7 Gas

National Competition Policy commitments

In the 1990s the Council of Australian Governments (CoAG) struck agreements aimed at creating a national gas market with more competitive supply arrangements. CoAG recognised that a well-developed and competitive gas industry was vital to Australia's economic and environmental future.

- The 1994 CoAG gas agreement set a timetable and framework to introduce free and fair trade in natural gas.
- The 1995 competition policy agreements, including the Competition Principles Agreement (CPA), linked reform of the natural gas industry to National Competition Policy (NCP) payments.
- The 1997 Natural Gas Pipelines Access Agreement set a framework for governments to enact uniform gas access legislation incorporating the National Third Party Access Code for Natural Gas Pipeline Systems (National Gas Code).

Table 7.1 summarises governments' NCP commitments in gas. The core commitments are (1) the removal of all legislative and regulatory barriers to free and fair trade in gas within and between jurisdictions, and (2) the provision of third party access to gas pipelines. Other commitments include:

- the adoption of uniform national pipeline construction standards
- the commercialisation of publicly owned gas utilities
- the removal of restrictions on the uses of natural gas (for example, for electricity generation)
- the limiting of gas franchise arrangements to those that are consistent with free and fair competition in gas markets and third party access.

Table 7.1: Summary of government commitments

Commitment	*Source of commitment*
Corporatisation, vertical separation of transmission and distribution activities, and structural reform of government-owned gas utilities	1994 gas agreement and the CPA
Ringfencing of privately owned transmission and distribution activities	1994 gas agreement
Implementation of Australian Standard (AS) 2885 to achieve uniform pipeline construction standards	1994 gas agreement
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 commitments

The CoAG reforms for free and fair trade in gas are nearing completion. The Council has previously concluded that two areas of reform were complete: (1) the structural reform of gas utilities and (2) adherence to the CoAG franchising and licensing principles.

All states and territories have implemented the National Gas Code.[1] In most states and territories, all gas customers (including households) can enter a contract with a supplier of choice.[2] Governments have also removed most remaining legislative and regulatory barriers to trade, removed most exclusive franchise arrangements and reformed the monopoly utilities that once dominated the gas industry. The NCP assessments facilitate independent monitoring of gas reform implementation and, in the National Competition Council's view, have provided strong incentives for jurisdictions to complete the CoAG reforms.

The Parer Review found that reform has promoted the gas industry's development. In particular, the review considered that the removal of restrictions on interstate trade in gas, the provision of access to pipelines and the removal of exclusive franchises have encouraged exploration for, and the development of new gas reserves and the construction of new pipelines (CoAG Energy Market Review 2002).

While governments have substantially completed their implementation of the CoAG gas reforms, the 2003 NCP assessment identified areas in which work remained. In the following sections, the Council considers governments' progress in these areas.

National Gas Access Regime

Enactment and certification

The 1997 gas agreement requires governments to enact legislation to introduce a regime for third party access to the services of natural gas pipelines. The regime comprises a uniform Gas Pipelines Access Law (GPAL) and the National Gas Code. Governments are required to seek certification of their gas access regimes as being effective 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 Gas Access Regime and seek certification. While Governments are not required to obtain certification to

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1 Some jurisdictions implemented derogations (variations) from the code. In most cases, the Australian Government and all state and territory governments approved these derogations.

2 In Queensland, only customers using more than 100 terajoules of gas per year can choose their gas supplier. In other states and territories, all gas customers can now do so.

meet their obligations, all other than Queensland have done so.[3] Table 7.2 summarises progress in the enactment and certification of state and territory gas access regimes.

Table 7.2: 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 Australian Government 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	Application made to Council in October 2004
ACT	Yes	Certified effective September 2000 for 15 years
Northern Territory	Yes	Certified effective October 2001 for 15 years

Tasmanian gas access regime

In the 2003 NCP assessment, the Council identified Tasmania's obligation to apply for certification of its gas access regime as an outstanding issue. Under the 1997 gas agreement, Tasmania's obligations to enact the National Gas Access Regime and have its regime certified were delayed until the state's first natural gas pipeline was approved, or until a competitive tendering process for a pipeline commenced. In 1997 Tasmania selected Duke Energy International to develop a natural gas supply to Tasmania. Duke constructed a transmission pipeline from Victoria to Tasmania, with lateral pipelines to the south and north west of the state. The first deliveries of gas were made in September 2002.

