be justified on public welfare grounds to maintain security of supply and safeguard infrastructure. | The Cabinet has approved the transfer of the irrigation assets and management to local control. The transfer of the management of the business has been undertaken while the asset transfer has been deferred due to a number of native title issues.    |
| <i>Country Areas Water Supply (Clearing Licence) Regulations 1981</i> | OWR           | Controls over land clearing.                  | The Office of Water Regulation completed the review in August 2000 and recommended no change. Controls were justified on wider ecological and public interest grounds.   | The Government endorsed the review recommendations on 18 December 2000. The Act was retained without change.   |
| <i>Country Areas Water Supply Act 1947</i>                            | OWR           | Licensing, market power by Water Corporation. | The Office of Water Regulation completed the review in September 1999.   | Amendments to the Act were to be progressed via the Acts Amendment and Repeal (Competition Policy) Bill 2002. Due to difficulties in preparing the drafting instructions these reforms will now be included in a second competition policy omnibus bill. |
| <i>Country Areas Water Supply By-laws 1957</i>                        | OWR           | Market power.                                 | Review completed.  | The Government endorsed the findings of the review in December 1999. The Office of Water Regulation and the Water Corporation are finalising the amendments.   |

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## Western Australia continued

| <i>Name of legislation</i>   | <i>Agency</i> | <i>Major restrictions</i>  | <i>Review activity</i>   | <i>Reform activity</i>   |
|--|---------------|--|--|--|
| <i>Country Towns Sewerage Act 1948 and By-laws</i>   | OWR           | 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. | Review of <i>Water Services Coordination Amendment Act 1999</i> recommended retaining restrictions to prevent unlicensed persons from performing plumbing work, and maintaining the board's power to set licence conditions.                     | The Government endorsed the review's recommendations. Amendments to the Act were to be progressed via the Acts Amendment and Repeal (Competition Policy) Bill 2002. Due to difficulties in preparing the drafting instructions these reforms will now be included in a second competition policy omnibus bill.<br><br>Plumbers licensing provisions were transferred to the Water Services Coordination (Plumbers Licensing) Regulations in 2000. The transfer also shifted responsibility for plumbers licensing from Water Corporation to new Plumbers Licensing Board. By-laws are to be amended. |
| <i>Harvey, Waroona Collie River Irrigation Districts By-laws 1975</i>                            | WRC           | Monopoly powers to Water Corporation. Differential rights to irrigators.   | Review by Water and Rivers Commission completed in January 2000. No action proposed – minor restrictions justified on public welfare grounds to maintain security of supply and safeguard laws proposed to reflect current management practices. | The Government endorsed the review recommendations on 14 August 2000.  |
| <i>Health (Treatment of Sewerage and Disposal of Effluent and Liquid Waste) Regulations 1993</i> | H             | Licensing.   |  | Replacement legislation is to be developed.  |

(continued)

**Western Australia** continued

| <i>Name of legislation</i>                          | <i>Agency</i> | <i>Major restrictions</i> | <i>Review activity</i>  | <i>Reform activity</i>   |
|---|---------------|---------------------------|---|--|
| <i>Irrigation (Dunham River) Agreement Act 1968</i> | LA            | Differential rights.      |   | The Act is to be repealed.   |
| <i>Land Drainage Act 1925</i>                       | OWR           | Market power.             | The Office of Water Regulation completed the review in 1999. Minor amendments to Act are proposed to ensure consistency with the competitive licensing regime and other related Acts. | The Government endorsed the review recommendations on 20 December 1999. The Act was to be amended via the Acts Amendment and Repeal (Competition Policy) Bill 2002. Due to difficulties in preparing the drafting instructions these reforms will now be included in a second competition policy omnibus bill. |
| <i>Land Drainage By-laws 1986</i>                   | OWR           | Market power.             | The Office of Water Regulation completed the review in 1999.  | The Government endorsed the review recommendations on 20 December 1999. The Water Corporation in consultation with the Office of Water Regulation is currently developing drafting instructions for amendments.  |
| <i>Land Drainage Regulations 1978</i>               | OWR           | Market power.             | The Office of Water Regulation completed the review in 1999 and recommended that all charges be dealt with through the <i>Water Agencies (Powers) Act 1984</i> .                      | Amending regulations to be consistent with the review's recommendations.   |

