17 The ACT

A8 Veterinary services

Veterinary Surgeons Registration Act 1965

The review of the ACT Veterinary Surgeons Registration Act took place in conjunction with the review of the territory's health professional legislation because the health Minister has responsibility for the Act's operation. A submission is being prepared for consideration by the government to enable reform of the Act, which will be based on the reform model used for reform of health professions. The National Competition Council's 2003 National Competition Policy (NCP) assessment provided details of proposed reforms.

Because the ACT has not completed the reform of its veterinary surgeon legislation, the Council assesses it as not having met its Competition Principles Agreement (CPA) obligations in this area.

B1 Taxis and hire cars

Road Transport (Public Passenger Services) Act 2001
Road Transport (General) Act 1999
Motor Traffic Act 1936

Under the ACT's Road Transport (Public Passenger Services) Act, the Minister determines the maximum number of taxi and hire car licences[1]. The number of taxi plates in the ACT has increased only marginally since 1995, and taxi plate values have been high (over $200 000). The review of the legislation by the Freehills Regulatory Group in 2000 recommended that the taxi and hire car supply restrictions be removed. A second review, by the Independent Competition and Regulatory Commission in 2002, also recommended freeing entry to the taxi and hire car industry.

The ACT Minister for Urban Services announced reforms for the taxi and hire car industry on 10 December 2002. Under these reforms, an additional 5 per cent of taxi licences would be issued each year, subject to a reserve price that would be based on the ACT Valuer-General's valuation of market prices in

[1] The *Motor Traffic Act 1936* was repealed in 2000.

November 2001. The reserve price would be set at 90 per cent of the market value. If the average price at auction were more than 95 per cent of the market value, then a further 5 per cent of licences would be released. In the following years, market value would be the average sale price from the previous year's auction. The maximum number of licences released in any year would be 10 per cent of the current fleet. New hire car licences would be released according to a similar formula, but at a rate of 10 per cent for the first two years. The Independent Competition and Regulatory Commission would review the reforms after two years and, thereafter, every three years.

The Road Transport (Public Passenger Services) Amendment Bill 2003 was introduced to the ACT Legislative Assembly in June 2003 to establish the regulatory power to allow the annual increases in licence numbers through auction arrangements. The 2003 Bill would remove existing legislative provisions that empower the Minister to determine the maximum numbers of taxi and hire car licences. In the 2003 NCP assessment, the Council found that review and reform activity was incomplete because the Bill had not yet been passed.

The Valuer-General determined a valuation for taxi and hire car licences and the government scheduled the first auction of licences for August 2003. This auction was deferred by the Legislative Assembly's referral of the legislation to the Standing Committee on Planning and Environment, which was given until December 2003 to make its report. The Committee issued its report in that month, recommending that the government finance a buy-back of hire car plates and implement an off balance sheet arrangement to fund a buy-back of taxi plates. The Committee recommended that the government, following the buy-backs, should issue new hire car and taxi plates according to a 'formula' that links licence availability to measures such as growth in passenger trips, population and gross territory product (Standing Committee on Planning and Environment 2003).[2] The report also argued for the establishment of a second taxi radio network.

The government tabled a response to the Standing Committee's report in the Legislative Assembly on 22 June 2004. It announced that it would proceed 'as soon as possible' with an auction of 10 taxi licences (equivalent to about 4 per cent of the ACT's taxi population) in accordance with the formulae described above. This release would follow what the Minister for Urban Services described as a period in which no new licences have been released for some time. There would not be a buy-back of taxi plates, but the government would offer to buy back hire car licences and would lease an unlimited number of these licences. The government has undertaken to make funds available for the buy-back by 1 July 2005.

[2] The Council notes that the proposal has little merit because consumers or taxpayers would pay for a buy-back only to face the costs of regulation in the future, if the formula constrained the supply of taxis.

In August 2004 the Legislative Assembly debated the Road Transport (Public Passenger Services) Amendment Bill 2003 and the government's response to the Standing Committee's report. The Assembly passed into law amendments that will allow unlimited entry into the hire car market for applicants who meet certain quality standards and pay an annual fee. This will facilitate the flow of chauffeured car services to consumers, especially given hire cars can join the taxi ranks at the Canberra airport and casino and given there is no legislated minimum hire time limit or regulated fare for ACT hire cars. Owners of existing hire car plates will be able to offer them for buy back. The Assembly did not support the government's commitment to the release of 10 new taxi plates or the associated formulae and auction arrangements.