In 2001 Tasmania commenced a tender process to award a five-year exclusive franchise for the distribution and retail of natural gas. The tender process, which followed National Gas Code procedures, was terminated in 2002 when it became clear that all bids relied on significant financial support and risk-taking by the state. Following discussions with participants in the tender process, Tasmania signed agreements with Powerco Limited in 2003 to develop the state's distribution network. Work commenced in October 2003, with stage one of the network scheduled for completion by February 2005.

[3] The Council reviewed Queensland's access regime and recommended in 2002 that it did not meet the requirements for effectiveness. An absence of certification does not limit the operability of a state access regime. However, the services covered by an ineffective regime are open to a declaration application under part IIIA of the TPA.

Tasmania implemented the National Gas Code through the *Gas Pipelines Access (Tasmania) Act 2000*, which it passed in November 2002. It also enacted the *Gas Pipelines Act 2000* to regulate licensing provisions and gas safety matters, and the *Gas Act 2000* to regulate the distribution and retailing of natural gas. The state originally planned to seek certification of its access regime in 2002. The application was delayed by amendments to the legislative and regulatory framework following the termination of the 2001 tender process and by the need for consistency with the development agreement with Powerco. Tasmania applied for certification of its access regime in October 2004.

Exclusive franchise arrangements

Tasmania's agreement with Powerco to develop a distribution network includes the award of an exclusive distribution franchise. The arrangement applies to 23 major industrial and commercial customers identified in the first stage of the distribution rollout. Tasmania does not envisage using exclusive franchises for later stages of the rollout, including the rollout to small commercial and residential customers.

Tasmania advised that its exclusive franchise arrangements depart from the 1997 gas agreement, notably in relation to the selection process for the franchise distributor (which was less public than the code requires), bypass arrangements (which are not permitted for the 23 nominated customers), and the duration of the franchise (which is two years longer than the agreement permits). Tasmania considers that these departures were necessary for the development of gas distribution infrastructure in the state, noting that the code-compliant tender process in 2002 could not deliver a viable outcome. Tasmania considers that the response from the market was that network construction required a guaranteed customer base for a specified period.

The arrangements derogate from clause 3(d) of annexe E of the 1997 gas agreement because they alter the scope and length of Tasmanian franchise arrangement for gas distribution and as such, require the approval of all jurisdictions. Tasmania received this approval in June 2003. While agreeing to the derogation, the Australian Government expressed concerns that Tasmania had entered binding arrangements that depart from the code before consulting with other jurisdictions. It also urged Tasmania to monitor Powerco's market behaviour in case of possible abuse.

In gaining the agreement of all governments, Tasmania has addressed NCP assessment issues that are raised by the exclusive franchise arrangements.

Full retail contestability

The 1997 gas agreement requires the introduction of full retail contestability for all gas consumers. This entails the right to enter a gas supply contract with a supplier of choice. Full retail contestability promotes competition

between gas retailers and gas producers, thus encouraging better service quality, more efficient energy industries (through opportunities for economies of scale) and lower prices for customers.

The introduction of full retail contestability is important to fully realise the benefits of reform in the gas sector. To do this effectively, governments must remove legal barriers to competition and implement business rules that cover:

- processes for measuring gas use (through metering, profiling or other processes)
- protocols for transferring customers from one supplier to another
- consumer protection
- safety and gas specification requirements to enable interconnection to take place.

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

The 1997 gas agreement nominated 1 September 2001 as the latest date for governments to introduce full retail contestability.[4] Governments experienced significant difficulties with achieving this timeframe, and some announced deferrals of up to 18 months for smaller customers. The difficulties related 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
- the choice and costs of a method of metering (that is, how to cost-effectively measure the gas use by small customers).

For the 2003 NCP assessment, the Council considered that New South Wales, Victoria, the ACT and the Northern Territory had met their NCP obligations by removing legal and other barriers to full retail contestability. Western Australian and South Australian gas consumers became legally contestable from July 2002 and July 2001 respectively, but technical barriers remained in place. Other jurisdictions were yet to implement full retail contestability. Table 7.3 outlines progress in this area.