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## Western Australia continued

| <i>Name of legislation</i>   | <i>Agency</i> | <i>Major restrictions</i>   | <i>Review activity</i>   | <i>Reform activity</i>  |
|--|---------------|---|--|---|
| <i>Land Drainage (Rating Grades) Regulations 1986</i><br><br><i>Water Agencies (Entry Warrant) Regulations</i> | OWR           | Provides an exemption from paying rates for certain activities, subject to those exemptions on specific land uses that are imposed for social reasons, continuing to be subject to the formal and transparent community service obligation payment.<br><br>Provides for land to be subject to water supply, sewerage, drainage and irrigation charges even if it is not actually connected to the system and where owners or occupiers do not actually use the system.<br><br>Provides exemption from charges for pensioners. | The review recommended retaining legislative restrictions finding them to be in the public interest for reasons of social equity and good infrastructure planning. Some 'housekeeping' recommendations include amending the: <ul style="list-style-type: none"> <li>grading system in the Land Drainage (Rating Grades) Regulations so that all charges are dealt with through the <i>Water Agencies (Powers) Act 1984</i>; and</li> <li><i>Water Agencies (Infringements) Regulations 1994</i> to ensure they are consistent with the <i>Water Agencies (Powers) Act</i>, which enables the Water and Rivers Commission to delegate authority for issuing infringements.</li> </ul> | The Government endorsed the review recommendations. The Water Corporation, in consultation with the Office of Water Regulation, is currently developing drafting instructions for the amendments.   |
| <i>Metropolitan Water Authority (Miscellaneous) By-laws 1982</i>   | WRC           | Differential treatment.   | The Water and Rivers Commission review has been completed with no competition restrictions identified.   | The Government endorsed the review recommendations and retained the Act without change.   |
| <i>Metropolitan Water Authority Act 1982</i>   | WRC           | Provides market power to the Water Corporation.   | The Water and Rivers Commission review has been completed with no competition restrictions identified.   | The Government endorsed the review recommendations on 14 August 2000 and retained the Act without change.   |
| <i>Metropolitan Water Supply, Sewerage and Drainage By-laws 1981</i>   | WRC           | Licensing - as for Country Towns Sewerage Act 1948.   | The Office of Water Regulation has completed the review.   | Plumbers licensing provisions transferred to the Water Services Coordination (Plumbers Licensing) Regulations in 2000. Transfer also shifted responsibility for plumbers licensing from Water Corporation to new Plumbers Licensing Board. Further amendments expected. |

(continued)

**Western Australia** continued

| <i>Name of legislation</i>                                       | <i>Agency</i> | <i>Major restrictions</i>  | <i>Review activity</i>   | <i>Reform activity</i>  |
|--|---------------|--|--|---|
| <i>Metropolitan Water Supply, Sewerage and Drainage Act 1909</i> | OWR           | Market power, and differential treatment for licensing.  | The Office of Water Regulation completed the review in September 1999.   | The Government endorsed the review recommendations on 20 December 1999. Drafting instructions to include the recommended amendments in Acts Amendment and Repeal (Competition Policy) Bill 2002 were forwarded to Parliamentary Counsel. Due to difficulties in preparing the drafting instructions these reforms will now be included in a second competition policy omnibus bill. |
| <i>Ord Irrigation District By-laws</i>                           | WRC           | Provides market power to Water Corporation. Differential rights to irrigators within the area. | The Water and Rivers Commission completed the review in January 2000. The review recommended no change as the restrictions are minor and justified on public welfare grounds to maintain security of supply and safeguard infrastructure.  | The Government endorsed the review recommendations on 14 August 2000. Amendments to by-laws proposed to reflect devolved ownership and control of the scheme.   |
| <i>Preston Valley Irrigation District By-laws</i>                | WRC           | Differential treatment.  | The Water and Rivers Commission completed the review in January 2000 and recommended retaining the restrictions on competition in the public interest. Amendment to the By-laws to reflect the current management practices and responsibilities of the Water Corporation and grower cooperatives following the devolution of irrigation management. | The Government endorsed the review recommendations on 14 August 2000.<br><br>The Water Corporation is drafting amendments in consultation with the Water and Rivers Commission.   |