While the changes to hire car regulation that the Assembly endorsed in August 2004 are consistent with the reform principles that the Council circulated to jurisdictions in October 2002 (see chapter 9), the ACT has not made progress in reforming the taxi market. It has failed to act on the taxi recommendations of the two NCP reviews.

The Council thus assesses that the ACT has not met its CPA clause 5 obligations. This reform failure may be somewhat mitigated by competition from hire cars, albeit that they constitute imperfect substitutes.

B3 Dangerous goods

Dangerous Goods Act 1975

Following a review in 2000, the ACT Government prepared a new dangerous goods regulatory package that is consistent with the national standard for the storage and handling of dangerous goods, the Australian dangerous goods code and the Australian explosives code. This package was not completed at the time of the 2003 NCP assessment, which thus concluded that reform activity was incomplete. The government introduced the Dangerous Substances Bill 2003 to the Legislative Assembly on 11 December 2003, where it was passed on 4 March 2004. The *Dangerous Substances Act 2004* commenced on 5 April 2004 and, subsequently, the Dangerous Goods Act was repealed.

The ACT thus has met its CPA clause 5 obligations with respect to dangerous goods legislation.

C1 Health professions

Chiropractors and Osteopaths Act 1983

The ACT completed its NCP review of health practitioner legislation, which included the Chiropractors and Osteopaths Act, in March 2001. The review recommended not restricting practices to any specific professions and removing unnecessary business conduct restrictions. The Council's 2003 NCP assessment, however, considered that the ACT, notwithstanding that its proposed reforms satisfactorily addressed competition issues, did not yet meet its CPA clause 5 obligations because the relevant amendments were not implemented. At the time, the ACT advised that it had accepted the review's recommendations and had completed consultation on an exposure draft of the Health Professionals Bill. This Bill was to repeal the existing health profession Acts and replace them with a consolidated Act.

The *Health Professionals Act 2004* has now been passed by the Legislative Assembly and implements the mechanisms necessary to satisfy review recommendations. Under the Act, health profession boards will administer the process of health professional regulation and set registration and practice standards under regulation. The adoption of review recommendations, therefore, will depend on the nature of the promulgated requirements that are subject to legislative gatekeeping requirements.

At a meeting with the ACT's Department of Treasury on 3 October 2004, the Council Secretariat received assurances that there are appropriate controls to prevent Boards re-introducing anticompetitive restrictions removed by the legislation (such as ownership restrictions). When coupled with the fact that promulgated Board requirements are subject to RIS requirements, the Council considers that the ACT has met its CPA obligations in relation to chiropractors and osteopaths through passage of the Act.

Dentists Act 1931
Dental Technicians and Dental Prosthetists Registration Act 1988

In addition to general review recommendations (see the section on chiropractors and osteopaths), the ACT's health practitioner review made particular recommendations relating to the dental professions. It recommended removing:

- the requirement for dental prosthetists to hold professional indemnity insurance
- restrictions on the scope of practice for dental hygienists and dental therapists
- registration requirements for dental technicians.

As for general review recommendations, the ACT's Health Professionals Act will implement the mechanisms necessary to satisfy specific review recommendations relating to professional indemnity insurance and the scope of practice for dental hygienists and dental therapists. The Act does not introduce or mandate particular requirements; rather, it provides a mechanism for the Dental Board to introduce particular requirements when they are in the public interest.

However, the Health Professionals Act does not remove registration provisions for dental technicians. The review considered that, given dental technicians work to the order of registered dentists or dental prosthetists, that these employers should be responsible for ensuring the technician is qualified and competent. The review also considered that the public risks associated with the work of a dental technician are low and could appropriately be managed through infection control and occupational health and safety legislation (Government of the ACT 1999, p. 36).

The Council's 2003 NCP assessment noted that reforms for the dental profession were in line with the CPA guiding principle. This assessment was based partly on ACT advice that the Health Professionals Bill would fully implement the recommendations of the NCP review (Government of the ACT 2003b, pp. 2-3). However, in the context of its 2004 NCP annual report, the ACT has taken the position that the Act will continue to register dental technicians (Government of the ACT 2004a, p. 5).

