

TASMANIA

# NATIONAL COMPETITION POLICY

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PROGRESS REPORT

May 2005



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# 1 INTRODUCTION

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## OVERVIEW

At its April 1995 meeting, the Council of Australian Governments (COAG), comprising all Australian state and territory governments, signed three Agreements designed to boost the competitiveness and growth prospects of the national economy into the future. The Agreements give effect to a package of micro-economic reform measures that constitute the National Competition Policy (NCP). A background to NCP and an outline of the NCP Agreements are provided at Appendix A.

Under one of the Agreements, the *Competition Principles Agreement* (CPA), governments are required to publish an annual report describing progress in implementing reforms following the application of competitive neutrality and legislation review principles. The Tasmanian Government's Progress Reports meet this requirement and also outline the State's progress in applying the remaining NCP reform principles and NCP sector specific reforms relating to electricity, gas and road transport.

This is the ninth NCP Progress Report released by the Tasmanian Government. It outlines the State's progress in applying NCP principles as at 31 March 2005. Copies of this report and the 2004 and 2003 Progress Reports are available at the Department of Treasury and Finance's internet site at <http://www.treasury.tas.gov.au>. Earlier reports are available from the Department of Treasury and Finance.

Unlike previous NCP Progress Reports, which included an update on progress on water reform, this NCP Progress Report will not contain information covering Tasmania's progress in this area. Arising from the National Water Initiative, the 2005 NCP assessment of water reform obligations is to be conducted by the National Water Commission, for which a separate report will be prepared.

For Tasmania, the NCP reform principles are fully in line with the reform directions that the State had commenced prior to April 1995. For this reason, the State has used NCP and the processes that have been consequently established, including the emphasis on consultation and assessment of the public benefit, as a basis for policy development. The Government has consistently applied NCP principles in Tasmania through an open and transparent approach and has made very significant progress in all of the key reform areas.

Since the commencement of the NCP, Tasmania has achieved a number of milestones including deregulation of shop trading hours, reform of the taxi industry and liquor licensing laws, reform of the legal profession, and legislation to bring Tasmania into the National Electricity Market (NEM).

Tasmania's compliance with the NCP Agreements is evidenced in the positive assessments the State has received from the National Competition Council (NCC) in its recommendations to the Australian Treasurer on whether the State has successfully qualified in full for the various tranches of NCP payments (competition payments). To date, Tasmania has received the full set of competition payments for which it is eligible, with almost all outstanding reforms having been implemented and the legislative process well advanced on other remaining issues.

A COAG review of NCP arrangements is due to be completed by November 2005. Tasmania will seek to ensure, through the review, that the momentum for microeconomic reform is maintained and that there is appropriate

recognition of the financial benefits that accrue to the Australian economy as a result of the reforms by the states and territories.

Further details on the competition payments are outlined in detail at Appendix A.

# 2 REFORMS UNDER THE COMPETITION PRINCIPLES AGREEMENT

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## *Features*

- The CPA commits all Australian governments to progressing micro-economic reforms in a wide range of areas in accordance with a set of well-defined principles. These areas include legislation review, competitive neutrality and monopoly prices oversight.
- The Tasmanian Government has made very significant progress in the implementation of the legislation review timetable and all of the State's scheduled reviews have now been completed. Furthermore, all major legislative reforms recommended by these reviews that remove significant restrictions on competition have now been implemented.
- A detailed account of progress with the legislation review timetable and an outline of a number of major reform areas is provided in this Chapter. These major reviews include the *Taxi and Luxury Hire Car Industries Act 1995*, the *Liquor and Accommodation Act 1990* and the *Shop Trading Hours Act 1984*. Information on the review status for each Act listed in the timetable is provided at Appendix B.
- Competitive neutrality principles are applied to government business activities in Tasmania, including all Significant Business Activities (SBAs) undertaken by inner budget agencies. This Chapter provides an update on the Government's progress in this area, including recent reforms to Government Business Enterprises (GBEs).

# LEGISLATION REVIEW

As indicated in previous Progress Reports, the Tasmanian Government's Legislation Review Program (LRP) was established under its policy statement of June 1996, titled *Legislation Review Program: 1996-2000 – Tasmanian Timetable for the Review of Legislation that Restricts Competition* (LRP policy statement). The LRP policy statement was developed in accordance with the requirement of the CPA that parties to the Agreement review and, where appropriate, reform by the end of the year 2000 all legislation that restricts competition.

The LRP policy statement included a timetable for the systematic review of legislation that restricts competition, to ensure that the Government retains only those restrictions that are fully justified in the public benefit. The LRP has provided impetus to the Government's regulatory reform agenda and the Government has been committed to reducing the regulatory burden that, in many cases, restricted the operation of the Tasmanian economy.

Since the commencement of the LRP, the Regulation Review Unit (RRU) within the Department of Treasury and Finance has worked closely with agencies responsible for reviewing legislation. The LRP has also adapted to take account of issues that have come to light since its commencement, such as further advice from the NCC on review processes and the rescheduling of the review timetable to accommodate an additional number of Acts that were originally scheduled for national review.

Through the LRP, the Tasmanian Government has reviewed legislation that impacts on areas of significant importance to the State and these reviews have been the subject of considerable interest from members of the Tasmanian community. The following sections detail the Government's progress with the LRP timetable and outline the status of major reforms.

## Review processes

The LRP policy statement provided a detailed outline of the required review processes. Furthermore, the Tasmanian Government took account of the NCC's expectations that legislation review processes:

- have terms of reference that address the competition issues, supported by publicly available documentation;
- ensure independence of the review process and objective consideration of the evidence;
- have in place processes for public participation;
- identify all costs and benefits of existing restrictions on competition and those contained in any proposals for reform, clearly requiring a net public benefit to justify retention of restrictions on competition; and
- make the Regulatory Impact Statement (RIS) publicly available.

Another key feature of these processes has been the determination of whether an identified restriction is classified as a major or minor restriction on competition. The resulting review processes were tailored to the level of the restriction on competition in the relevant legislation. Where legislation was assessed as containing major restrictions on competition (those that have economy-wide implications or significantly affect a sector of the economy), the need to have an independent, open, rigorous and transparent justification process was of paramount consideration when establishing the review. An extensive public consultation process was undertaken in all reviews of this type. In cases where the restrictions in the legislation were assessed as being minor, public consultation was encouraged, although it was not mandatory.

## Progress with the LRP timetable

All of the scheduled State reviews have now been completed. A further four have been considered by the Government but are yet to be implemented legislatively, namely the:

- *Auctioneers and Real Estate Agents Act 1991*;
- *Historic Cultural Heritage Act 1995*;
- *Hospitals Act 1918*; and
- *Plumbers and Gas-fitters Registration Act 1951*.

There are currently 15 reviews classified as national, representing only six per cent of all timetabled legislation. As mentioned in previous Progress Reports, the rescheduling of previously national reviews as being the responsibility of the states and territories resulted in a number of State-based reviews being held over until the latter part of the review timetable. Of the national reviews, two are currently underway that may lead to legislative amendments. See page 13 for details.

**Table 2.1: Progress with LRP timetable August 1998 – April 2005**

Status of review/legislation	As at Aug 1998	As at Dec 1998	As at April 2000	As at April 2001	As at April 2002	As at April 2003	As at March 2004	As at April 2005
<b>State reviews</b>								
Yet to commence	54	38	5	0	0	0	0	0
In progress	18	23	23	12	3	0	0	0
Complete	9	16	51	58	70*	77*	80*	81*
Complete (but to go to Cabinet)	5	5	8	16	10	6	1	0
Removed or excluded	29	29	34	35	32	36	37	37
Legislation repealed	47	60	77	89	109	112	114	117
Legislation expected to be repealed	66	56	43	31	15	7	6	3
Deferred	14	17	0	0	0	0	0	0
<b>TOTAL STATE REVIEWS</b>	<b>242</b>	<b>244</b>	<b>241</b>	<b>241</b>	<b>239</b>	<b>238</b>	<b>238</b>	<b>238</b>
<b>National reviews</b>								
Underway	n/a	n/a	n/a	n/a	5	6	3	2
Complete	n/a	n/a	n/a	n/a	9	9	12 <sup>#</sup>	13 <sup>#</sup>
<b>TOTAL NATIONAL REVIEWS</b>	<b>11</b>	<b>9</b>	<b>12</b>	<b>12</b>	<b>14</b>	<b>15</b>	<b>15</b>	<b>15</b>
<b>TOTAL</b>	<b>253</b>	<b>253</b>	<b>253</b>	<b>253</b>	<b>253</b>	<b>253</b>	<b>253</b>	<b>253</b>

Source: Department of Treasury and Finance

\*Includes four State reviews the recommendations of which are yet to be implemented.

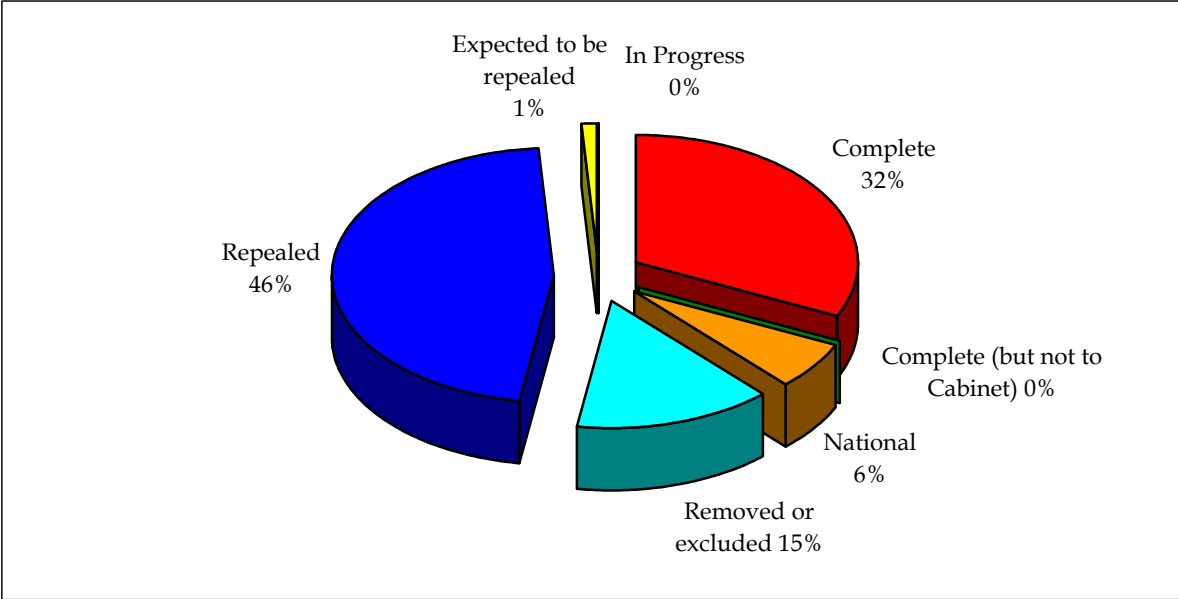
<sup>#</sup>Includes five national reviews the recommendations of which are yet to be implemented.