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**Western Australia** continued

| <i>Name of legislation</i>  | <i>Agency</i> | <i>Major restrictions</i>  | <i>Review activity</i>   | <i>Reform activity</i>  |
|---|---------------|--|--|---|
| <i>Rights in Water and Irrigation (Construction and Alteration of Wells) Regulations 1963</i> | WRC           | Licensing restrictions. The Waters and Rivers Commission is given sole rights to fit, repair and test water meters.  | The Water and Rivers Commission completed the review in January 2000.  | The Government endorsed the review recommendations on 14 August 2000. Amending the regulations to remove the Water and Rivers Commission's exclusive right to the fitting, repair and testing of water meters is being progressed.  |
| <i>Rights in Water and Irrigation Act 1914 and Regulations</i>                                | WRC           | Licensing of rights to take water. Provides monopoly powers to the Water Corporation.  | The Water and Rivers Commission completed the review.  | The Government endorsed the review recommendation on 20 December 1999. Drafting instructions to include the recommended amendments in the proposed Acts Amendment and Reform (Competition Policy) Bill 2002 were forwarded to Parliamentary Counsel. Due to difficulties in preparing the drafting instructions these reforms will now be included in a second competition policy omnibus bill. |
| <i>Swan River Trust Act 1988 and Regulations</i>  | WRC           | Licensing. Limitations on development activity that can be undertaken in the area under the control of the Swan River Trust; and limitations on non-development activity (including advertising) that can be undertaken in the area under the control of the Swan River Trust. | The Water and Rivers Commission completed the review in 2000 and recommended restrictions be retained.                   | The Government endorsed the review recommendations. Act retained without change.  |
| <i>Treatment of Sewerage and Disposal of Effluent and Liquid Waste Regulations</i>            | H             | Licensing.   | The review is underway. The review is a public process involving a public seminar and an invitation to make submissions. |   |

*(continued)*

**Western Australia** continued

| <i>Name of legislation</i>   | <i>Agency</i> | <i>Major restrictions</i>                              | <i>Review activity</i>   | <i>Reform activity</i>   |
|--|---------------|--|--|--|
| <i>Water (Dixvale Area and Yanmah Area) Licensing Regulations 1974</i> | WRC           | Differential treatment of a small group of irrigators. | The Water and Rivers Commission completed the review in 2000 and recommended repealing the regulations.  | The Government endorsed the review recommendations.  |
| <i>Water Agencies (Charges) By-laws 1987</i>                           | OWR           | Differential treatment of Crown lands.                 | The Office of Water Regulation completed the review in 1999.   | The Government endorsed the review recommendations for no change.  |
| <i>Water Agencies (Entry Warrants) Regulations 1985</i>                | OWR           |  | The Office of Water Regulation completed the review in 1999.   | The Government endorsed the review recommendations for no change.  |
| <i>Water Agencies (Infringements) Regulations 1994</i>                 | OWR           | Provides market power to the Water Corporation.        | The Office of Water Regulation completed the review in 1999. The review recommended minor amendments were recommended to ensure consistency of the approach with competitive licensing regime, and related Acts. | The Government endorsed the review recommendation to modify regulation 5 (officers issuing infringements to make it consistent with recommendations from the review of the <i>Water Agencies (Powers) Act 1984</i> . The regulation will be amended once the Water Agencies (Powers) Act is amended via the Acts Amendment and Repeal (Competition Policy) Bill 2002. Due to difficulties in preparing the drafting instructions these reforms will now be included in a second competition policy omnibus bill. |