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

Table 7.3: Contestability timetables for the National Gas Access Regime (TJ = terajoule)

Date	*New South Wales*	*Victoria*	*Queensland*	*Western Australia*	*South Australia*	*ACT*	*Northern Territory*	*Tasmania*
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[d]			
1 September 2001		Customers using 5 – 10 TJ per year						
1 January 2002				Customers using >1 TJ per year		All customers[e]		
1 July 2002				All customers[c]				
1 October 2002		All customers[a]						
2002 –			No scheduled date for customers using < 100 TJ[b]					Expected in 2005[f]

[a] Modified from previous timetable of all customers by 1 September 2001. [b] Modified from previous timetables of 1 September 2001 and 1 January 2003. [c] Practical implementation occurred in May 2004. [d] Practical implementation occurred in July 2004. [e] Modified from previous timetable of all customers by 1 July 2000. [f] From commencement of gas flows through distribution network.

Queensland

For the 2003 NCP assessment, Queensland reported its intention not to extend retail contestability in gas, subject to a public consultation process. The proposal related to all parties using less than 100 terajoules of gas per year. Queensland intended to seek the agreement of other jurisdictions if it made a final decision not to proceed with the reform. In support of its proposal, Queensland provided the Council with a cost-benefit assessment by consultants McLennan Magasanik Associates Pty Ltd (MMA 2003a), which analysed the effects of extending contestability to customers using less than 1 terajoule of gas per year over a 20-year period.

For the 2004 NCP assessment, Queensland reported that public consultation on the MMA study had raised no material issues, and reiterated its decision not to extend retail contestability. It advised its intention to review its position in 2007. Queensland's decision means that consumers of less than 100 terajoules of gas per year are unable to choose their supplier. The affected parties include around 650 industrial and commercial businesses and 150 000 residential customers, comprising about 10 per cent of the Queensland gas market (by volume).

The 1997 gas agreement requires that governments introduce full retail contestability in gas no later than 1 September 2001 unless all jurisdictions approve an extension. When Queensland sought this approval in October 2003, all state and territory governments agreed, although Western Australia queried the treatment of customers using 1–100 terajoules of gas per year. The Australian Government did not endorse the proposal. It considered that Queensland's deferral of reform may have adverse implications for the development of a national energy market.

Queensland advised the Council in September 2004 that the MMA report it provided in 2003 was part of a wider study. The published report only analysed the effects of extending contestability to customers using less than 1 terajoule of gas per year. Queensland advised that MMA also prepared a companion cost-benefit report on the effects of extending contestability to customers using 1–10 terajoules per year (identified as tranche 3) and 10–100 terajoules per year (tranche 2) (MMA 2003b). Queensland did not release the companion report for consultation. It provided the report to the Council on a confidential basis.

The two cost-benefit reports, in combination, consider the effects of implementing retail contestability for all customers. The identified costs and benefits include:

- transaction costs to establish and operate metering, profiling, customer transfer systems and regulatory structures to support contestability
- incremental marketing costs associated with competition

- wholesale gas savings
- economies of scale and scope flowing from competitive markets.

The reports recognise but do not quantify the benefits of new products and improved customer service likely to flow from greater competition. Similarly, while the reports acknowledge the flow-on benefits of lower gas prices into other product prices, this benefit is excluded from the quantitative analysis. The report claims that these types of benefits are difficult to quantify (MMA 2003a). A summary of the findings appears at table 7.4.

Table 7.4: Extension of Queensland gas retail contestability: net benefits

	Tranche 2	*Tranche 3*	*Tranche 4*	
	Commercial and industrial	*Small commercial and industrial*	*Residential*	***All customers***
Gas use category (Tj per year)	10-100	1-10	0-1	**0-100**
Customers (no.)	150	500	150 000	**150 650**
Gas sold (Tj per year)	3 750	1 400	3 000	**8 150**
Gas use per customer (Gj per year)	25 000	2 800	20	
Net benefit from contestability ($'000)	$14 900	$2 600	–$42 600	**–$25 100**

[a] Measured over a period of 20 years.

Source: MMA 2003a

The reports predicted that over a 20 year period, extending contestability would result in:

- positive net benefits from extending contestability to tranches 2 and 3 (customers using between 1–100 terajoules per year)
- negative net benefits from extending contestability to tranche 4 in isolation (customers using between 0–1 terajoules per year).

For tranche 4, the study found that the transaction costs to establish and operate metering, profiling, customer transfer systems and regulatory structures to support contestability, plus incremental marketing costs associated with competition, would outweigh the benefits of wholesale gas savings and economies of scale and scope flowing from competitive markets.