A total of 154 Acts have been either removed or excluded from the legislation review timetable or have been repealed. These categories of legislation represent approximately 61 per cent of all timetabled legislation. A further three Acts are expected to be repealed in the near future, representing approximately one per cent of all timetabled legislation. None of these Acts contains major restrictions on competition.



The status of the LRP timetable at 30 April 2005, is set out in Table 2.1 above and a breakdown of the status of the reviews as at that date is set out in Chart 2.1. LRP progress according to the Acts listed for review is detailed in Appendix B.

Chart 2.1: Status of LRP reviews as at 30 April 2005



Source: Department of Treasury and Finance

## Major reforms

The Tasmanian Government has implemented many major legislative reforms arising from NCP. Significant reform areas include the taxi industry, shop-trading hours, liquor licensing, property conveyancing and the medical professions. Details of some of the more significant major reviews are provided below.

### *Taxi Industry and Luxury Hire Car Industries Act 1995*

An independent Review Group conducted a review of the *Taxi and Luxury Hire Car Industries Act 1995* during 1999. This Act was the *Taxi Industry Act 1995* before it was amended in late 1999 to include the licensing of luxury hire cars as part of the reforms of Tasmania’s public transport system.

The final report from the Review Group was completed in April 2000. The Group recommended several changes to the Act, the principal ones of which were as follows:

- the introduction of a new process to increase the number of licences;
- the introduction of regulated maximum fares and open negotiation for taxi work booked by phone (rather than set fares) to enable price competition; and
- the requirement that a new vehicle be needed for a new licence to be removed, but the restrictions on maximum age that a vehicle can be used as a taxi retained at eight years in urban areas and 10 years in rural areas.

In November 2003, the Tasmanian Parliament passed the *Taxi and Luxury Hire Car Industries Amendment Act 2003*. This legislation amended, and in some cases repealed, those provisions within the Taxi and Luxury Hire Car Industries Act that restricted entry into the taxi industry, or prevented improved competition and were not in the public interest.

The Taxi and Luxury Hire Car Industries Act was amended to include a new mechanism to make available for tender each year additional perpetual taxi licences for each taxi area. Under the Act, the lowest acceptable tender bid is based on the Tasmanian Valuer-General's assessment of the market value of perpetual taxi licences in each taxi area.

For the four urban areas in Tasmania, namely Hobart, Launceston, Devonport and Burnie, the reforms provide that this mechanism will commence after the introduction of 33 wheelchair accessible taxis (WAT) over two years. These reforms will meet the requirements of the Australian Government's *Disability Discrimination Act 1992* and will also increase the number of taxis operating in the market in Tasmania.

As part of the reforms, regulations (*Taxi Industry Amendment Regulations 2004*) were introduced enabling taxi operators to offer discounted taxi fares to customers, provided that the fares are first registered with the Transport Commission and recorded on the taxi meter. The Government did not implement the review recommendation to allow for open negotiation for taxi work booked by phone without recording agreed fares on the taxi meter. This was because of its potential to undermine the consumer protection benefits that require the use of the taxi-meter as the fare setting mechanism. The Act does, however, provide for taxi licence holders to form an "accredited taxi group" and for that group to specify its own fares, above or below the standard fare, under agreement with the Transport Commission.

The Act also removed the requirement that a new vehicle must be used with a new perpetual licence, which was at the time estimated to reduce the cost of entering the taxi industry in Tasmania by \$25 000.

In summary, the legislation introduced amendments reducing the barriers to new entrants and facilitating price competition and service innovation within the taxi industry.

The amendment Act and regulations were gazetted on 17 March 2004. On 27 March 2004, the Government placed advertisements in Tasmanian newspapers announcing the availability of WAT licences in the metropolitan areas of Hobart, Launceston, Burnie and Devonport and also new perpetual taxi licences for all other non-metropolitan taxi areas. All 16 metropolitan WAT licences initially offered were applied for and issued. Six out of 19 non-metropolitan taxi area perpetual licences were tendered for or have been purchased since the closure of the tender, mainly in the economic growth region of the east coast of the State.

On 27 March 2005, the Government announced that it had made available a further 17 WAT licences in Tasmania's four metropolitan centres. This represents the second instalment of the total release of 33 WAT licences. In addition, as in 2004, the Government also made available perpetual taxi licences in each of the non-metropolitan areas.

Current experience demonstrates that the new process for issuing both WAT and perpetual licences is operating effectively.

Consistent with the review recommendations, the Government has agreed to establish a Taxi Industry Working Group to review the taxi industry reforms two years after the date of proclamation.

In its 2003 Assessment Report, the NCC stated that if the Government committed to an annual increase in taxi numbers and to review the market situation in two years, the reforms would be consistent with its CPA clause 5 commitments. The Government considers that the *Taxi and Luxury Hire Car Industries Amendment Act 2003* and the *Taxi Industry Amendment Regulations 2004* fulfil these requirements.

## *Shop Trading Hours Act 1984*

In late August 1999, a review of the State's *Shop Trading Hours Act 1984* was established. The legislation required retail businesses employing more than 250 people to be closed at certain times and on certain days (such as Sundays and most public holidays). The review commenced in October 1999 and involved extensive consultation, as outlined in previous Progress Reports. The Review Group found that it was not in the public benefit to retain the restrictions on competition contained in the legislation and recommended that they be removed.

To enable the Government to obtain more detailed information on the full range of impacts on rural and regional Tasmania before considering any amendments to the legislation, the Government requested in 2001 that the Review Group be re-convened to undertake a supplementary public benefit test by considering specific issues including the impact on rural and regional Tasmania of deregulation of shop trading hours, especially on the independent grocery sector.

The Review Group's subsequent deliberations included taking into account evidence provided from the initial review where relevant, an analysis of new market research undertaken and consideration of additional evidence submitted by stakeholders. The Review Group's additional report was completed in February 2002. The Review Group found that there would not be an adverse impact on Tasmania's rural and regional communities and confirmed that there was no public benefit in keeping the restrictions. The Review Group found that removing the restrictions would lead to around 350 additional jobs in Tasmania's retail sector, as well as providing substantial benefits to consumers.

The Government accepted the Review Group's findings and in March 2002, the *Shop Trading Hours Amendment Bill 2002* was introduced into Parliament to remove the restrictive provisions and allow all stores to open when they choose, except for Christmas Day, Good Friday and the morning of ANZAC Day. In late March 2002, the Government amended the Bill to set the date for deregulation to 1 December 2002. The amendments also allow each council to choose to have a plebiscite conducted in its municipality to vote on whether to retain the restrictions in the Act. The Bill provided that they will remain (if before 1 December 2002) or are to be reimposed (if after 1 December 2002), if the majority of those that vote choose to retain or impose the restrictions. The legislation as amended was passed by Parliament on 16 April 2002 and shop trading hours in Tasmania have been deregulated from 1 December 2002. No council has sought to hold a plebiscite to reimpose the restrictions on shop trading hours.

## *Electricity Supply Industry Act 1995*

The *Electricity Supply Industry Act 1995* (ESI Act) provides the legislative basis for the regulation of the electricity sector in Tasmania. Its objectives include promoting efficiency and competition, protecting the interests of electricity consumers, providing for a safe and efficient system of electricity generation, transmission, distribution and supply, and providing for other electrical safety requirements and standards.

This Act was amended in April 2003 to establish the framework required to facilitate Tasmania's entry to the NEM and provide for the introduction of retail contestability over four years, commencing six months after Basslink is commissioned. The reform legislation introduced a suite of structural and regulatory arrangements, including:

- transferring certain functions and powers in relation to transmission pricing from the Tasmanian Energy Regulator to the Australian Competition and Consumer Commission (ACCC);

- formalising the appointment of the Tasmanian Regulator as the State’s jurisdictional regulator under the National Electricity Code (NEC);
- establishing a head of power to enable the development of detailed arrangements relating to the introduction of retail competition in Tasmania;
- enabling Transend Networks, as system controller, to enter into agreements with National Electricity Market Management Company Limited (NEMMCO), which will enable NEMMCO to perform the system controller functions in Tasmania;
- implementing the Government’s commitments to the ACCC in respect of the arrangements that will underpin the State’s transition to the NEM; and
- making a number of miscellaneous amendments that are connected with, or consequential upon, the State’s NEM entry.

The implementation of these arrangements has been completed. Further details of Tasmania’s progress on electricity reform are provided in later chapters of this report.

### *Liquor and Accommodation Act 1990*

The review of this Act was completed in December 2002. The review was conducted by an independent Review Group, supported by a reference group comprising major stakeholders in the industry. The review examined the general trading restrictions and licensing arrangements imposed by the Act to determine whether these restrictions could be justified in the public interest. Of particular interest to the Review Group was the restrictions imposed by the nine-litre minimum purchase requirement from off-licence establishments and the prohibition on the sale of liquor in supermarkets.

The Review Group completed and released a RIS for public comment in August 2002 which included the following draft recommendations.

- Recommendation 1 – that a statement of objectives be included in the Act.
- Recommendation 2 – that the nine-litre limit be removed and that off-licences premises are no longer required to have the sale of liquor as their principal activity.
- Recommendation 3 – that the Good Friday trading restrictions be removed.
- Recommendations 4 and 5 – that the existing liquor licence and permit system be maintained.
- Recommendation 6 – that the prohibition on supermarkets selling liquor be removed and if not, that they be permitted to sell Tasmanian wine.
- Recommendation 7 – that the ‘personal and effective’ control requirements contained in Section 22(1)(b)(ii) be amended to require ‘effective control’ over the licensed premises.

- Recommendation 8 – that the requirement that the Commissioner or the Board approve an application only if it is in the public interest and will “...best aid and promote the economic and social growth of Tasmania ... [having] ... regard for the legitimate interests and concerns of the community as a whole”, be repealed;
  - that the Licensing Board be abolished; and
  - that the Liquor Guidelines cease to have effect and the Act be amended where necessary.
- Recommendation 9 – that the age at which a person may obtain a licence be reduced from 21 to 18 years and that the ‘fit and proper person’ requirements be retained.
- Recommendation 10 – that the only alterations to premises requiring the prior approval of the Commissioner be restricted to only those alterations that result in an addition to, or reduction in, the area of the premises.
- Recommendation 11 – that the accommodation licensing scheme be abolished.
- Recommendation 12 – that the requirement in the Amendment Act to prepare a strategic plan, be repealed.
- Recommendation 13 – that the requirement in the Amendment Act that applicants demonstrate sound commercial principles, be repealed.
- Recommendation 14 – that the expanded Licensing Board, as established by the Amendment Act, not proceed.
- Recommendation 15 – that the restrictions applying to licensed clubs be maintained and that options be considered to remove reference to “conditions specified in the licence” and to incorporate Schedule 1 of the existing guidelines into clubs’ constitutions.
- Recommendation 16 – that the definition of ‘licence applicant’ be expanded to include known associates, in line with the requirements imposed under the Gaming Control Act.
- Recommendation 17 – the definition of qualifications be expanded to include competencies through experience and that it be a condition of issuing a licence that all staff serving alcohol in general, club, on and off-licence establishments are trained in the Responsible Serving of Alcohol (RSA), with such requirements for special licences to be assessed upon application.