*(continued)*



**Western Australia** continued

| <i>Name of legislation</i>   | <i>Agency</i> | <i>Major restrictions</i>  | <i>Review activity</i>   | <i>Reform activity</i>  |
|--|---------------|--|--|---|
| <i>Water Agencies (Powers) Act 1984</i>  | OWR           | Provides market power to Water Corporation.                              | The Office of Water Regulation completed the review in 1999.   | The Government endorsed the review recommendations for implementation via the Acts Amendment and Repeal (Competition Policy) Bill 2002. Due to difficulties in preparing the drafting instructions these reforms will now be included in a second competition policy omnibus bill.  |
| <i>Water Agencies Restructure (Transitional and Consequential Provisions) Act 1995</i> | OWR           |  | The Office of Water Regulation completed the review in 2000. No restrictions on competition were identified. | The Act was retained without change.  |
| <i>Water and Rivers Commission Act 1995</i>  | WRC           | The Act provides powers for natural resource management.                 | The Water and Rivers Commission completed the review in 2000. No changes were recommended.                   | The Government endorsed the review recommendations in 2000.   |
| <i>Water Boards Act 1904 and By-laws</i>   | OWR           | Licensing. Restricts powers to supply of water and within defined areas. | The Office of Water Regulation completed the review in 1999.   | Amendment to Act allows agencies to provide a full suite of water services and freedom to compete for licences on equal terms with the Water Corporation. The revised By-laws were considered under gatekeeper requirements.<br><br>Umbrella legislation is being developed to incorporate the agreed NCP reforms and the Government's desired corporate governance arrangements. |
| <i>Water Corporation Act 1995</i>  | OWR           |  | The Office of Water Regulation completed the review in 1999.   | The Act was retained without change.  |

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**Western Australia** continued

| <i>Name of legislation</i>   | <i>Agency</i> | <i>Major restrictions</i>   | <i>Review activity</i>   | <i>Reform activity</i>   |
|--|---------------|---|--|--|
| <i>Water Services Coordination Act 1995 - part 1 of 2</i>  | OWR           | Complex licensing regime inhibits competitive outcomes.   | <p>The Office of Water Regulation completed the review in 1999.</p> <p>The recommendations include the adoption of a simpler, pro-competitive licensing regime and provide for competitive neutrality in relevant Acts.</p> <p>Five year review under s62 completed in 2003.</p> | <p>Recommendations were to be implemented via the Acts Amendment and Repeal (Competition Policy) Bill 2002. Due to difficulties in preparing the drafting instructions these reforms will now be included in a second competition policy omnibus bill.</p> <p>Some recommendations are being implemented through the Economic Regulation Authority Bill 2002, which is currently being debated in the Legislative Council. These are the inclusion of public interest considerations as part of the licensing regime, and the ability to transfer a licence. The Bill also provides for regulations prescribing public consultation processes as part of the decision to grant, amend or transfer a licence.</p> |
| <i>Water Services Coordination Act 1995 - part 2 of 2: Water Services Coordination (Plumbers Licensing) Regulations 2000</i> | OWR           | Plumbers licensing, registration, entry requirements (six years experience and qualification, fit and proper person) reservation of practice (either licensed or under supervision of licensed) and disciplinary processes. | The review has been completed. The review recommended retaining restrictions to prevent unlicensed persons performing plumbing work and maintaining the board's power to set licence conditions.   | The Government endorsed the review and no change was proposed.   |

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**Western Australia** continued

| <i>Name of legislation</i>                             | <i>Agency</i> | <i>Major restrictions</i>                            | <i>Review activity</i>  | <i>Reform activity</i>   |
|--|---------------|--|---|--|
| <i>Water Supply, Sewerage and Drainage Act 1912</i>    | OWR           | Restrictions relate to asset ownership.              | The Office of Water Regulation completed the review in 1998.  | The Act was retained without change.   |
| <i>Waterways Conservation Act 1976 and Regulations</i> | WRC           | Licensing system for disposal of waste in waterways. | The Water and Rivers Commission completed the review in 2000. The review recommended no changes. A major review was proposed to achieve rationalisation of functions and operation between this Act and the Environmental Protection Authority Act. | The Government endorsed the review recommendations on 20 1999 and the Act was retained without change. |