The Council considers retaining registration is inconsistent with review recommendations and can restrict competition. It also notes that most jurisdictions do not register dental technicians.

Following a meeting with the Council Secretariat, the ACT Department of Treasury provided some public interest justifications to support the registration of dental technicians. The Council, however, does not find the arguments compelling and notes that they should have been considered in the context of the Territory's health practitioner review process. It also notes that the risks to consumers of work undertaken by dental technicians are reduced because many dental technicians are employed by dental laboratories that may be liable for the negligent actions of their employees.

Given this, the Council assesses the ACT as having met its CPA obligations in relation to the Dentists Act but not the Dental Technicians and Dental Prosthetists Registration Act. However, the Council notes that the specific impacts on competition may depend on the particular regulations promulgated.

Medical Practitioners Act 1930

The ACT completed its NCP review of health practitioner legislation in March 2001, including the Medical Practitioners Act. The review did not make specific recommendations regarding the medical profession, except to

recommend the repeal of the Medical Practitioners (Advertising) Regulations 1985.

The Health Professionals Act repeals these advertising regulations. As outlined above, it will also implement the mechanisms necessary to satisfy the recommendations arising from the review of health practitioner legislation (see the section on chiropractors and osteopaths).

The ACT has thus met its CPA obligations in relation to medical profession legislation through passage of the Act.

Nurses Act 1988

The ACT review of health practitioner legislation, which included the Nurses Act, did not make any specific recommendations regarding the regulation of nurses. However, the ACT's Health Professionals Act implements the review recommendations for health practitioner legislation generally (see the section on chiropractors and osteopaths), so the Council assesses the ACT as having met its CPA obligation in relation to nursing legislation.

Optometrists Act 1956

The ACT included its Optometrists Act in its review of health practitioner legislation. The one specific review recommendation regarding optometrists was to continue restricting the sale of spectacles or contact lenses not prescribed by a medical practitioner or optometrist, but to further review this restriction. The ACT's Health Professionals Act does not address this restriction specifically. The ACT has advised that the requirement will be further reviewed in the development of profession-specific regulations created under the Act.

Given that the Health Professionals Act implements review recommendations for health practitioner legislation generally, the ACT has now met its CPA obligation in relation to optometry legislation.

Pharmacy Act 1931

CoAG national processes for reviewing pharmacy regulation recommended that jurisdictions remove restrictions on the number of pharmacies that a pharmacist can own and that friendly societies be able to operate in the same way as other pharmacies (see chapter 19).

The ACT pharmacy legislation does not contain restrictions on the number of pharmacies that a pharmacist can own, so the outstanding restriction relates to the operation of friendly societies.

On 14 May 2004 the ACT Government introduced the Pharmacy Amendment Bill (No. 2) 2004 to the ACT Legislative Assembly. If passed, this Bill would have permitted the operation of friendly society pharmacies in the ACT. At the time, the government noted in its explanatory statement that:

> *The impetus for the amendment was a result of the recognition that friendly society pharmacies provide a benefit to the community.* (Government of the ACT 2004b, p. 2)

These amendments, if passed, would have been consistent with the outcomes of CoAG national processes and would have enabled the territory to meet its CPA obligations in relation to pharmacy legislation.

However, on 16 July 2004 the Prime Minister advised the ACT that if it implemented similar reforms to New South Wales and Victoria, tailored to its circumstances, it would not attract a competition payment penalty. In particular, the Prime Minister advised:

> *Given that there are no friendly society pharmacy outlets currently operating in the ACT, the Commonwealth would not impose penalties on the ACT should it, instead, legislate to prohibit their entry.* (Howard 2004b)

On 5 August 2004 the Bill was discharged from the Legislative Assembly, presumably as a result of the Prime Minister's advice. At the time of this assessment's publication, the ACT had not advised the Council of its position on pharmacy reform.