The study recommended an extension of contestability to tranches 2 and 3. Queensland informed the Council in September 2004 that it had not implemented these recommendations because it had not identified an equitable method of unwinding historical cross subsidies in the market.

Assessment

Queensland has made no progress towards extending contestability to commercial and industrial customers using 1–100 terajoules of gas per year, despite an independent study (commissioned by Queensland) finding that the benefits of extending contestability would outweigh the costs.

The 1997 gas agreement recognised that the introduction of retail contestability would pose transitional issues (including cross-subsidy issues) for all jurisdictions, and allowed for a phased implementation. Governments agreed to remove transitional barriers to competition by September 2001. Queensland did not meet this time frame, and failed to gain the approval of all governments for an indefinite deferral of retail contestability as required by the gas reform agreements.

Queensland argues that their failure to introduce full contestability is a result of their inability to address historical cross subsidies. They have not provided evidence as to why these issues have been incapable of resolution. Such cross subsidies have been addressed in all other states and territories, which have moved to implement cost reflective pricing. The Council notes that an extension of contestability would not preclude Queensland from subsidising retail prices for particular customer classes. The competition policy agreements do not object to subsidies or community service obligations that are competitively neutral, transparent, appropriately costed and directly funded by governments.

The Council concludes that Queensland has not complied with its obligations under the 1997 gas agreement and has failed to implement the recommendations of its own cost-benefit assessment to extend retail contestability to tranches 2 and 3. Queensland is more than two years behind the CoAG milestone for implementation, and has provided no evidence of progress towards addressing cross-subsidy issues.

The Council considers that Queensland's failure to extend contestability to tranches 2 and 3 is a serious breach of its NCP gas reform commitments. In particular, the MMA study identified significant benefits in extending contestability, both for medium to large gas users and for the Queensland community. In the 2005 NCP assessment the Council will look for Queensland to have implemented the study's recommendations.

Western Australia

Western Australia introduced retail contestability in 2000 with the removal of legal impediments for major users. Customers using 1–100 terajoules of gas per year — such as hospitals, hotels, restaurants, laundries and bakeries — became contestable in January 2002. Legal impediments for small business and household customers using less than 1 terajoule of gas per year were removed in July 2002. In practice, however, contestability for the 440 000 small business and household customers in this group was delayed because

the necessary rules, systems and regulatory framework were not yet in place. To progress these issues, the government established a Gas Retail Deregulation Project Steering Group. It reported in 2004 that the steering group has determined a market operator, developed arrangements for customer transfers, considered consumer protection and education issues, addressed emergency gas supply management and procedures, and developed 'retailer of last resort' arrangements.

At the time of the 2003 NCP assessment, Western Australia and South Australia had 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 had also finalised a consultant's report on gas metering issues.

The *Energy Legislation Amendment Act 2003* provides the legislative underpinning for effective contestability arrangements. It 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 'retailer of last resort' arrangements). It also allows the granting, after a competitive tender, of exclusive gas distribution and trading licences to reticulate gas to regional communities. The Act received royal assent on 8 October 2003, and all parts required for the commencement of full retail contestability have been enacted. Western Australia intends to enact provisions for a 'retailer of last resort' before new entrants enter the market. Regulations are currently being drafted to allow for the Economic Regulation Authority to approve future ombudsman schemes (the Minister approved the current scheme).

REMCo submitted the retail market rules to the Office of Energy in March 2004. Following government approval of the rules, full retail contestability commenced on 31 May 2004. REMCo used an interim process to operate the gas market until the activation of its information technology systems in July 2004. New entrants can now sell gas to residential and small business customers. The government considers that new entry, and the potential for new entry, will encourage improvements in service and product offerings to customers.

With the removal of technical and administrative barriers to contestability in 2004, the Council is satisfied that Western Australia has satisfied its NCP obligations by removing legal and other barriers to full retail contestability. It notes that any exclusive licence and franchise arrangements that Western Australia grants under the Energy Legislation Amendment Act should observe the 1997 gas agreement, including the licensing and franchising principles set out in annexes E and F.

South Australia

There have been no regulatory barriers to contestability in South Australia since July 2001. In practice, however, contestability for over 340 000 domestic households and small businesses was delayed by a lack of access to infrastructure, limited gas supply and a lack of information systems to allow for the orderly management of customer transfer between retailers.