## South Australia

| <i>Name of legislation</i>   | <i>Agency</i> | <i>Major restrictions</i>   | <i>Review activity</i>   | <i>Reform activity</i>  |
|--|---------------|---|--|---|
| <i>Catchment Water Management Act 1995</i>                           | EH            | Restricts market conduct.   | Review completed.  | The Act was repealed by the <i>Water Resources Act 1997</i> .   |
| <i>Groundwater (Border Agreement) Act 1985</i>                       | WLBC          | Restricts market conduct.   | The review was completed in 2000. No change recommended.   | The Act was retained without change.  |
| <i>Irrigation (Land Tenure) Act 1930</i>                             | EH            | Restricts market conduct.   | The review was completed in 1999 and did not identify any major issues. The review recommended that legislation be updated and consolidated.   | The Government approved repeal of the Act on 20 January 2003. Repeal is scheduled for September 2003. |
| <i>Irrigation Act 1994</i>   | WLBC          | Restricts market conduct.   | The review was completed in 2000. Minor legislative changes were recommended. The review identified a need for a further comprehensive review of the legislation and its objectives. | No competition-related reform required.   |
| <i>Loans for Fencing and Water Piping Act 1938</i>                   | T&F           | Restricts market conduct.   | No review as the Act is to be repealed.  | The Government approved repeal in August 2002. This is scheduled for October 2003.                    |
| <i>Murray-Darling Basin Act 1993</i>                                 | WLBC          | The agreement in place is aimed at providing equitable sharing of the resource. | The review was completed in 1999 and recommended no change to the Act.   | Review noted by Murray-Darling Basin Commission and presented to the Minister.                        |
| <i>Renmark Irrigation Trust Act 1936</i>                             | WLBC          | Restricts market conduct.   | The review was completed in 2000. Minor legislative change recommended removing obsolete and inconsistent sections.  | No competition-related reform required.   |
| <i>River Murray Waters Agreement Supplemental Agreement Act 1963</i> | WLBC          | Restricts market conduct.   | The review was completed in 1998 and recommended the Act be repealed.  | The Act has been replaced by the Murray-Darling Basin Act.  |

(continued)

## South Australia continued

| <i>Name of legislation</i>                                    | <i>Agency</i> | <i>Major restrictions</i>  | <i>Review activity</i>   | <i>Reform activity</i>   |
|---|---------------|--|--|--|
| <i>Sewerage Act 1929</i>                                      | T&F           | Barriers to market entry, restrictions on market conduct, product and service standards. | The review of the <i>Sewerage Act</i> , <i>Waterworks Act 1932</i> and the <i>South Australian Water Corporation Act 1994</i> was completed in 2001. The review found that: <ul style="list-style-type: none"> <li>the primary restrictions appear to arise from the inherent monopoly of the infrastructure; and</li> <li>the majority of the identified restrictions on competition are appropriate in the context of the Acts' objectives.</li> </ul> | Although the report identified a number of trivial and intermediate restrictions in the Acts and consequently recommended some minor amendments, the South Australian Government considers the existing arrangements and administrative responses adequately address the issues raised in the review, and accordingly no legislative changes are proposed. The Government is considering the other non-legislative review recommendations. |
| <i>South Australian Water Corporation Act 1994</i>            | T&F           | Barriers to market entry, and restricts market conduct.                                  | Refer to the <i>Sewerage Act</i> for details.  | No reform is required.   |
| <i>South Eastern Water Conservation and Drainage Act 1992</i> | WLBC          | Restricts market conduct.  | The review was completed in 1999 and did not recommend any change.   | The Act has been retained without change.  |
| <i>Water Conservation Act 1936</i>                            | WLBC          | Barriers to market entry, and restricts market conduct and products/service standards.   | The review was completed in 2000 and found no competition issues.  | No competition-related action required.  |
| <i>Water Resources Act 1990</i>                               | WLBC          | Restricts market conduct.  | Review completed.  | The Act was repealed by the <i>Water Resources Act 1997</i> .  |
| <i>Waterworks Act 1932</i>                                    | AIS           | Barriers to market entry, and restricts market conduct, and product/service standards.   | Refer to <i>Sewerage Act</i> for details.  | The Government is considering the review recommendations.  |