Given that the ACT has not passed pharmacy reforms to remove restrictions on the operation of friendly societies, the Council assesses it as not yet having met its review and reform obligations in relation to pharmacies. The Council separately notes that the territory has passed the *Pharmacy Amendment Act 2004* that precludes a registered pharmacist from carrying on a business as owner on, inside or partly inside the premises of a supermarket. The Council notes that there is no support for this prohibition in the outcomes of the CoAG national processes, nor has the ACT provided the Council with a robust public interest case for this restriction.

Physiotherapists Act 1977

The ACT included the Physiotherapists Act in its review of health practitioner legislation. The review recommendations did not include any specific recommendations regarding physiotherapists. However, the ACT's Health Professionals Act implements review recommendations generally (see the section on chiropractors and osteopaths), so the Council assesses the ACT as having met its CPA obligation in relation to physiotherapists.

Podiatrists Act 1994

The ACT included the Podiatrists Act in its review of health practitioner legislation. The review recommendations did not include any specific recommendations regarding podiatrists. However, the ACT's Health Professionals Act implements review recommendations generally (see section on chiropractors and osteopaths) so the Council assesses the ACT as having met its CPA obligation in relation to podiatrists.

Psychologists Act 1994

The ACT included the Psychologists Act in its review of health practitioner legislation. The review recommendations did not include any specific recommendations regarding psychologists. However, the ACT's Health Professionals Act implements review recommendations generally (see section on chiropractors and osteopaths), so the Council assesses the ACT as having met its CPA obligation in relation to psychologists.

C2 Drugs, poisons and controlled substances

Drugs of Dependence Act 1989
Poisons Act 1933
Poisons and Drugs Act 1978

Following the outcome of the Galbally Review (see chapter 19), the Australian Health Ministers Council endorsed a proposed response to the review's recommendations. CoAG is now considering the proposed response out of session. The ACT has advised that it intends to implement review recommendations once CoAG endorses them.

The Council acknowledges that the Galbally Review is subject to national processes. However, the ACT has not fully implemented review recommendations, so it has not yet met its CPA obligations in this area.

D Legal services

Legal Practitioners Act 1970

The Council's 2003 NCP assessment noted that the ACT had ceased a review of the *Legal Practitioners Act* so all outstanding review and reform activity could be progressed through the national model laws project to ensure a uniform and nationally consistent framework for the industry. As an interim measure, however, the ACT Government had made some reforms to

professional indemnity insurance by amending the Act to allow for a number of professional indemnity insurance providers.

Since the 2003 NCP assessment, the ACT has partly removed conveyancing practice restrictions through the passage of the *Civil Law (Sale of Residential Property) Act 2003*. This Act allows agents to complete some of these actions by annotating the contract for sale. If the market or a sector of the market chooses to take this course, under the law, a private seller or a private seller and their agent could undertake the functions commonly undertaken by a lawyer. However, the practice reservation has not been fully removed: if the purchaser of a property wants to waive their rights to the 'cooling off' period, they must obtain legal advice.

In July 2004, the ACT signed a memorandum of understanding indicating that the ACT will adopt the model laws for the legal profession. Some elements of the ACT package depend upon Commonwealth regulations — which, while agreed by the Commonwealth, have not yet been implemented.

While national model laws do not stem from NCP requirements, the Council accepts that the ACT had ceased its review of legal practitioner legislation and committed to progressing reforms at the interjurisdictional level. The Council will thus consider the implementation of national model laws as being consistent with the ACT's NCP obligations.

The Council recognises that the ACT has enacted reforms to increase competition in the market for professional indemnity insurance and in certain aspects of the conveyancing process. However, it notes the ACT's lack of progress in implementing national model laws outcomes. For this reason, the ACT has not yet met its CPA obligations in relation to the legal profession.

E Other professions

Agents Act 1968 (travel agents)

Governments are taking a national approach to reviewing their travel agent legislation. The Ministerial Council on Consumer Affairs commissioned the Centre for International Economics, overseen by a Ministerial council working party, to review legislation regulating travel agents. (The findings of the review and the working party response are outlined in Chapter 19.)

Completion of reform activity has been delayed by the need to finalise certain issues at the national level.

The ACT has thus not met its CPA obligations in relation to travel agents legislation because it has not completed reforms in this area.