Access issues were largely addressed by the South Australian Independent Pricing and Access Regulator's final approval of an access arrangement for gas distribution networks in April 2003. The construction of the SEA Gas Pipeline from Victoria to Adelaide, which was completed in 2004, addressed gas supply constraints. South Australia also undertook measures to address the remaining technical and administrative barriers to customer transfer.

In 2003, the government amended the *Gas Act 1997* to establish a retail market administrator, facilitate full retail contestability systems and establish consumer protection arrangements suitable for a multiple retailer environment. South Australia and Western Australia jointly established REMCo to establish and administer retail market administration systems across the two states. The Essential Services Commission of South Australia[5] has given REMCo a licence to operate as a gas retail market administrator in South Australia. In 2003-04 REMCo developed the required information technology systems and retail market rules to underpin full retail contestability. The government approved the initial rules, but the Essential Services Commission must approve subsequent modifications. Effective gas retail competition for all customers commenced on 28 July 2004. The Council notes that the removal of technical and administrative barriers to contestability completes South Australia's NCP gas reform obligations in this area.

Tasmania

The *Gas Infrastructure (Miscellaneous Amendments) Act 2003,* passed by the Tasmanian Parliament in July 2003, provides for a fully contestable gas retail market. Tasmania reported that it will introduce full retail contestability from the commencement of gas flows through the distribution network, which it expects in 2005. Two retailers, Powerco and Aurora Pty Ltd, have already been licensed to retail gas.

All customers, including those covered by exclusive distribution franchise arrangements, will be contestable. Tasmania considers that the exclusive franchises, which are limited to 23 major customers, are consistent with the

[5] The regulatory functions of the South Australian Independent Pricing and Access Regulator were transferred to the Essential Services Commission of South Australia in July 2003.

introduction of full retail contestability. It reported that the franchise arrangements relate only to the distribution of gas, and not to gas retailing: all customers will be free to negotiate with a retailer of choice to supply gas. Under the Tasmanian gas access regime, retailers will then be able to negotiate access to the distribution network to ship gas to customers. The Council considers that Tasmania's contestability arrangements will satisfy its commitments in this area.

Legislative restrictions on competition

Governments agreed to review and, where appropriate, reform by 30 June 2002 all existing legislation that restricts competition. Reform is appropriate where restrictions do not provide a net benefit to the whole community and are not necessary to achieve the objective of the legislation. Any new legislation that restricts competition must also meet this test.

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. Other areas might include mining legislation (particularly dealing 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 7.7. The review and reform of natural gas legislation have been completed in most areas, although some reviews have not been finalised and some necessary reform is yet to be implemented.

Upstream issues

An efficient gas production sector ensures gas sales markets are able to develop and grow. In 1998 the Upstream Issues Working Group reported to CoAG on matters affecting the development of a more competitive gas production (upstream) sector. It identified the key issues as being the marketing arrangements used by gas producers, third party access to upstream processing facilities, and acreage management legislation.

All jurisdictions have been 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 to regulate exploration for, and the development of, undersea petroleum resources. The 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.

The review concluded 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 legislation.

The two specific legislative amendments were incorporated into the Australian Government's *Petroleum (Submerged Lands) Amendment Act 2002,* which was enacted in October 2002. The government expects to introduce the new Act (the Offshore Petroleum Act) in early 2005. All relevant jurisdictions indicated that they will amend their legislation to reflect the 2002 amendments, but most have not yet done so. Table 7.5 provides a summary of progress in this area. The Council understands that some jurisdictions are awaiting the passage of the Offshore Petroleum Act before completing changes to their own legislation. A number of jurisdictions also reported the need for additional amendments during 2004 to confer powers on the National Offshore Petroleum Safety Authority.

The Council considers that while reform in this area remains incomplete, all states and territories have committed to implement the necessary amendments to establish a nationally consistent regime.