The Government considered the final report of the review and, in August 2003, introduced the *Liquor and Accommodation Amendment Bill 2003* to implement the reforms. The amending Act commenced on 15 September 2003.

Within the 2003 Act, several amendments related to regulatory design or enhanced harm minimisation measures. The Government carefully considered the provisions in the legislation that restricted competition and, where it found no net public benefit in retaining the restrictions, it drafted amendments to the Act and Parliament agreed to their removal. In the case of the most significant restriction, that supermarkets and other non-liquor retailers not be permitted to sell liquor, the Government found that the costs of removing this restriction in terms of social, health and economic consequences outweighed the benefits of convenience and commercial freedom for supermarkets.

The decisions taken by the Government, and approved by Parliament, that have the most significant competition implications are:

- the maintenance of the existing liquor licence and permit system;
- the retention of the prohibition on the sale of liquor by supermarkets;

- the removal of the nine-litre restrictions and extending the operating hours for off-licences;
- the removal of restrictions on the sale of liquor on Good Friday for general and on-licence premises;
- the removal of restrictions on the alteration and condition of licensed premises;
- the insertion of provisions to enable a person who is not a member of a club to sign into a club and, subject to the club's constitution, have unrestricted access to its facilities, provided that person ordinarily resides at least five kilometres from the club's premises;
- the insertion of provisions to enable bona fide not-for-profit organisations to access a club's bar facilities for meetings and functions, subject to the club's constitution, without the need to apply for a liquor permit;
- the removal of the requirement that the Minister prepare a strategic plan in respect of the sale of liquor; and
- the retention of a provision requiring the Commissioner or the Board, as the case may be, to grant a licence or permit only if it is in the best interests of the community to do so.

In July 2004, upon further consideration of the Review Group's recommendation to abolish the accommodation licensing scheme, the Government prepared the *Liquor and Accommodation Amendment Bill 2004*, which was passed by Parliament. This legislation removed the accommodation licensing scheme requirement from the Liquor and Accommodation Act, thus reducing administrative obligations and fees imposed on tourist accommodation providers in the State. The title of the Act was also changed to the *Liquor Licensing Act 1990* to reflect the removal of regulation of the tourist accommodation industry.

Therefore, the Government has accepted the vast bulk of review recommendations identified as imposing restrictions on competition and legislation has been passed by Parliament. In the few areas it has not implemented the review recommendations, the retention of the restrictions has been justified as being in the public benefit.

Consequently, Tasmania has fully complied with its legislative review obligations under NCP in relation to liquor licensing.

### *Legal Profession Act 1993*

The review of the Legal Profession Act was established by the Government in February 2000 and was completed in August 2001. The review found that the Act contained several restrictions on competition including:

- practice protection - admission requirements, reservation of legal work, practising certificate requirements and mandatory continuing legal education;
- business structures for legal practices; and
- conduct restrictions - written disclosure statements, fees, advertising, trust account requirements, guarantee fund and professional indemnity insurance.

The Review Group completed a discussion paper and released it for public comment in May 2000. It included the terms of reference for the review, discussion on the restrictions contained in the legislation and sought submissions from interested parties for consideration by the Review Group prior to the preparation of a RIS. The RIS was released for public comment in April 2001. The RIS contained draft recommendations, with the three major conclusions being:

- that the conveyancing market should be reformed and the reservation of work restriction in relation to conveyancing be removed;

- restrictions on business structures for legal practices be removed; and
- a new disciplinary process involving a Legal Commissioner be introduced.

These recommendations were accepted by Government and it was proposed that they be addressed in three separate Bills: a Conveyancing Bill, a Legal Profession Bill, and a final Bill that incorporated the remaining issues. The *Conveyancing Act 2004* was passed by Parliament in July 2004 and it removed the reservation of work restriction relating to conveyancing. The *Legal Profession Amendment Bill 2004*, which was to reform the regulation of the legal profession, was released for public consultation and was tabled in Parliament on 20 April 2004. Although it was passed by the House of Assembly it did not pass through the Legislative Council. As a consequence, the Government has indicated that it will not proceed with the Legal Profession Amendment Bill as initially drafted. Instead the Government has committed to adopt national reforms based on the national legal profession model laws. It is expected that a new Bill incorporating the national model laws will be introduced into Parliament in either late 2005 or early 2006.

### *Pharmacy Act 1908*

A national review of legislation regulating the pharmacy sector was completed in February 2000. The final report recommended the removal of some restrictions on competition in Tasmania's *Pharmacy Act 1908* that could not be justified as being in the public benefit. The Government considered the outcome of the national review and, following advice from the Prime Minister, drafted legislation to amend the *Pharmacists Registration Act 2001* which had replaced the Pharmacy Act. The Prime Minister stated that Tasmania would be considered to be NCP compliant if the Pharmacists Registration Act were amended to relax ownership restrictions to allow a pharmacist or a Friendly Society to own up to four pharmacies each, and prohibit the entry of new Friendly Societies in Tasmania upon commencement of the amending Bill.

The *Pharmacists Registration Amendment Act 2004* was passed by both Houses of Parliament during the November 2004 sitting and was proclaimed on 17 December 2004. The amending Act lessened the ownership restriction to a maximum of four pharmacies for both pharmacists and existing Friendly Societies, and also prohibits the entry of new Friendly Societies in Tasmania.

### *Racing Act 1983*

New racing legislation was drafted following the restructure of the racing industry in 2000. Three new Bills, the *Racing Regulation Bill 2004*, the *Racing Regulation (Transitional and Consequential Provisions) Bill 2004*, and the *TOTE Tasmania (Racing Regulation) Bill 2004*, which replaced the racing provisions in the *Racing Act 1983*, were assessed under the LRP gatekeeper arrangements and a RIS was required. The RIS justified all the major restrictions in the Bills, which were at that time in the *Racing Act 1983*, as being in the public benefit.

The restrictions retained in the legislation included:

- the requirement to register bookmakers, bookmakers' clerks, racing clubs and race courses;
- the restrictions on race meetings, telephone sports betting, bookmaker betting activities and the appointment of officials; and
- the prohibition of proprietary racing and the limitations on the availability of gaming to minors.

The Government accepted the recommendations from the review report, titled *NCP Review of Racing and Betting Legislation*, and the three Acts were passed by Parliament in November 2004. The LRP obligations in respect to this Act have therefore been met.

## National reviews

Clause 5 of the CPA specifies that where legislation has a national dimension or effect on competition (or both), consideration may be given to conducting a national review. If a national review is determined by jurisdictions to be appropriate, the Tasmanian Government is required to consult with other jurisdictions that have an interest in the matter before determining terms of reference or appropriate review bodies.

National reviews have recently been completed in the following areas:

- Architects - A review of the architecture profession has been undertaken by the Productivity Commission and was released in November 2000. A states and territories Working Group developed a national response to this report, which has been accepted by the NCC. All issues arising out of the review have been incorporated into amendments to the *Building Act 2000* and consequential amendments to the *Architects Act 1926*.
- Drugs, poisons and controlled substances - The review has been completed and considered by the Australian Health Ministers' Advisory Council. Tasmania is currently drafting a new Poisons Act to replace the *Poisons Act 1971*, taking into account the outcome of the national review of drugs and poisons legislation. It is envisaged that amending legislation incorporating all review recommendations, apart from a minor one not applicable to Tasmania, will be introduced in mid-2005. None of the recommended changes to the legislation will have a major impact on competition.
- Travel agents – The outstanding recommendation from the national review of travel agents legislation was implemented on 1 April 2005 with the introduction of amendment regulations in connection with national changes to travel agents' qualifications.
- Trustee companies – A national review of trustee companies legislation has been completed and is presently being considered by the Standing Committee of Attorneys-General.
- Radiation control – A national review of this area has been completed and work has commenced on the preparation of amending legislation that is expected to be introduced into Parliament in 2005.
- Weights and Measures - A national review considering a number of restrictions within the trade measurement legislation was undertaken in 2001 and a Public Benefit Test Report was released. Consultation was undertaken in 2003 on the remaining issue dealing with the sale of meat. Victoria is currently progressing this issue as lead agency and the Tasmanian Government is awaiting the recommendations of this report.

## Gatekeeper arrangements

Tasmania's gatekeeper arrangements apply to all proposed legislation in order to ensure that proposed legislation restricting competition or impacting on business is properly justified as being in the public benefit. Treasury's RRU independently assesses all new and amendment primary and subordinate legislation. It is mandatory for all proposed legislation to be considered by the RRU before it goes to Cabinet or, in the case of subordinate legislation, the Executive Council.

Government policy dictates that the RRU assesses proposed primary legislation according to the guiding principles in Clause 5 of the CPA.



Where it is considered by the RRU that legislation contains a major restriction on competition, or a major impact on business, the administering agency will be required to prepare a RIS and conduct a mandatory public consultation process.

All subordinate legislation is considered according to the provisions of the *Subordinate Legislation Act 1992* (SLA). The SLA provides for the staged, automatic repeal of Tasmania's subordinate legislation. The Act sets out a timetable for the repeal of existing subordinate legislation, this process is now complete. The Act also provides that all new subordinate legislation has a ten-year sunset clause and that new subordinate legislation that imposes a significant cost, burden or disadvantage on any sector of the community should not be introduced unless it can be justified as being in the public benefit. In these cases, a RIS must be prepared to demonstrate that the cost, burden or disadvantage can be justified as being in the public benefit.

The RRU assesses the suitability of each RIS, each Minor Assessment Statement (MAS) and any public consultation undertaken.

Since its inception in June 1996, more than 1 000 primary and 1 200 subordinate legislative proposals have been assessed under the gatekeeper provisions of the LRP. Between 1 July 2004 and April 2005, 107 primary proposals and 134 subordinate legislative proposals were assessed under the gatekeeper arrangements. Of these, seven were assessed as requiring the preparation of a RIS and three were assessed as requiring a MAS.

The Government's existing gatekeeper arrangements therefore ensure that proposed legislation that restricts competition or significantly impacts on business is justified as being necessary in the public benefit and that only necessary, effective and efficient subordinate legislation is made.

The processes and procedures supporting the State Government's gatekeeper role are outlined in detail in the publications *Legislation Review Program: Procedures and Guidelines Manual, February 2003* and *Subordinate Legislation Act 1992: Users Guide, February 2003*. Copies of these manuals are available at the Department of Treasury and Finance's internet site at <http://www.treasury.tas.gov.au>.