## Tasmania

| <i>Name of legislation</i>  | <i>Agency</i> | <i>Major restrictions</i>  | <i>Review activity</i>  | <i>Reform activity</i>   |
|---|---------------|--|---|--|
| <i>Australian Titan Products Act 1945</i>   | DIER          | Provides certain water rights to a company and prohibits it from generating electricity.   |   | The Act was repealed by the <i>Legislation Repeal Act 1998</i> .                   |
| <i>Clyde Water Act 1898</i>   | DPIWE         | Vests trustees with the power to repair and alter works, construct works to convey water from Lake Sorell to the River Clyde and any waterworks necessary to provide the towns of Bothwell and Hamilton with water.          |   | The Act was repealed by the <i>Water Management Act 1999</i> .                     |
| <i>Electricity Supply Industry Restructuring (Savings and Transitional Provisions) Act 1995</i> | DIER          | Requires certain irrigation waters to be made available to certain water users, providing them with a commercial benefit that is not available to others.  | The review has been completed.  | The Act was amended by the <i>Water Management Act</i> .                           |
| <i>Florentine Valley Paper Industry Act 1935</i>  | FT            | Authorises the granting of exclusive timber, water and transport rights to one company.  | The review has been completed and recommended that the power to license water rights be attached to the <i>Water Management Act</i> . | Licensing of water rights was transferred to the <i>Water Management Act</i> .     |
| <i>Groundwater Act 1985</i>   | DIER          | Prohibits the construction or enlarging of a well, or the drawing of water, in a proclaimed region without a permit. Provides the Director of Mines with the power to shut, limit, repair or modify any Tasmanian well.      |   | The Act was repealed by the <i>Water Management Act</i> .                          |
| <i>Hobart Regional Water Act 1984</i>   | DPIWE         | Gives the Hobart Regional Water Board exclusive rights to take water from the Derwent River, Mount Wellington and other streams, construct bulk supply works and enter into agreements with municipalities to provide water. |   | The Act was repealed by the <i>Hobart Regional Water (Arrangements) Act 1996</i> . |

(continued)

## Tasmania continued

| <i>Name of legislation</i>                          | <i>Agency</i> | <i>Major restrictions</i>  | <i>Review activity</i>         | <i>Reform activity</i>   |
|---|---------------|--|--------------------------------|--|
| <i>Huon Valley Pulp and Paper Industry Act 1959</i> | FT            | Provides the company with free unlimited water rights, restricts the water rights of the Huon Council (and its residents), rights over Crown land. Sets company conduct in relation to river bank degradation and water quality. |                                | The Act was repealed by the Legislation Repeal Act.  |
| <i>Irrigation Clauses Act 1973</i>                  | DPIWE         | Market entry. Provides for the construction of waterworks by persons authorised by another Act to do so. Provides for the right to a supply of water for irrigation. Establishes irrigation rights within irrigation districts.  | The review has been completed. | The Act was amended by the Water Management Act. Restricts the holding of irrigation rights in a district to an owner or occupier of land in the district.   |
| <i>Loan (Hydro-Electric Commission) Act 1957</i>    | HT            | Provides irrigation rights to persons in the Parish of Lawreny.  |                                | The Act was repealed on 6 November 1996. Repealing Acts were the <i>Electricity Supply Industry Act 1995</i> and the <i>Electricity Supply Industry Restructuring (Savings and Transitional Provisions) Act 1995</i> . |
| <i>Mount Cameron Water Race Act 1926</i>            | DIER          | Legislated restriction on competition as part of a legislative scheme governing water rights to the Rushy Lagoon property.   |                                | The Act was repealed by the Legislation Repeal Act.  |
| <i>North Esk Regional Water Act 1960</i>            | DPIWE         | Provides the Rivers and Water Supply Commission with the exclusive right to supply certain 'water districts' from waterworks vested in the commission.   |                                | The Act was repealed by the <i>Northern Regional Water (Arrangements) Act 1997</i> .   |

(continued)