Table 7.5: Amendments to petroleum (submerged lands) legislation

Jurisdiction	*Action*
New South Wales	Awaiting completion of Australian Government amendments before amending own legislation
Victoria	The amendment Bill was passed in the autumn 2004 Parliamentary sitting and was given royal assent in May 2004. Victoria will rewrite the Act in 2005 following the rewrite of the Australian Government Act
Queensland	The amendment Bill was introduced into Parliament in August 2004 and is expected to be passed by the end of 2004. Queensland will rewrite to Act in 2005 following the rewrite of the Australian Government Act
Western Australia	Awaiting completion of Australian Government amendments before amending own legislation

South Australia	Awaiting completion of Australian Government amendments before amending own legislation
Tasmania	The amendment Bill was introduced to Parliament in April 2004 and is expected to be passed by the end of 2004. The Bill includes amendments in anticipation of the proposed new Australian Government Act
Northern Territory	Likely to await completion of Australian Government Act before amending own legislation

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 Australian Government, the ACT and Tasmania do not have this type of legislation.

Queensland's review of the *Petroleum Act 1923* and the *Gas Act 1965* led to the introduction of the *Petroleum and Gas (Production and Safety) Bill* into Parliament in May 2004. The legislation provides for a new policy regime to apply to the petroleum and pipeline industries in the State and to regulate safety and technical issues in relation to the production, transportation and use of petroleum and fuel gas.

The resulting Act is consistent with the intent of the Upstream Industry Working Group's reforms in acreage management in that it adopts:

- a competitive tender process for the grant of onshore exploration acreage. Authorities to prospect will have a maximum term of 12 years, with progressive relinquishment over that period

- a requirement for strict compliance with work programs submitted through a tender process

- an increase in the size of production tenures, but a change in the criteria for their grant to ensure only areas of identified reserves are included. Acreage with the potential for further discoveries is excluded.

The *Petroleum Act 1923* is to continue so as to preserve existing rights for approximately 25 per cent of the current 'authorities to prospect' and almost all petroleum leases. The continuation of these tenures will ensure that existing rights will be preserved and there will be no disruption to petroleum production owing to the need to address native title issues.

The *Petroleum and other Legislation Amendment Bill 2004*, which amends the *Petroleum Act 1923* and contains transitional provisions for existing 'authorities to prospect', petroleum leases and pipeline licences, was introduced into Parliament in September 2004.

Both the *Petroleum and Gas (Production and Safety) Bill 2004* and *Petroleum and other Legislation Amendment Bill 2004* were passed by Parliament on 29 September 2004, received assent on 12 October 2004, and will be fully operational by the end of 2004.

Western Australia reviewed its *Petroleum Act 1967* and Petroleum Regulations 1987. The review, which the government endorsed 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 — 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. Western Australia proposes to further review the Act for consistency with its submerged lands legislation once the amendments to that legislation are completed (see the assessment of submerged lands legislation). The Council notes that Western Australia has committed to completing this area of reform.

The Northern Territory reviewed its *Petroleum Act* and approved the implementation of the review recommendations. It implemented some recommendations via the *Petroleum Amendment Act 2003* and drafted another Bill to implement the remaining recommendations. The government delayed the Bill's introduction to Parliament from September 2003 to May 2004. The Council notes that the Northern Territory's implementation of reforms in this area is near completion.

Victoria's significant producer legislation

The significant producer provisions in the *Gas Industry Act 2001* allow the Essential Services Commission to regulate anticompetitive conduct by significant producers. Victoria introduced the provisions in 1998 when the state's gas production was dominated by the Bass Strait joint venture between Esso Australia and BHP Billiton. The Council raised concerns in the 1999 NCP assessment that the provisions may be anticompetitive. The Parer Review also considered that they may weaken intra-basin competition (CoAG Energy Market Review 2002).

The Essential Services Commission completed a review of the provisions in June 2003. Its report concluded that the underlying objective of the provisions had been substantially achieved, given the extent to which gas market competition has developed since 1998. The commission recommended the repeal of the provisions as being appropriate to satisfy the future needs of a competitive gas market. Victoria repealed the significant producer provisions through the *Energy Legislation (Regulatory Reform) Act 2004,* which was given royal assent on 25 May 2004.

Outstanding legislation review and reform matters

In addition to the natural gas legislation noted above, the review and/or reform of three additional instruments was incomplete at the time of the 2003 NCP assessment: Victoria's *Pipelines Act 1967*, Queensland's *Gas Act 1965* 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. Victoria reported that the review did not identify any major restrictions on competition. It is undertaking a second review of the Act to develop a regulatory framework that is consistent with other forms of infrastructure. It proposes to take account of the recommendations of both reviews in developing draft legislation. Victoria expects to complete the review in 2004 and to implement changes by 2005. The Council accepts that this timeframe is not unreasonable for updating regulation in this area.