## COMPETITIVE NEUTRALITY

The primary objective of the competitive neutrality principles is to promote the efficient use of resources in public sector business activities. In particular, the competitive neutrality principles aim to eliminate resource allocation distortions arising out of the public ownership of entities engaged in SBAs. That is, government businesses should not enjoy any net competitive advantage simply as a result of their public ownership and should compete on fair and equal terms with private sector businesses.

In applying the competitive neutrality principles, the CPA places government businesses in two categories:

- significant GBEs and State-owned Companies, which are classified as Non-Financial Corporations (Public Trading Enterprises [PTEs]) and Public Financial Corporations (Public Financial Enterprises [PFEs]) under the Australian Bureau of Statistics' (ABS) Government Financial Statistics Classification; and
- SBAs undertaken by a government agency or a government-owned agency (other than an agency classified as a PTE or PFE above) as part of a broader range of functions.

In June 1996, the previous Tasmanian Government published a policy statement and implementation timetable in accordance with the CPA requirements, titled *Application of the Competitive Neutrality Principles under National Competition Policy*. This statement outlined the manner in which the competitive neutrality principles

are to be applied to State Government business activities in Tasmania and set out an implementation timetable. The principal components of the policy statement and progress with its implementation are outlined below.

The application of the competitive neutrality principles to local government business activities in Tasmania is discussed in Chapter 4 – Local Government and NCP reforms.

## Government Business Enterprises

The CPA competitive neutrality principles are entirely consistent with the reform directions which were already in place in Tasmania in relation to GBEs. These directions are embodied in the *Government Business Enterprises Act 1995* (GBE Act). The GBE Act places GBEs on a competitive footing through the processes of both commercialisation and corporatisation. The GBE Act fulfils Tasmania's competitive neutrality commitments in relation to significant GBEs by subjecting them to:

- tax equivalent regimes (TER);
- debt guarantee fees directed at offsetting the advantage of Government guarantees on borrowings; and
- dividend requirements.

Since 1 July 1997, all Tasmanian GBEs, with the exception of the Port Arthur Historic Site Management Authority (PAHSMA), have been subject to the full TER, dividend regime and loan guarantee fees through the *Government Business Enterprises (Amendment of Acts' Schedules) Order 1997*.

Tasmania's State-owned Companies, which operate under Corporations Law, are also subject to the full TER, dividend regime and loan guarantee fees.

In June 1999, the *Intergovernmental Agreement on Reform of Commonwealth-State Financial Relations* was signed and provided that reciprocal taxation will be progressed on a revenue neutral basis. As part of the Agreement, Heads of Government agreed to the introduction of a National Taxation Equivalent Regime (NTER) for income tax equivalent payments by state and territory GBEs. The NTER replaced jurisdictions' TERs from 1 July 2001 and is administered by the Australian Taxation Office.

All Tasmanian GBEs, State-owned Companies (including subsidiaries) and local government joint authorities that operated under the TER as at 30 June 2001, with the exception of the Tasmanian Public Finance Corporation (Tascorp) and PAHSMA, have been included in the NTER since 1 July 2001.

Tascorp operated under the TER while Heads of Treasuries examined issues associated with central borrowing authorities and the application of the NTER. At the Heads of Treasuries meeting held in March 2002 it was agreed that central borrowing authorities would not be required to be included in the NTER and that each state and territory should consider applying a state TER in which tax equivalent payments are calculated by applying the corporate tax rate to the accounting profit of these authorities.

Under the terms of the GBE Act, the Treasurer is able to enter into an agreement in respect of the calculation, determination and payment of income tax equivalents by GBEs. A decision was made by the then Treasurer that Tascorp will be required to operate under a framework whereby tax equivalent payments are calculated by applying the corporate tax rate to Tascorp's accounting profit.

This decision was made on the basis that there were no competitive neutrality issues associated with the adoption of this framework. Adoption of this framework provides uniformity of tax calculations for all central borrowing authorities.

Tascorp was issued with a Treasurer's Instruction in March 2003 giving effect to the accounting profit tax treatment, which is in accordance with the Heads of Treasuries' decision.

From 1 July 2004, the *Valuation of Land Act 2001* and the *Local Government Act 1993* were amended to remove impediments which had previously prevented the imposition of rates on all GBEs. However, an exemption from rating was provided for the land on which Hydro Tasmania's generation assets are located. Instead, a Memorandum of Understanding (MOU) is being negotiated with Hydro Tasmania, under which it will pay a rates equivalent to the State Government. The MOU is an interim arrangement, pending amendments to the GBE Act which will require Hydro Tasmania to pay a rates equivalent.

### *Community Service Obligations*

The implementation of the Government's Community Service Obligation (CSO) policy is integral to the enhanced performance and accountability of GBEs under the GBE Act. GBEs are expected to improve performance by focusing on commercial goals. Non-commercial activities are recognised by the Government as CSOs, providing strict criteria are met.

These are:

- a specific directive from the Government must exist;
- there is a net cost to the GBE from providing the function, service or concession; and
- the function, service or concession must be one which would not be performed under normal commercial circumstances.

CSOs are purchased by the Government from the GBE so that the provision of CSOs by the GBE will not compromise the achievement of the commercial objectives of the GBE. Accordingly, non-commercial activities and functions, not all of which may qualify as CSOs, are clearly identified, justified, and separately accounted for.

The CSO policy ensures that the Government's social and other objectives are achieved without impacting on the commercial performance of a GBE. It also improves the transparency, equity and efficiency of the delivery of non-commercial activities.

Since July 1997, CSO contracts detailing funding for the provision of non-commercial activities to an agreed level have been entered into with the Hydro-Electric Corporation (Hydro Tasmania), Metro Tasmania Pty Ltd (Metro), The Public Trustee, Civil Construction Corporation<sup>1</sup> and Aurora Energy Pty Ltd (Aurora).

## Recent reforms to Government businesses

The Tasmanian Government has continued to review and reform a number of government businesses since the signing of the CPA. These more recent reforms are detailed below.

### *Bulk water suppliers*

The Rivers and Water Supply Commission (RWSC) is responsible for the management of the Prosser River Bulk Water Supply Scheme and various irrigation and drainage schemes throughout the State. The RWSC is currently negotiating the transfer of this Scheme to the Glamorgan/Spring Bay Council.

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<sup>1</sup> The Civil Construction Corporation was subsequently transferred to a private operator. See page 17 for details.

The RWSC ensures the management of Tasmania's water resources is conducted on a sustainable and ecologically sound basis, whilst recognising the needs of industry, agriculture and the Tasmanian community.

Having successfully transferred the bulk water schemes to local government, future arrangements for the RWSC are being reviewed. The RWSC has been transferring its irrigation and drainage schemes to local government and management committees comprising local water users. In April 2002, the operations and management of the Cressy-Longford Irrigation Scheme were handed over to the Cressy-Longford Irrigation Scheme Limited under an agreement with RWSC. The agreement represented the first of the RWSC's irrigation schemes to be self-managed by irrigators and this led to a renewed interest from irrigators in other schemes. This included the Winnaleah Irrigation Scheme, where negotiations with Winnaleah irrigators to develop a similar agreement for management of their scheme were concluded with the signing of an agreement on 10 December 2003.

The Tasmanian Government is committed to working with irrigation scheme participants to ensure that they have a full understanding of the implications of further devolution of irrigation management.

### *TOTE Tasmania*

TOTE Tasmania Pty Ltd (the TOTE) conducts totalizator betting in Tasmania in accordance with the *TOTE Tasmania (Racing Regulation) Act 2004* and has responsibility for planning, administering and marketing the Tasmanian racing industry. The TOTE, formally the Totalizator Agency Board, was established as a State-owned Company on 5 March 2001 and is subject to the *Corporations Act 2001*.

The turnover tax applying to the then Totalizator Agency Board has been replaced with the payment of income tax equivalents and dividends. The tax and governance structure of the TOTE more closely reflects the arrangements in place for totalizators in other states.

### *Divestment Project*

In 2002, a review of the application of the public interest test across the Government business portfolio highlighted a number of businesses for which there was no compelling argument for ongoing Government ownership, and in which there was strong interest from the private sector. The review also highlighted several areas for further investigation given the complexities of the businesses concerned.

The Government considered the review in March 2003 and decided that three GBEs would be made available for sale, namely the:

- Civil Construction Corporation;
- Tasmanian Grain Elevators Board; and
- Stanley Cool Stores Board.

To enable the divestment of these businesses, enabling legislation (the *Government Business Enterprises (Sale) Bill 2003*) was introduced into Parliament in the Budget Session 2003 and received Royal Assent on 4 July 2003.

The sales of the Civil Construction Corporation, the Tasmanian Grain Elevators Board and the Stanley Cool Stores Board were all finalised prior to the end of 2003.

## Other significant Government business activities

The previous Government's policy statement on the implementation of competitive neutrality principles required all SBAs undertaken by budget sector agencies to be identified by 30 June 1997. At the same time, each agency was required to submit to the Department of Treasury and Finance a timetable for the application of the competitive neutrality principles to these activities. Each agency reports to Treasury annually on progress in implementing the competitive neutrality principles. A table detailing the current status of implementation of competitive neutrality principles across agencies is included at Appendix C.

In supporting Government agencies in the implementation of the competitive neutrality reforms, a number of guidelines have been published including:

- *The Application of Competitive Neutrality Principles to the State Government Sector*, July 1996;
- *Guidelines for Considering the Public Benefit under the National Competition Policy*, March 1997; and
- *Guidelines for Implementing Full Cost Attribution Principles in Government Agencies*, September 1997.

The Department of Treasury and Finance has continued to provide clarification of the competitive neutrality principles to ensure that the implementation of reforms continues to progress and is consistent with NCP requirements.

## Competitive neutrality complaints mechanism

Clause 3(8) of the CPA requires the State Government to implement a complaints mechanism in relation to competitive neutrality matters.

The Government Prices Oversight Commission (GPOC) receives and investigates complaints against state and local government business activities in relation to the application of the competitive neutrality principles. The role of GPOC has been outlined in previous Progress Reports and is also described later in this Chapter.

Under the *Government Prices Oversight Act 1995* (GPO Act) and the *Government Prices Oversight Regulations 1998* (GPO Regulations), complaints may be lodged against a government body when a person believes that the government body has contravened any of the competitive neutrality principles and where that person considers that he or she is adversely affected by such a contravention. The person must have first attempted to resolve the matter with the government body informally, prior to lodging a formal complaint. The scope of the complaints mechanism includes the business activities of government agencies and local government, statutory authorities, GBEs and State-owned Companies.

GPOC did not receive any competitive neutrality complaints in 2004.

## MONOPOLY PRICES OVERSIGHT

The CPA requires the State to consider establishing an independent source of prices oversight advice, where this did not exist prior to the signing of the Agreements, in relation to government-owned monopoly, or near monopoly, suppliers of goods and services. Such a mechanism is necessary to ensure that monopoly providers charge prices that are "fair and reasonable" and do not result in the exercise of monopoly market power to the detriment of consumers and businesses.