Agents Act 1968 (employment agents)

In the ACT, employment agents are regulated under the Agents Act, which was reviewed in conjunction with a review of the *Auctioneers Act 1959* in 2001. The review questioned the imposition of a licensing regime on the employment agents market. It found that the employment agent licensing scheme is essentially a revenue-raising measure to pay for a licensing system that does little to produce significant public benefits or prevent market failure. Following a further review in June 2002, the fee payable for an employment agent's licence was reduced from $1023 to $371.

The Legislative Assembly passed the *Agents Act 2003* in May 2003, which repealed the 1968 Act on its commencement. The new Act removes restrictions about place of work, which agents cited as a significant restriction on their capacity to operate in the ACT. The regulation impact statement (RIS) for the 2003 Act concluded that the regulation of agents, including employment agents, would encourage optimal market performance and protect the financial interests of consumers. It found that the costs for employment agents under the new Act's revised fee structure are negligible compared with the significant public benefits that flow from the legislation. In particular, it found that licence fees would remain at an appropriate cost recovery level. The RIS has not been made available to the Council for scrutiny.

The fact that the review found that licensing of employment agents provides little in the way of public benefits and that other jurisdictions do not require licensing (or are moving to a deregulated environment) casts doubt on the robustness of the ACT's public interest case for retaining the licensing — particularly, given that the RIS has not been made available. The ACT, however, has reported that it will not reconsider the licensing requirement because it has been through a thorough public benefit assessment, incurs minimal costs to the industry and does not attract negative comments from relevant participants.

In the absence of licensing in other jurisdictions, the Council maintains its previous assessment that the ACT has not met its CPA obligations in this area. It accepts, however, that the licensing requirement does not impose significant costs on industry participants.

F2 Superannuation

Public Sector Management Act 1994

ACT policy requires permanent government employees to be members of the Australian Government's superannuation scheme. They are treated as 'eligible employees' under the Australian Government's *Superannuation Act 1976*. The ACT's Public Sector Management Act allows appointees to the senior executive service of the ACT public service to join any approved

superannuation fund within the meaning of the Australian Government's *Superannuation (Productivity Benefit) Act 1988*, unless they are already members of the Australian Government scheme.

Although the Australian Parliament passed choice of fund legislation in late June 2004, this did not mean permanent employees in the ACT public service automatically have a choice of funds. Under s252(2)(m) of the Public Sector Management Act, the Chief Minister can ask the Commissioner for Public Administration to make 'management standards' for the arrangements for ACT public sector employees' superannuation. The ACT Government is considering whether to change its public sector superannuation arrangements. The Council thus assesses that the ACT has not yet met its CPA clause 5 obligations because review and reform of public sector superannuation in the ACT is incomplete.

H3 Trade measurement legislation

Trade Measurement Act 1991

Each state and territory has legislation that regulates weighing and measuring instruments used in trade, with provisions for prepackaged and non-prepackaged goods. Regulated instruments include shop scales, public weighbridges and petrol pumps. State and territory governments (except Western Australia) formally agreed to a nationally uniform legislative scheme for trade measurement in 1990 to facilitate interstate trade and reduce compliance costs (see chapter 19). However, because the national review and reform of trade measurement legislation has not been completed, the ACT has yet to meet its CPA obligations in relation to trade measurement legislation.

I1 Education

Education Act 1937
Free Education Act 1906 (NSW)
Public Instruction Act 1880 (NSW)
Schools Authority Act 1976

The ACT has completed the reviews of its education legislation. The reviews involved extensive consultation and made 23 recommendations, including:

- establishing a single Act for schooling in the ACT
- considering teacher registration for the professional enhancement of teachers in the ACT

- retaining legislative provisions for the establishment and re-registration of nongovernment schools

- reviewing the licensing arrangements for independent preschools that are attached to registered nongovernment schools.

During the period that it set aside for public comment on its proposed legislative changes, the ACT Government received a substantial report from the Inquiry into Education Funding in the ACT containing recommendations on the registration and accountability requirements for nongovernment schools. The ACT Government accepted the recommendations and passed amending legislation to implement reforms in March 2004. The Council thus assesses the ACT as having met its CPA obligations in this area.