Queensland reviewed its 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 those Acts. The *Gas Supply Act 2003* became operational on 1 July 2003. The Act regulates distribution pipeline licensing, the retailing of fuel gas, and insufficiency of supply. It replaces the monopoly gas franchises under the former legislation with a new licensing regime. Because Queensland has not implemented full retail contestability, the Act provides for the government to retain the right to control the price of gas supply. It requires the Minister to consider the interests of industry and consumers when setting prices.

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 via 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.

Tasmania has introduced a substantial body of gas industry legislation since 2000 to coincide with the development of its gas industry. The state's gatekeeping arrangements apply to all proposed legislation to assess consistency with clause 5 of the CPA. The initial assessments are conducted by Treasury's Regulation Review Unit. Where the unit identifies a major restriction on competition, the administering agency must prepare a regulatory impact statement and conduct a public consultation process. The Council is satisfied that the arrangements provide a robust process for assessing compliance with CPA clause 5.

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 by removing a potential barrier to interstate gas trade.

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 governments other than Western Australia and the Northern Territory have stated their intention to implement the standard (table 7.6). While only Queensland has completed this reform, the Council considers that New South Wales, Victoria, South Australia, Tasmania and the ACT have demonstrated a commitment to doing so.

Western Australia's Gas Standards (Gas Supply and System Safety) Regulations 2000 include a gas quality specification that applies to all gas entering a gas distribution system. The specification has a number of similarities to the national standard but unlike the national standard specifies a higher heating value range and a different hydrocarbon dewpoint. The higher heating value range is considered important in Western Australia as it forms the basis for billing customers on an energy basis (gigajoules/ m^3) and a number of contracts reflect higher heating value. No specification is called up in legislation to cover gas quality in transmission pipelines. However, pipelines covered by an Access Arrangement include a gas quality specification in the Access Arrangement. Western Australia reported in 2004 that it was reluctant to amend its local standards unless the national standard took account of these differences. Nevertheless, it was holding discussions with industry on the appropriateness of adopting the national standard. The government also recognised that if Western Australian pipelines interconnect in the future with interstate pipelines, it would need to review and, where appropriate, amend the local standard to reflect the national standard. Western Australia reported that it is not expected that the adoption of the national standard would have a material effect on the performance of gas appliances operating in Western Australia but could in the longer term restrict some producers from being able to ship their gas.

The Northern Territory reported in 2004 that it has no plans to introduce the national standard in the near future. As for Western Australia, it is not linked to the interconnected gas networks of south and east Australia, and has few consumers of natural gas. At present, its specifications for natural gas are set out in the provisions of contracts with the Power and Water Corporation, which consumes most of the natural gas sold in the Territory. The Northern Territory will review its position on the national standard if there are active plans to interconnect local pipelines with another jurisdiction (for example, to transport Timor Sea gas).

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 a decision not to implement the national standard will not create a barrier to interstate trade in natural gas at this stage for those jurisdictions that do not have interstate pipelines. Nevertheless, the inconsistent application of the standard across jurisdictions may have adverse impacts in other areas — for instance the production, sale or use of gas appliances. The Council will continue to monitor how jurisdictions are implementing the national standard, and any issues that may arise as a result of the standard's part application.

The ACT indicated that it intends gas industry participants to adopt the national standard. The Council considers that the national standard, to be effective in reducing barriers to interstate trade in gas, needs to be clearly implemented. Adopting the national standard legislatively would be a suitable means of implementation.

Table 7.6: 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 state Regulations will be amended to reference the national standard in 2004.
Victoria	Current regulations are substantially consistent with the national standard. Victoria is updating its Regulations in consultation with industry and will amend them to ensure they are fully consistent with and reference the national standards. Victoria expects to complete its reform activity by the end of 2004.
Queensland	The government implemented the national standard by Regulation in October 2003. The Regulation includes exemptions allowed under s.1.1.2 of the national standard, which will cease when Queensland natural gas is supplied to interstate markets.
Western Australia	The state's gas quality standards differ from the national standard in some areas. The government is discussing the need for consistency with industry and recognises the need for alignment with the national standard should interconnectivity occur in the future.
South Australia	The South Australian Regulations set the same natural gas quality specifications as those in the national standard. The government proposes to amend the Regulations to call up the standard.
Tasmania	The government proposes to formally adopt the national standard through Regulation in 2004. The state's only gas distributor already complies with the standard under system specifications developed under the Gas Act.