The GPO Act, which came into effect on 1 January 1996, established GPOC as an independent body charged with the responsibility of conducting investigations into, and making recommendations on, the pricing policies of both government businesses and government agencies that are monopoly, or near monopoly, suppliers of goods and services in Tasmania. The *Government Prices Oversight Amendment Act 1997* further extended the coverage of the GPO Act to include investigations into local government monopoly services. The GPO Act also provides a mechanism under which other monopoly services can be declared and therefore become subject to a GPOC investigation.

The GPO Act provides for the prices and pricing policies of the most significant public sector monopolies in Tasmania to be investigated at least once in every three years. Five GBEs were originally scheduled in the Act – Hydro Electric Corporation, Metro, MAIB, Hobart Regional Water Authority (Hobart Water) and Cradle Coast Water - formerly known as the North West Regional Water Authority. The Esk Water Authority (Esk Water) was subsequently added. Electricity price regulation was transferred to the Electricity Regulator in 1998, at the time the Hydro Electric Corporation was disaggregated into three separate businesses. Electricity transmission pricing is now the responsibility of the ACCC, under nationally agreed arrangements.

## *2004 GPOC Pricing Policies Investigations*

### *Bulk Water Supply Authorities Pricing Policies*

GPOC completed the third investigation into the pricing policies of the three bulk water supply authorities, Hobart Water, Esk Water and Cradle Coast, and submitted the Final Report to the Minister in July 2004. The Commission for this investigation comprised Mr Andrew Reeves, Commissioner and Dr Hugh Sibly, Assistant Commissioner.

GPOC's 2004 Final Report set out, among other things, recommendations in relation to the appropriate maximum revenues and prices to be charged by the three bulk water authorities for the next regulatory period. The recommendations included pricing policies in regard to maximum volumetric rates and the allocation of fixed costs to customers.

The Government has accepted the recommendations of GPOC's Final Report. Endorsing GPOC's recommendations on maximum prices, the Minister issued a determination in September 2004 setting the maximum allowable revenues and maximum volumetric prices that may be charged by the three authorities for the three years until 2006-07. These are listed in Table 2.2.

Table 2.2: Maximum Allowable Revenue and Volumetric Prices for Tasmania's Bulk Water Authorities

	2004-05	2005-06	2006-07
	\$'000	\$'000	\$'000
<b>Hobart Regional Water Authority:</b>			
Maximum Allowable Revenue	28 847	28 754	28 679
Maximum SRMC Component of the Volumetric Rate	20 cents/kl	20 cents/kl adjusted for CPI	20 cents/kl adjusted for CPI
<b>Esk Water Authority:</b>			
Maximum Allowable Revenue	13 008	13 200	13 336
Maximum SRMC Component of the Volumetric Rate	30 cents/kl	30 cents/kl adjusted for CPI	30 cents/kl adjusted for CPI
<b>Cradle Coast Water:</b>			
Maximum Allowable Revenue	10 708	10 887	10 971
Maximum SRMC Component of the Volumetric Rate	20.4 cents/kl for treated water	20.4 cents/kl for treated water adjusted for CPI	20.4 cents/kl for treated water adjusted for CPI

A copy of the GPOC report can be found at: [www.gpoc.tas.gov.au](http://www.gpoc.tas.gov.au).

### *Electricity Pricing*

The third independent investigation of prices for electricity distribution services and retail tariffs on mainland Tasmania concluded in September 2003<sup>2</sup>. Following this, the Regulator issued in November 2003 his Determination setting maximum distribution revenues for the period 1 January 2004 to 31 December 2007 and maximum retail tariffs for the period 1 January 2004 to 31 December 2006.

As noted in last year's Progress Report, although the outcome of the investigation was a Determination of maximum prices for electricity tariffs set by Aurora to apply from 1 January 2004, this investigation did not extend to all the input costs, such as the generation cost (set by regulations under the ESI Act), system control and ancillary services charges (regulated under the Tasmanian Electricity Code) or transmission charges. Maximum transmission charges are determined by the ACCC under transitional arrangements agreed between the ACCC and the Government. At the time the Regulator made his Determination, the ACCC had not declared the maximum revenues that may be earned by Transend for transmission network services. Therefore, the Determination was based on the ACCC's draft proposals and provided a mechanism for Aurora to adjust its tariff prices in 2005 to take account of any differences between the draft estimates and the ACCC's final determination for 2004.

<sup>2</sup> The Government Prices Oversight Commission undertook the first independent investigation under the GPO Act in 1996. The second independent investigation was undertaken by the Electricity Regulator under the *Electricity Supply Industry Act 1995* and *Electricity Supply Industry (Price Control Regulations) 1998*.

Based on the ACCC estimates, the Determination limited the increases in average prices for retail tariffs to:

- in 2004, 3.5 per cent, being the annual change in the CPI plus 0.8 per cent;
- in 2005, the annual change in the CPI plus 0.1 per cent; and
- in 2006, the change in the CPI.

Subsequently, the ACCC allowed Transend a greater maximum revenue than estimated and the expectation was that price increases in 2005 would be higher than originally forecast. However, the Determination also provided for any benefits of load growth to be passed back to customers in subsequent years. There was significant load growth in 2004, of approximately 7.0 per cent, compared to a forecast load growth of only 1.4 per cent.

The Determination also provided for bonuses, or penalties, for Aurora if it meets, or fails to meet, the Regulator's targets for network reliability during the period of the Determination. Aurora failed to meet reliability of supply targets for 2004. In total, as a result of its performance in the year to 30 June 2004, Aurora was penalised \$565 600 in direct payments to customers and \$1.68 million is to be returned to customers through lower charges in 2005.

As a consequence, Aurora's tariff prices were not allowed to increase on average by more than 1.11 per cent from 1 January 2005, ie less than the growth in CPI of 2.5 per cent. The Regulator approved Aurora's tariffs for 2005 on 20 December 2005.

The next investigation of maximum retail tariffs is expected to commence in early 2006 and be completed by 30 November 2006. For distribution revenues, the investigation is due to commence in mid-2006. Although distribution regulation is due to be handed over to the Australian Energy Regulator, in the absence of a final agreement on arrangements for distribution regulation, the Office of the Tasmanian Energy Regulator will complete this investigation.

## THIRD PARTY ACCESS

### Electricity

As noted in previous Progress Reports, the Tasmanian Electricity Code (TEC) currently provides for third party access to the Tasmanian transmission and distribution network in a similar way in which the NEC provides for the access regime in the NEM. Formal licences issued to Transend (for transmission) and Aurora (for distribution) require compliance with the TEC and its third party access provisions. Tasmania's entry to the NEM is scheduled for 29 May 2005.

Following Tasmania's entry into the NEM and the commissioning of Basslink, Tasmania will have in place the full set of access provisions established in the NEC and relevant NEM legislation.

### Gas

The *National Third Party Access Code for Natural Gas Pipeline Systems* (Code) is applied in Tasmania under the *Gas Pipelines Access (Tasmania) Act 2000*. GPOC was appointed as the local Regulator on 20 June 2001 under the *Gas Pipelines Access (Tasmania) Regulations 2001* for the purposes of the Gas Pipelines Access



(Tasmania) Act. The GPOC Commissioner was appointed to the position of Director of Gas under the *Gas Act 2000*.

Duke Energy International (Duke) was selected as the preferred proponent for the development of a natural gas supply to Tasmanian consumers following an expression of interest process in 1997. The Duke transmission pipeline connects Tasmania to Victoria and includes lateral pipelines to the south and northwest of the state. Gas has been flowing to key industrial customers since September 2002.

The transmission pipeline is not subject to the Code as it is an uncovered pipeline. That is, other parties may negotiate access to the pipeline rather than seeking automatic access under the terms of the Code. However, Duke adopted a non-discriminatory access policy aimed at achieving pro-competitive outcomes by promoting contestable pipeline-on-pipeline and gas-on-gas competition, opening pipelines for third party access on a negotiated basis rather than the blanket coverage provided by the Code. Parties who consider that the access arrangements are not equitable have the option of seeking a declaration of the assets by the ACCC under the *Trade Practices Act 1974* (TPA), which could result in the imposition of an access regime by the ACCC. The Duke assets have subsequently been acquired by Alinta Limited (Alinta) and are being operated in the same manner as under Duke ownership.

In relation to gas distribution and retailing, the Tasmanian Government initially proposed to award limited term exclusive franchises. Based on advice received, and with consideration of its NCP obligations, the Government launched a tender process in August 2001 under the provisions of the Code to award a five-year exclusive gas distribution franchise. This process was also designed to award a six-year exclusive retail franchise for customers consuming up to 500TJ (or 140 MWh) per annum.

Of all of the bids received, none complied fully with the Tender Approval Request and each indicated the need for significant Government financial assistance, combined with the transfer of almost all project risk to the State. On 25 September 2002 the Government announced that the tender process had been terminated without result.

Following this decision, the Government entered into bilateral discussions with a number of parties that had expressed interest in the project. The primary focus was the development of a backbone distribution network to service major industrial and commercial customers, with sufficient capacity for subsequent network rollout to small commercial and residential customers over time. The approach involved more flexibility in relation to the associated regulatory arrangements combined with recognition that some financial assistance from Government would be likely to facilitate the project.

On 23 December 2002, the Government announced the selection of Powerco Limited as its strategic alliance partner and preferred distribution developer. A Memorandum of Understanding and two binding Development Agreements (DAs) between the Government and Powerco have been signed, recognising that the project will be progressed in two stages.

The DA for Stage 1 was signed on 30 April 2003. Stage 1 involved the rollout of the backbone gas distribution network to Hobart, Launceston, Devonport, Burnie, Longford, Bell Bay, Wynyard and Westbury to up to 23 major industrial and commercial customers. Subject to securing gas supply contracts with specified industrial customers, Powerco may also construct networks to Ulverstone and Wesley Vale. The backbone network has sufficient capacity to service a potential wider network rollout, including to domestic customers fronting the Stage 1 network, with broad scale domestic connections occurring during Stage 2.

Work commenced on Stage 1 in October 2003, with the backbone system expected to be commissioned in 2005.

Stage 2 has been split into two distinct phases. The DA for Stage 2A was signed on 30 September 2003. Stage 2A represents the first phase of the broader domestic gas reticulation process, development of the core urban

network. This network will provide access to natural gas to 38 500 customers within specified suburbs of Hobart, Launceston, Devonport and Burnie. The core urban network is being built progressively between February 2005 and April 2007.

Given the importance of large foundation customers to the viability of the network rollout, the Government has provided Powerco with two types of a non-renewable exclusive distribution franchise for Stage 1 of the project - unconditional and conditional. These franchises are limited to a maximum of 23 customers identified for Stage 1. These franchises were awarded in July 2003, with the making of the *Gas (Exclusive Distribution Franchise) Order 2003*.

There will be no franchise arrangements in relation to the subsequent Stage 2 rollout. Further, full retail contestability has been introduced from the commencement of gas market operations and retail licences are currently held by Aurora Energy Pty Ltd and Powerco Energy Services Pty Ltd.