**Tasmania** continued

| <i>Name of legislation</i>                              | <i>Agency</i> | <i>Major restrictions</i>  | <i>Review activity</i>                                  | <i>Reform activity</i>  |
|---|---------------|--|---|---|
| <i>North-West Regional Water Act 1987</i>               | DPIWE         | Provides that the North West Regional Water Authority may take water from specified places. Provides that the Authority shall supply municipalities in the Water District with water and that municipalities will not obtain water in bulk from elsewhere. |   | The Act was repealed by the <i>North West Regional Water (Arrangements) Act 1997</i> , which commenced in 1999. |
| <i>Rossarden Water Act 1954</i>                         | DPIWE         | Provides that the Fingal Council may use its power to supply water to the Aberfoyle Tin mine free of charge, effectively providing the company with a competitive advantage.   |   | The Act was repealed by the Water Management Act.   |
| <i>Sewers and Drains Act 1954</i>                       | DPIWE         | Specifies material and work standards for the construction and maintenance of sewerage works. Requires certain council officers to hold certificates of qualification.   |   | Restrictive provisions in Act were removed.   |
| <i>Thomas Owen and Co. (Australia) Limited Act 1948</i> | DPIWE         | Provides a company with the right to take as much water as required at no cost and prohibits it from using that water to generate electricity.   |   | The Act was repealed by the Water Management Act.   |
| <i>Water Act 1957</i>                                   | DPIWE         | Gives the Rivers and Water Supply Commission the power to allow or prevent persons from taking water from rivers and lakes. Prohibits the taking of water for irrigation without the authority of the Commission. Specifies water quality standards.       | The review was completed in 1999.                       | The Act was repealed and replaced by the Water Management Act.  |
| <i>Water Management Act 1999</i>                        | DPIWE         | Establishes a system of transferable water rights.   | New legislation assessed under gatekeeper requirements. |   |

*(continued)*



**Tasmania** continued

| <i>Name of legislation</i>                          | <i>Agency</i> | <i>Major restrictions</i>  | <i>Review activity</i>         | <i>Reform activity</i>                           |
|---|---------------|--|--------------------------------|--|
| <i>Waterworks Clauses Act 1952</i>                  | DPIWE         | Gives power to persons, authorised by special Acts to construct waterworks, to acquire land and to undertake various activities associated with the construction of such waterworks. | The review has been completed. | The Act was amended by the Water Management Act. |
| <i>Wesley Vale Pulp and Paper Industry Act 1961</i> | FT            | Ratifies a financial agreement providing a particular company with a competitive advantage, potentially acting to restrict competition.  | The review has been completed. | The Act was amended by the Water Management Act. |

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## Australian Capital Territory

| <i>Name of legislation</i>       | <i>Agency</i> | <i>Major restrictions</i> | <i>Review activity</i>                             | <i>Reform activity</i>   |
|----------------------------------|---------------|---------------------------|--|--|
| <i>Cotter River Act 1914</i>     | DUS           |                           | An intradepartmental review was completed in 1999. | The Act was repealed on 23 March 2000.   |
| <i>Energy and Water Act 1988</i> | DUS           |                           |  | The Act was repealed as part of the <i>Utilities Act 2000</i> .                  |
| <i>Sewerage Rates Act 1968</i>   | CM            |                           |  | The Act was repealed and relevant provisions now contained in the Utilities Act. |
| <i>Water Pollution Act 1984</i>  | DUS           |                           |  | The Act was repealed by the <i>Environment Protection Act 1997</i> .             |
| <i>Water Rates Act 1959</i>      | CM            |                           | An intradepartmental review has been completed.    | The Act was repealed and relevant parts included in the Utilities Act.           |

## Northern Territory

| <i>Name of legislation</i>           | <i>Agency</i> | <i>Major restrictions</i>  | <i>Review activity</i>   | <i>Reform activity</i>  |
|--------------------------------------|---------------|--|--|---|
| <i>Water Act and Regulations</i>     | DIPE          | Provides for the investigation, use, control, protection, management and administration of water resources.                            | The review was completed in July 2000 and recommended no change. |   |
| <i>Water Supply and Sewerage Act</i> | PAW           | Single provider status provided to the (former) Power and Water Authority. Lacks separation of service delivery from regulatory roles. | Independent review completed in March 2000.                      | The Act was repealed and replaced by the <i>Water Supply and Sewerage Services Act 2000</i> . Single service provider status was retained due to economies of scale. The Utilities Commission is now responsible for licensing for water and sewerage supply in the Northern Territory. In February 2002, the Utilities Commission issued an urban water supply licence to the Power and Water Corporation. |