ACT	The government expects ActewAGL to adopt the national standard in the access arrangement for its gas distribution network, which will apply from 2005. The Independent Competition and Regulatory Commission released a draft decision on the arrangement in July 2004.
Northern Territory	The government does not intend to adopt the national standard until there are active plans to interconnect Northern Territory pipelines with another gas market (for example, to transport Timor Sea gas).

Table 7.7: 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 Act to be rewritten. The rewriting of the Act (as the Offshore Petroleum Act) is under way. The Australian Government expects to introduce it in late 2004. All relevant 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.	New South Wales is awaiting the passage of new legislation by the Australian Government (expected in late 2004) before amending its own legislation.	Review and reform incomplete

(*continued*)

Table 7.7 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 7.7 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.	In June 2003 the Essential Services Commission completed a review of, and recommended the repeal of the significant producer provisions of the *Gas Industry Act 2001*.	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 the 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. Victoria repealed the significant producer provisions through the *Energy Legislation (Regulatory Reform) Act 2004*, which was given royal assent on 25 May 2004. 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 7.7 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.	Victoria amended the Act to reflect Australian Government amendments in the autumn 2004 Parliamentary sitting. It will rewrite the Act in 2005 following the rewrite of the Australian Government's petroleum (submerged lands) legislation.	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.	An initial review was completed in February 1997. The government released its response in 2002. It is now undertaking a broader review of the Act.	Victoria expects to complete the second review in 2004 and implement changes by 2005. It proposes to take account of the recommendations from both reviews in developing draft legislation.	Review and reform incomplete

(*continued*)

Table 7.7 continued

Jurisdiction	*Legislation*	*Key restrictions*	*Review activity*	*Reform activity*	*Assessment*
Queensland	*Gas Act 1965* and Gas Regulations 1989	Establishes a virtual statutory monopoly via provisions to grant gas franchises and to require government approval of large contracts. Enables the government to restrict gas supply in emergencies, and allows the Gas Tribunal 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).	Both the *Petroleum and Gas (Production and Safety) Bill 2004* and *Petroleum and other Legislation Amendment Bill 2004* were passed on 29 September 2004, received assent on 112 October 2004 and will be fully operational by the end of 2004. The *Petroleum Act 1923* will continue for selected authorities to prospect and petroleum leases.	Meets CPA obligations (October 2004)

Table 7.7 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.	The Amendment Bill was introduced into Parliament in August 2004 and is expected to be passed by the end of 2004. Queensland will rewrite the Act in 2005 following the rewrite of the Australian Government Act.	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 7.7 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 7.7 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.	The government endorsed a review of the Act in February 2003. The review recommended that the findings of the national review of submerged lands Acts be implemented, and that potentially restrictive provisions in the Act be retained on the grounds that they do not restrict competition and provide a net public benefit. The government will further review the Act following completion of amendments to submerged lands legislation.	See *Petroleum (Submerged Lands) Act 1982* and Regulations	Review and reform incomplete

(*continued*)

Table 7.7 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.	Western Australia is awaiting the passage of new legislation by the Australian Government (expected in late 2004) before amending its own legislation.	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 7.7 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.	Review 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*.	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.	South Australia is awaiting the passage of new legislation by the Australian Government (expected in late 2004) before amending its own legislation.	Review and reform incomplete

(*continued*)

Table 7.7 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 7.7 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.	The Act has been amended several times to address issues arising from the development of the state's natural gas industry. Tasmania expects further amendments in 2004.	Meets CPA obligations (October 2004)
	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 7.7 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.	Tasmania introduced an amendment Bill to Parliament in April 2004, including amendments in anticipation of the proposed new Australian Government Act.	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 7.7 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 7.7 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 Territory drafted a second Bill to implement the remaining recommendations, which it expected to introduce to Parliament in 2004.	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.	The Territory is likely to await the completion of Australian Government amendments before amending its own legislation.	Review and reform incomplete
	Petroleum (Prospecting and Mining) Act			Act was repealed by the *Petroleum Act*.	Meets CPA obligations (June 1999)