The distribution franchise arrangements raise three issues under the provisions of the Natural Gas Pipelines Access Agreement (NGPAA), namely:

- the process for the selection of the franchise distributor;
- bypass arrangements; and
- duration of the franchise.

Clause 3(c) of Annexe E of the NGPAA requires that a franchise distributor be selected through a competitive public tender process. Powerco was selected through a competitive process overseen by a probity auditor. While this process was not technically public, as required by the NGPAA, the five parties involved in the subsequent selection process were those that had been originally identified through the failed Code-compliant tender process, which was a fully open and public process. On this basis, the State considers that this requirement has been met.

Clause 1 of Annexe E of the NGPAA requires that bypass, or the ability to seek gas from other networks, be permitted to contestable customers under any franchise arrangements. Bypass will not be permitted to those customers identified as Stage 1 franchise customers. Given the introduction of full retail contestability from the commencement of gas market operations, all gas customers in Tasmania will be contestable. Therefore, to comply with the requirement to permit bypass to contestable customers would totally erode the value of the Stage 1 distribution franchise, which is vital to achieving the significant investment required to develop a distribution network in a greenfield environment such as Tasmania.

Clause 3(d) of Annexe E of the NGPAA requires that all distribution franchises be limited to a period of five years. The Stage 1 unconditional distribution franchise, which applies to specified customers in Hobart, Launceston, Devonport, Burnie and Bell Bay, has been granted for seven years from 30 April 2003, the date the DA was signed. The conditional franchise, which applies to specified customers in Wynyard, Ulverstone, Wesley Vale, Longford and Westbury, expires within seven years from 30 April 2003, or within 18 months of that date if a gas distribution system capable of supplying the specified customers in the conditional franchise has not been commissioned.

As the Stage 1 network took 18 months to two years to complete, the duration of these franchises is designed to give Powerco franchise protection during the construction period, which is vital in terms of contracting with potential customers. It then offers around five years of franchise protection on the completed network. These arrangements have been necessary to ensure that the project would be undertaken and are, therefore, in the public interest.

The arrangements represented a derogation from clause 3(d) of Annexe E of the NGPAA, as they altered the scope and length of the Tasmanian franchise arrangement for gas distribution and, as such, required the approval of all jurisdictions. In June 2003, Tasmania received a positive response from all jurisdictions in regard to the franchise arrangements.

Under Clause 10.1 of the NGPAA, the State is required to submit an access regime to the NCC for certification as an effective regime as soon as practicable after its access legislation has been passed. The State's access regime was submitted to the NCC for certification in October 2004. The NCC considered the access regime, and in early February 2005 it released a Draft Recommendation paper. The draft conclusion was that the Tasmanian gas pipelines access regime meets the criteria for effectiveness laid down in section 44M of the *Trade Practices Act 1974* (TPA), and the draft recommendation is that the regime be certified as effective for 15 years. The NCC invited comments by 17 March 2005 from interested parties on its draft recommendations. The NCC's final recommendation to the Parliamentary Secretary to the Australian Government Treasurer, taking account of all information received, was submitted in April 2005.

# 3 REFORMS UNDER THE CONDUCT CODE AGREEMENT

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## EXTENSION OF PART IV OF THE *TRADE PRACTICES ACT 1974*

The Conduct Code Agreement (CCA) sets out the agreed basis for extending the coverage of Part IV of the Australian Government's TPA to all businesses, regardless of their form of ownership.

This extended coverage arises by virtue of the Australian Government's *Competition Policy Reform Act 1995* and Tasmania's *Competition Policy Reform (Tasmania) Act 1996*. This latter Act extended the coverage of Part IV of the TPA to all business activities in Tasmania, whether they are incorporated or unincorporated, or publicly or privately owned.

## REPORTING OBLIGATIONS UNDER THE CCA

Under the CCA, the Australian Government, states and territories are required to report to the ACCC on legislation reliant on section 51(1) of the TPA. These obligations are:

- to notify the ACCC of legislation that relies on section 51(1) within 30 days of the legislation being enacted or made (clause 2(1)); and
- to have notified the ACCC by 20 July 1998 of legislation relying on the version of section 51(1) in force at 11 April 1995 that will continue pursuant to the current section 51(1) (clause 2(3)).

As indicated in previous Progress Reports, in accordance with clause 2(1) of the CCA, Tasmania notified the Australian Government and the ACCC regarding new legislation (within 30 days of being enacted) which relied on section 51(1) of the TPA. These Acts and their relevant sections are outlined below:

- *Electricity Supply Industry Act 1995* (section 44);
- *Electricity Supply Industry Restructuring (Savings and Transitional Provisions) Act 1995* (section 7); and
- *Electricity Supply Industry Amendment Act 1998* (section 49F(2)).

As mentioned in chapter 2, the review of the ESI Act under Tasmania's LRP has been completed and the recommendations have either been implemented or will become redundant on NEM entry. The Electricity Supply Industry Restructuring (Savings and Transitional Provisions) Act was reviewed as part of the implementation of the COAG reform agenda for the Australian water industry.

As also indicated in previous Reports, in accordance with clause 2(3) of the CCA, Tasmania advised the ACCC in June 1998 that it had no legislation which relied on exemptions that were in operation prior to 11 April 1995

and which fell within the terms of section 51(1)(b) of the TPA as that provision stood prior to amendment by the Australian Government's Competition Policy Reform Act.

As part of the second tranche assessment process, the NCC confirmed that Tasmania, along with all other jurisdictions, had met its obligations under clauses 2(1) and 2(3) of the CCA.

Tasmania recognises that it has an ongoing obligation under clause 2(1) of the CCA to notify the ACCC of all new legislation reliant on section 51(1) of the TPA within 30 days of the legislation being enacted or made. In 2004, Tasmania did not make any legislation that requires reporting in accordance with this clause.

# 4 LOCAL GOVERNMENT AND NCP REFORMS

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## OVERVIEW

As outlined in previous Progress Reports, the NCP Agreements have implications for all levels of government, including local government. The CPA provides that the key reform principles contained in that Agreement, such as competitive neutrality, monopoly prices oversight and legislation review, are to apply to local government, notwithstanding that it is not a signatory to the Agreement. Each state and territory government is responsible for ensuring that the principles apply to local government.

In addition, the CCA requires all governments to introduce legislation to ensure the wider application of the restrictive trade practice provisions of Part IV of the TPA, to encompass all private and public sector business activities, including local government business activities. In Tasmania, this was effected through the *Competition Policy Reform (Tasmania) Act 1996*.

In June 1996, as required under the CPA, the former Government submitted to the NCC a policy statement, titled *Application of National Competition Policy to Local Government (Application Statement)*. This Statement was prepared in consultation with local government and provided broad guidance on how the key principles, where appropriate, are to be applied to local government.

In 2003, the Regulation Review Unit within the Department of Treasury and Finance commenced a review of the Application Statement in conjunction with local government. The review was completed in April 2004 and an updated Application Statement, titled *National Competition Policy, Applying the Principles to Local Government in Tasmania, April 2004*, was released.

Progress to date in relation to the application of competitive neutrality, prices oversight and legislation review to local government is outlined below.

## COMPETITIVE NEUTRALITY

Under the revised Application Statement, in applying competitive neutrality principles, councils are required to:

- identify all business activities within their operations;
- identify which of these are Significant Business Activities (SBAs);
- to the extent that it is in the public benefit apply full cost attribution (FCA) to these SBAs;
- identify those SBAs which are potentially suitable for corporatisation;

- undertake public benefit assessments of the corporatisation of both SBAs and those business activities classified as PTEs under the ABS Government Financial Statistics Classification, (generally water and wastewater); and
- corporatise those SBAs and PTEs where a public benefit assessment indicates that the benefits outweigh the costs.

Realising the advantages that competitive neutrality delivers in increasing the efficiency of council operations, 18 of the 29 councils have decided to apply FCA to all of their business activities, not just those determined to be SBAs.

Councils are continuing to apply FCA to their business activities in a form appropriate to their size. The *Local Government Act 1993* was amended in 1999 to require councils to include competitive neutrality costs for their SBAs in their annual reports.

As reported previously, a competitive neutrality complaints mechanism was established under the GPO Regulations. Under the regulations, a person who believes that he or she has been adversely affected by a contravention of the competitive neutrality principles may lodge a complaint with GPOC, which has responsibility for investigating all alleged breaches of the competitive neutrality principles in the State.

## PRICES OVERSIGHT

The Application Statement provides that local government monopoly, or near monopoly, providers are to be brought under the prices oversight jurisdiction of GPOC. As previously reported, the *Government Prices Oversight Amendment Act 1997* extended the coverage of the GPO Act to include local government monopoly or near monopoly services.

In addition, the State's obligations under the *Strategic Framework for the Efficient and Sustainable Reform of the Australian Water Industry* require bulk water authorities to charge on a volumetric basis to recover all costs. These authorities are also required to earn a positive real rate of return on the written-down replacement cost of their assets.

The *Local Government Regulations 1994* were amended in late 2000 to require councils to include in their annual reports a statement of plans for the supply of domestic water and sufficient financial information to demonstrate that the *Urban Water and Wastewater Pricing Guidelines for Local Government in Tasmania* are being applied in relation to urban water supply.

## TREATMENT OF LOCAL GOVERNMENT BY-LAWS UNDER THE GOVERNMENT'S LEGISLATION REVIEW PROGRAM

All council by-laws prior to the establishment of the CPA have been reviewed, through procedures implemented by the Tasmanian Government, to ensure that any restrictions on competition have been fully justified as being in the public benefit. Additionally, all by-laws made prior to the establishment of the CPA were deemed to have expired at the end of March 1999. This resulted in the automatic expiry of approximately 500 by-laws.

The Local Government Act requires by-law proposals with a significant potential impact on the community to be subject to a RIS and public consultation process. The Act also currently imposes an eight year time limit on by-laws. However, in accordance with the *Local Government Amendment Act 2005*, from 1 July 2005 this will be extended to a ten year time limit.

The *Local Government (Highways) Act 1982* has also been amended to ensure that any by-laws established under that Act cease to have effect. A council that identifies a need to have a by-law to control standards of highway construction must now prepare a new by-law that follows the rigorous review and consultation provisions of the Local Government Act.

The Local Government Division of the Department of Premier and Cabinet continues to undertake its gatekeeper role in regard to the development of council by-laws. The Division assesses proposed by-laws for compliance with NCP principles and, under the Local Government Act, the Director of Local Government is required to issue a certificate as to the adequacy of the regulatory impact assessment process undertaken by the council before the proposal may progress to wider public consultation. During 2004, the Division processed 11 such by-law proposals.

Since 1999, there has been a progressive decline in the number of by-laws such that, at the time of preparation of this report, there were 128 by-laws in existence in Tasmania's 29 council areas, a reduction on the 133 by-laws in place at the time of the last report.