I3 Gambling

Betting (ACTTAB Limited) Act 1964
Betting (Corporatisation) (Consequential Provisions) Act 1996

The Betting (ACTTAB Limited) Act and the Betting (Corporatisation) (Consequential Provisions) Act govern the operations of the ACT TAB and provide for an exclusive licence. The review of this legislation recommended that the government allow new licences for TABs operating wholly within the ACT, but not allow interstate totalisators until systems are in place to extract racing turnover taxes (and any other turnover taxes and licences) from wagers that originate in the ACT.

The government announced partial support for the review recommendations, noting that care needs to be exercised in assessing the social impacts of opening up the totalisator market. Further, the government noted that the potential loss of TAB revenue has implications for ACTTAB, the government and the industry, which need to be addressed. The ACT expressed its willingness to consider further the issue of non-exclusive TAB licensing arrangements when the findings of the National Cross-Border Betting Task Force are known. Arising from the report of the task force, the Australian Racing Ministers' forum has agreed in principle to the concept of levying a racing product fee on all corporate bookmakers, excluding TABs. This in-principle agreement has been communicated to industry, which is formulating its response.

Because the ACT has not completed its reform activity, the Council assesses it as not having complied with its CPA obligations in relation to TAB regulation.

Gaming Machine Act 1987

The ACT's *Gaming Machine Act* discriminated between gaming machine venues. Only registered clubs could obtain licences for class C machines (more modern machines). Six holders of a general liquor licence were each eligible for up to 10 licences for class B machines (older, draw poker machines) and tavern licensees could apply for a maximum of two class A machines (simple machines that are no longer manufactured). The ACT's casino legislation prohibits the casino from operating gaming machines.

The ACT completed an initial review of the Act in 1998, but subsequently referred the Act to the ACT Gambling and Racing Commission for review. The review took account of NCP principles among other criteria. The commission's review report was released in October 2002 and its most significant recommendation was that gaming machine licences should be restricted to clubs. It considered that gaming machine revenue should be used for the benefit of the community, rather than for the profit of the licensee, but that allowing all not-for-profit organisations to access licences would create difficulties in the monitoring of entities' administrative arrangements. It stated that among not-for-profit organisations, clubs have historically demonstrated that they are ideally set up to control and operate gaming machines. The report also recommended:

- tightening the definition of a club and more clearly specifying the amounts to be paid as community and charitable contributions
- breaking the nexus between liquor and gaming machines by:
  - phasing out the right to operate class B gaming machines as held by six general liquor licence holders
  - not allowing tavern licensees to replace their obsolete class A gaming machines with class C machines
- maintaining the current territory-wide cap on gaming machines (5200)
- introducing a central monitoring system.

The government accepted the recommendation that licences should be predominantly held by clubs, although the amendments passed in March 2004 allow for taverns and hotels with fewer than 12 rooms to access a maximum of two class B machines.

While all jurisdictions regulate gaming venues by capping their entitlement to gaming machines (generally providing clubs with a higher cap than that for hotels), the ACT has the most discriminatory arrangements. The Productivity Commission concluded that venue restrictions are based on 'history and arrangements with particular interests, rather than strong policy rationales' (PC 1999b, p. 14.32). It considered that 'the only justifiable policy rationale for regulating access to gambling is to limit social harms or meet community norms. Other reasons — based on helping the "club" industry or creating monopoly rents for taxation purposes — do not withstand scrutiny' (PC 1999b, p. 15.1). The Council considers that the ACT's arrangements do not

have any harm minimisation benefits because access to gaming machines is widespread and the Productivity Commission found little evidence that clubs provide a less risky environment than that of hotels.

At the time of its review, the Gaming Machines Act did not have an objective, nor did the review recommend objectives. The ACT Government has subsequently informed the Council that a primary objective of any revised legislation should be to ensure the benefits from the operation of gaming machines accrue to the community. (However, the ACT Government did not include this, or any other, objective in its amendments to the Act). The government has asserted that this objective could not be achieved other than by restricting the issue of gaming machine licences to not-for-profit organisations (specifically, licensed clubs). The CPA places the onus of proof on governments to show that restricting competition is the only way of achieving their objectives. The Council considers that the ACT has not met this requirement and so assesses that the ACT has not complied with its CPA obligations in this area.