The Local Government Division maintains an internet database that lists all council by-laws. This allows businesses, community organisations and the public easy access to all council by-laws. Council officers also benefit from the availability of this information by being able to easily compare their by-laws with those of other councils. The database can be found at: [www.dpac.tas.gov.au/divisions/lgd](http://www.dpac.tas.gov.au/divisions/lgd).





# 5 SECTOR SPECIFIC REFORMS

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## *Features*

- Under the *Agreement to Implement the National Competition Policy and Related Reforms*, states and territories are required to implement COAG and certain other Agreements for reform in the areas of electricity, gas, water and road transport.
- Tasmania will enter the NEM in May 2005, which is expected to be 11 months ahead of the Basslink interconnector being commissioned. Tasmania's NEM entry process is governed by Memoranda of Understanding between relevant parties, and its ongoing participation in the NEM will be supported by enactment of the National Electricity Law in Tasmania at the time of entering the NEM. A number of regulatory arrangements agreed with the ACCC during the authorisation process have also been implemented.
- The construction and testing of the gas transmission pipeline from Victoria to Tasmania, as well as the southern lateral pipeline to Bridgewater in the State's south and the northern lateral pipeline to Port Latta in the State's northwest, has been completed. Conversion of both units of the Bell Bay Power Station (BBPS) to gas is complete and BBPS is currently generating gas-fired electricity into the Tasmanian grid. The Government is also continuing to progress the necessary legislative arrangements for gas industry reform.
- This Chapter also details Tasmania's progress in implementing transport reforms, including those related to the third tranche assessment, all of which have now been implemented, and those contained in the Third Tranche Heavy Vehicle Reform Package.

# ELECTRICITY INDUSTRY REFORMS

The Tasmanian electricity supply industry has undergone significant reform since August 1997. In implementing these reforms, the Tasmanian Government has worked to ensure that it has fully complied with all relevant NCP requirements. The NCC has confirmed that, until Tasmania is connected with the national grid, it is not regarded as a “relevant jurisdiction” for the purposes of the COAG and NCP Agreements regarding the development of the NEM. However, Tasmania is an active participant in the national reform program being overseen by the Ministerial Council on Energy and will formally become a NEM participant from midnight on 29 May 2005.

## Basslink

The construction of Basslink commenced on 24 March 2003. As at April 2005, civil construction works were substantially complete at both the George Town and Loy Yang converter sites. The first two sections of cable have been laid and the laying of the third and final undersea section will soon be underway.

The schedule for the commissioning of Basslink, however, has been delayed as a result of damage to six of the eight converter station transformers. The new commissioning date is expected to be late April 2006. As Tasmania will still enter the NEM on 29 May 2005, it will be operating under the national arrangements for approximately 11 months before power starts flowing through the Basslink interconnector.

In addition to its transmission capability, Basslink will also incorporate Tasmania’s second fibre-optic link with the mainland. This link will have the potential to open the way for greater competition and capacity in the telecommunications sector in Tasmania.

Further information on the Basslink project is available at Basslink Pty Ltd’s internet site at <http://www.basslink.com.au>, or Hydro Tasmania’s internet site at <http://www.hydro.com.au>.

## Wind power development

Hydro Tasmania has established wind generation facilities at Woolnorth in the North West of the State. As at April 2005, Stages 1 and 2 of Woolnorth have been completed, with a combined capacity of 65MW. Completion of the third stage will bring the total capacity of Woolnorth to 130MW.

In addition, Hydro Tasmania has recently received the required council approval for its Mussleroe Wind Farm development, which will also have a total capacity of 130MW. The Heemskirk project on the West Coast of Tasmania, with a total capacity of 159MW, is in the final stages of planning approvals and commercial considerations. The successful completion of these developments will result in a substantial amount of wind generation being available in Tasmania.

## Structural reform in Tasmania’s electricity supply industry

Previous Progress Reports have detailed the structural reforms that have taken place in Tasmania’s electricity supply industry since 1998. In considering these structural issues, the Government has fully complied with its obligations under clause 4 of the CPA, including the review requirements under clause 4(3).

# Tasmania's participation in the National Electricity Market

In order to meet the transition requirements for Tasmania's entry into the NEM, a suite of structural and regulatory arrangements has been developed. Previous Progress Reports have detailed these.

Further details of the proposed arrangements have been published in papers available on the Department of Treasury and Finance's internet site:

- an information paper, titled *Meeting Tasmania's Energy Needs in the 21st Century — A Competitive Future*;
- a supplementary paper, titled *Authorisation of Tasmania's NEM Arrangements — Enhancements to Tasmania's Energy Reform Framework*;
- an information paper, titled *Tasmania's Energy Reform Framework — Entry to the National Electricity Market*; and
- an information paper, titled *Retail Competition in the Tasmanian Electricity Supply Industry*.

In progressing NEM entry, key milestones that have been achieved since the previous NCC report include:

- confirmation from the Treasurer that Tasmania is ready for Tasmania's system security to be transferred to NEMMCO;
- the passing of legislation to effect the separation of the BBPS from Hydro Tasmania;
- the making of a Ministerial Notice under Section 36 of the ESI Act, establishing the principles to be followed by Hydro Tasmania in relation to Basslink bidding and inter-regional revenues; and
- the making of regulations under the ESI Act for the publication of energy in storage information by Hydro Tasmania.

## *The ACCC Authorisation Process*

The process of authorising Tasmania's NEM entry arrangements involved amending the relevant NEM legislation to facilitate Tasmania's NEM entry, and establishing a vesting contract between Aurora Energy and Hydro Tasmania covering non-contestable customer loads. During this process, a number of enhancements to the Government's energy reform framework were agreed with the ACCC. These enhancements provide for:

- arrangements to provide greater certainty regarding how Basslink will be bid into the NEM, in the context of the commercial arrangements between Hydro Tasmania and Basslink Pty Ltd;
- a detailed framework for the sale of import inter-regional revenues accruing to Basslink Pty Ltd (as passed to Hydro Tasmania under the Basslink Services Agreement); and
- the conversion of Hydro Tasmania's BBPS to natural gas and its separation from Hydro Tasmania to become a separate, State-owned generation business, once Basslink is commissioned. This will create additional competition in Tasmania's electricity market.

Details of the ACCC's authorisation, including its Final Determination issued on 14 November 2001 can be obtained from the ACCC's internet site at <http://www.accc.gov.au>. The Ministerial Instrument that gives effect to the enhancements framework was issued in early 2004.

In January 2005, NECA, on behalf of Tasmania, applied for and was granted a minor variation to the authorised derogations to the NEC from the ACCC. The variation is required as it is expected that Tasmania will enter the

NEM prior to the new National Electricity Law coming into effect. As required under the NEC, NECA formally incorporated Tasmania's derogations into the NEC on 28 April 2005.

NEMMCO has advised three Tasmanian entities that it considers that they are sufficiently NEC compliant to participate in the NEM, and has indicated that they will be registered on Tasmania's entry to the NEM.

## Retail competition

The first tranche of electricity retail contestability, covering around 19 installations consuming in excess of 20 gigawatt hours per year, will be introduced on 1 July 2006. The remaining stages occur at annual intervals, with full retail contestability from July 2010, subject to an assessment of the costs and benefits of extending competition to customers that consume less than 0.15 gigawatt hours per year (GWh/yr).

The timetable for retail competition is set out in Table 5.1.

**Table 5.1: Tasmania's retail contestability timetable**

<b>Introduction of contestability</b>	<b>Electricity consumption</b>	<b>Approximate number</b>	<b>Indicative customer type</b>
1 July 2006	> 20 GWh/yr	19	Mineral processors/heavy manufacturing plant
1 July 2007	> 4 GWh/yr	41	Food processing plant and multi-storey office complexes
1 July 2008	> 0.75 GWh/yr	293	Supermarkets, engineering workshops and smaller commercial complexes
1 July 2009	> 0.15 GWh/yr	1 233	Fast food restaurants, service stations and large offices
1 July 2010	Under 0.15 GWh/yr	244 000	Small businesses and households

An information paper, titled *Retail Competition in the Tasmanian Electricity Supply Industry*, was released by the Government in April 2004. The information paper outlines the policy framework and structural arrangements that support the introduction of retail contestability, including the following issues:

- contestability criteria;
- the contractual framework;
- contestable customer choices, including fallback arrangements;
- the relationship between customers, retailers and the distributor;
- retail electricity prices;
- information disclosure;

- retailer of last resort arrangements; and
- ringfencing.

This information paper is available on the Treasury website at <http://www.treasury.tas.gov.au>.

## GAS INDUSTRY REFORMS

As indicated in previous Progress Reports, under the NCP gas reform arrangements, relevant jurisdictions are required to establish a national framework for fair and free trade in natural gas. In particular, the gas reforms require the establishment of third party access arrangements that apply to specified natural gas pipelines. Although Tasmania did not have an established natural gas industry at that time, it signed the NGPAA along with all other jurisdictions at the COAG meeting of 7 November 1997.

At that time, the absence of any natural gas pipeline infrastructure in this State to which third party access could have been provided resulted in Tasmania being treated as a special case within the NGPAA. Tasmania was therefore not classified as a “relevant jurisdiction” for the purposes of gas industry reforms. In particular, Tasmania was exempted from having to comply with the obligations of the Agreement until approval for the first natural gas pipeline in the State was granted, or before a competitive tendering process for a natural gas pipeline in the State commenced.

To facilitate the development of a natural gas industry in the State, the previous Tasmanian Government selected Duke as its preferred gas developer in May 1998. In April 2001, Duke entered into a Development Agreement with the State to supply gas to Tasmania from Victoria, with onshore transmission pipelines to provide gas to potential customers in the Bell Bay area, the North-West Coast and the South. The project also involved the conversion of the BBPS from oil-fired to gas-fired generation.

The Duke transmission pipeline was completed in 2002. Gas is now being used by a number of large scale industrial and commercial customers and the BBPS is generating gas-fired electricity into the Tasmanian grid following its conversion in 2003. The Duke transmission assets in Tasmania have since been purchased by Alinta.

In addition to the Duke/Alinta gas transmission project, the Government has been facilitating the development of gas distribution and retailing in Tasmania.

The Government launched a tender process in August 2001 under the provisions of the National Gas Code to award a five-year exclusive gas distribution franchise. However, this process was unable to deliver proposals that were capable of being accepted by the Government. On 25 September 2002, the Government announced that the tender process had been terminated without result, and subsequently announced in December 2002 that Powerco Ltd will be the Government's strategic alliance partner.

The *Gas Pipelines Access (Tasmania) Act 2000* was passed by Parliament in November 2000 and commenced on 5 April 2001. In February 2002, GPOC was appointed as the local Regulator under that Act.

Two pieces of legislation were introduced into Parliament in late 2000 in relation to the regulation of the Tasmanian natural gas industry. The *Gas Pipelines Act 2000* provides for regulation of gas transmission and pipelines facilities in Tasmania, including licensing provisions and the development and approval of gas safety arrangements. This Act received Royal Assent in December 2001. The *Gas Pipelines Regulations 2002* were proclaimed under this Act in November 2002.