Interactive Gambling Act 1998

The licensing provisions of the ACT's Interactive Gambling Act are aimed at ensuring the probity of gaming suppliers and the integrity of their operations, in the interests of consumer protection. The granting of licences is subject to criteria designed to ensure the probity of the applicant and the integrity of the games on offer. The Minister also has a discretionary power to grant licences, which the ACT believes is necessary 'to give a further assurance that the provider of the licence will be of good character and possess the capacity to run a gambling operation in accordance with regulations' (Government of the ACT 2002, p. 49). Under law, the Minister is required to provide reasons for such a decision, and the decision is reviewable by the Administrative Appeals Tribunal.

The ACT Gambling and Racing Commission is reviewing the Interactive Gambling Act, primarily as a consequence of the enactment of the Australian Government's *Interactive Gambling Act 2001*. The Council previously accepted that it was prudent for the ACT to wait for the outcomes of the Australian Government's review before completing its own review. Now that the Australian Government's review has reported and the government's response is known, the Council looks to the ACT to complete its review in a timely manner.

Because the ACT has not completed its review, the Council assesses it as not having met its CPA obligations in this area.

J3 Building occupations

Architects Act 1959

A national review of state and territory legislation regulating the architectural profession was completed in 2002 (see chapter 19). When the Council completed the 2003 NCP assessment, the ACT Government had not introduced amending legislation, and the Council found that review and reform activity was incomplete. Subsequently, the ACT rewrote the Architects Act to incorporate the recommendations of the national working group that responded to the Productivity Commission's 2000 report on state and territory architects' legislation. The ACT Government introduced the amending legislation to the Legislative Assembly on 4 March 2004, and the Assembly passed it on 1 April 2004. The *Architects Act 2004*, which commenced on 1 July 2004, is consistent with the principles for harmonisation of architects Acts as agreed by states and territories, and is closely modelled on the New South Wales and Queensland reforms.

The Council thus assesses the ACT as having met its CPA clause 5 obligations in this area.

Building Act 1972
Electricity Act 1971
Electricity Safety Act 1971

In 2000 the ACT reviewed the occupational regulation aspects of the Building Act, the Electricity Act (electricians licensing) and the Plumbers, Drainers and Gasfitters Board Act. These Acts provided for the licensing and registration of builders, electricians, plumbers and gasfitters; the setting of entry requirements based on qualifications, experience and business capacity; and the reservation of certain areas of practice to licensed people. The review concluded that information asymmetries and negative externalities justify the government's role in ensuring tradespeople have the appropriate skills to undertake building and construction. The review recommended replacing legislation with a single new Act for licensing builders, electricians, plumbers, drainers and gasfitters; replacing existing boards with a single registrar (supported by separate advisory panels); making changes to remove duplication and streamline licensing arrangements; and changing the disciplinary system.

The ACT Government accepted 21 of the 22 recommendations and began to draft legislation. It did not accept a provision for a peer group to overturn the registrar's decisions on strictly technical matters. The 2001 ACT elections meant that the introduction of legislation was postponed until 2002. However, the ACT Government did not approve the continuation of legislative drafting until December 2002. At the time of the 2003 NCP assessment, the legislation had not been introduced formally to the Legislative Assembly. In that assessment, the Council found that reform activity was incomplete.

The Government introduced the *Construction Occupations (Licensing) Bill 2003* to the Legislative Assembly on 20 November 2003, and the Assembly passed it on 11 March 2004. The new Act will commence on 1 September 2004 after education classes are run for licensees and administrative systems have been developed. (This new Act was introduced and passed in a package with the *Building Act 2004* and the *Construction Occupations Legislation Amendment Act 2004*.)

The Council thus assesses the ACT as having met its CPA clause 5 obligations in this area.

Plumbers, Drainers and Gasfitters Board Act 1982

The ACT reviewed this Act in conjunction with the occupational regulation aspects of the Building Act and the Electricity Act. (This review and the Government's response are discussed in the previous section on electrical workers.) The new Construction Occupations Licensing Act and the new Building Act (discussed above) establish and consolidate new licensing arrangements for a range of building trades, and repeal the Plumbers, Drainers and Gasfitters Board Act.

The Council thus assesses the ACT as having met its CPA clause 5 obligations.