The *Gas Act 2000* regulates the distribution and retailing of natural gas in Tasmania. It provides for the appointment of the Director of Gas and Director of Gas Safety, the licensing of gas retailers and distributors and arrangements to support gas retail contestability as well as the regulation of a number of gas safety issues. This Act also received Royal Assent in December 2000. The *Gas (Safety) Regulations 2002* were made under this Act in June 2002. Distribution and retail codes and licences have been developed following consultation with Powerco and other key stakeholders.

Amendments were made to both Acts during 2001 to address a number of issues that arose through the implementation of these significant new legislative arrangements. Amendments were effected through the *Gas Amendment Act 2001* and the *Gas Legislation (Miscellaneous Amendments) Act 2001*.

In 2002, a number of further amendments were made to address planning issues that had arisen in relation to both gas transmission and distribution developments. In relation to transmission issues, amendments to the Gas Pipelines Act were made by the *Gas Pipelines Planning and Safety (Miscellaneous Amendments) Act 2002*. Several amendments in relation to gas distribution were contained in the *Gas Infrastructure (Miscellaneous Amendments) Bill 2002*. This Bill passed both Houses of Parliament in December 2002 and was proclaimed in 2003.

The *Gas Infrastructure (Miscellaneous Amendments) Act 2003* was passed in July 2003. This Act amended the *Gas Act 2000* and the *Gas Infrastructure (Miscellaneous Amendments) Act 2002* to:

- provide for a fully contestable gas retail market;
- allow for the creation of a Pipeline Planning Corridor to protect the integrity of the gas distribution pipelines where they operate at a pressure in excess of the levels that trigger Australian Standard AS2885; and
- enable the introduction of regulations to establish standard conditions to govern the opening and reinstatement of local council-owned roads for the purpose of constructing a gas distribution system.

The *Gas Legislation Amendment (Land Acquisition Act) 2003* was passed in June 2003. This Act amends both the Gas Act and the Gas Pipelines Act to make a licensed pipeline operator an acquiring authority under the *Land Acquisition Act 1993*. This enables a pipeline operator to compulsorily acquire land or an easement over land for the purposes of undertaking the regulated activities the operator is licensed to engage in.

Under Clause 10.1 of the NGPAA, the State is required to submit an access regime to the NCC for certification as an effective regime as soon as practicable after its access legislation has been passed. As a result of Parliament passing the Gas Pipelines Access (Tasmania) Act, the Government commenced preparation of its access regime submission.

It was initially expected that the State would submit its access regime application in 2002. However, this was delayed due to the termination of the Code-compliant tender process and the subsequent process to select a preferred distribution developer. Further, it was apparent that additional amendments would be required to the Tasmanian legislative and regulatory framework for natural gas.

The State's access regime was submitted to the NCC for certification in October 2004. The NCC considered the access regime, and in early February 2005 it released a Draft Recommendation paper. The draft conclusion was that the Tasmanian gas pipelines access regime meets the criteria for effectiveness laid down in section 44M of the TPA, and the draft recommendation was that the regime be certified as effective for 15 years. The NCC invited comments from interested parties in its draft recommendations, by 17 March 2005. The NCC's final recommendation to the Parliamentary Secretary to the Australian Government Treasurer was made in April 2005.

A further round of amendments to the *Gas Act 2000*, to clarify the status of embedded networks in Tasmania, is expected later in 2005. These amendments will ensure that retail competition in gas is available to customers to the greatest practical extent.

In line with its obligations under the third tranche assessment to remove regulatory barriers to competition in natural gas markets, Tasmania has also repealed the *Gas Franchises Act 1973*, the *Hobart Town Gas Company's Act 1854* and the *Hobart Town Gas Company's Act 1857*. The *Launceston Gas Company Act 1982* has been substantially repealed, with remaining sections to be repealed once an accurate mapping of the pipeline network has been completed.

## TRANSPORT INDUSTRY REFORMS

Prior to 14 January 2004, national road transport reforms were developed under a process which had its genesis in the Heavy Vehicles Agreement signed by Heads of Government in 1991 and the Light Vehicles Agreement signed in 1992.

In 1991, Australian, state and territory governments agreed to develop uniform national legislation for vehicles over 4.5 tonnes gross vehicle mass (known as the Heavy Vehicles Agreement). The Heavy Vehicles Agreement and the *National Road Transport Commission Act 1991* established co-operative arrangements between the Australian Government, states and territories to progress national road transport reform through the National Road Transport Commission (NRTC) and associated processes.

In 1992, all governments agreed that uniform national legislation should also be developed to cover light vehicles as set out in the Light Vehicles Agreement.

In developing the national road transport legislation package, the NRTC adopted a modular approach covering the following six key reform areas:

- heavy vehicle charges;
- the road transport of dangerous goods;
- vehicle operations;
- vehicle registration;
- driver licensing; and
- compliance and enforcement.

The NRTC reforms have been designed to introduce consistency and uniformity to the rules governing road transport in Australia. This, in turn, will facilitate the development of a competitive national market in road transport services. The NRTC reforms provide benefits to Tasmanians through improved road safety and transport efficiency, as well as enabling the Tasmanian Government to administer road transport in a more cost-effective manner.

In April 1995, the NCP Agreements linked national competition payments to, among other conditions, the implementation of “agreed road transport reforms”. The *Agreement to Implement the National Competition Policy and Related Reforms* commits governments to the “effective observance of the agreed package of road transport reforms”. The Agreement does not, however, detail specific road transport reforms or an assessment framework.



In October 1998, the Standing Committee on Transport (SCOT) formed a Working Group to develop a draft assessment framework for NCP road transport reforms.

The SCOT Working Group was established to:

- consider whether particular road transport reforms were under development or available for implementation;
- make recommendations on which reforms from the initial six reform modules and the First and Second Heavy Vehicle Reform Packages should be considered “assessable” by the NCC under the second tranche;
- consider the process for future amendment of the assessment framework;
- state the purpose of each of the road transport reform elements;
- recommend success criteria for assessable reforms, by which the NCC could judge effective implementation; and
- recommend timetables with progress reports for assessable reforms.

A matrix of national road transport reforms, considered assessable for the Second Tranche Assessment, was finalised by the SCOT Working Group in late November 1998 and submitted to the Australian Transport Council (ATC) meeting on 4 December 1998. The framework was subsequently endorsed by COAG and adopted by the NCC as part of its second tranche assessment process.

The road transport reforms recommended as assessable by the SCOT Working Group for the Second Tranche Assessment covered the following areas:

- dangerous goods;
- the National Heavy Vehicle Registration Scheme;
- the National Driver Licensing Scheme;
- vehicle operations;
- heavy vehicle standards;
- truck driving hours;
- bus driving hours;
- common mass and loading rules;
- one driver/one licence;
- improved network access;
- common pre-registration standards (for heavy vehicles);
- common roadworthiness standards;
- enhanced safe carriage and restraint of loads;
- adoption of national bus driving hours;
- interstate conversion of driver licence;
- alternative compliance;
- short term registration;

- driver offences/licence status; and
- the NEVDIS (National Exchange of Vehicle and Driver Information System) Stage 1.

In November 1999, the ATC agreed that the third tranche assessment framework be developed on a similar basis to that of the second tranche. The ATC also agreed that industry should be consulted on the development of the criteria for successful implementation.

For the purposes of establishing the assessment framework, road transport reforms were categorised as either:

- under development; or
- available for implementation and assessable.

The transition between the two occurs when a formal vote by Ministers has occurred and a detailed proposal of action and implementation has been approved.

On this basis, the SCOT Working Group considered the following six reform areas as assessable under the third tranche:

- combined vehicle standards;
- Australian Road Rules (ARR);
- combined truck and bus driving hours;
- consistent on-road enforcement for roadworthiness;
- second heavy vehicle charges determination; and
- ultra-low floor bus axle mass increase.

SCOT emphasised that the NCC's assessment of jurisdictional performance should focus more on the date on which a reform first became available for implementation and each jurisdiction's stage of progress rather than on a binding implementation date for all jurisdictions (which would tend to be set for the slowest jurisdiction). For this reason, the assessment framework provides dates on which reforms became available and, if not already implemented, target dates for completion on a jurisdictional basis.

The *National Road Transport Commission Act 1991* (NRTCA) provided for its own sunset on 14 January 2004. The NRTCA required the ATC to prepare a written report to Heads of Government at least 12 months before the sunset date, advising whether the NRTCA should cease to be in force or be re-enacted (including in a modified form).

In December 2001, the ATC established a Steering Committee to conduct a review of the NRTCA and develop a report for consideration by the SCOT, the ATC and COAG in turn.

The review, conducted over seven months, provided 28 recommendations and concluded that road transport reform through the NRTC had been successful and that the focus should continue. It also recommended that the scope of regulatory reform should be extended beyond road transport to rail and intermodal operations and suggested the formation of a National Transport Commission (NTC) to replace the NRTC to better reflect the expanded role.

The new Commission was formally announced in November 2003 when the then Governor-General approved the Proclamation of the *National Transport Commission Act 2003* (NTC Act). It was gazetted a few days later, ensuring the operative provisions of the NTC Act commenced on 15 January 2004.

An Agreement, titled *Regulatory and Operational Reform in Road, Rail and Intermodal Transport*, was signed by Australian Government, state and territory Transport Ministers in late 2003. The Agreement sets out the principles and processes for cooperation between the Australian Government, states and territories (through the NTC) to progress such regulatory and operational reform.

## Transport reforms implemented since the 2004 Progress Report

Tasmania has successfully implemented all reforms contained in the third tranche assessment and has been assessed accordingly by the NCC. Future NCP funding is reliant on “*continued observance of road transport reforms*”. Tasmania continues to work with the NTC and other jurisdictions in maintaining consistency of implemented reforms and development and implementation of road transport reforms contained in the Third Heavy Vehicle Reform Package.

### Additional comments

In May 2000, the ATC approved a Third Heavy Vehicle Reform Package. The package comprises a comprehensive program of reform for the road transport industry to achieve safety, productivity and environmental objectives.

The purpose of the package is to build on the momentum of achievements of the national reform program to date and to respond to the significant growth in the road freight task forecast to occur over the next two decades.

The package contains 30 separate projects, grouped into the following nine major areas of reform:

- industry sector reforms;
- performance-based standards;
- driver health and fatigue management;
- load restraint;
- heavy vehicle noise and emissions;
- compliance and enforcement;
- bus productivity and safety;
- local road access; and
- codes of practice for operators and drivers.

Considerable progress has been made on the following Third Heavy Vehicle Package reforms.

### *Performance-Based Standards*

The development of performance-based standards (PBS) represents an internationally pioneering approach to regulating heavy vehicles to protect road safety and infrastructure. PBS will be a voluntary alternative to the current prescriptive regulations and involves regulating vehicles according to how they perform, how they are driven and operated, and the characteristics of the road network. The PBS project, established in a number of separate phases, is progressing well and Tasmania is actively participating with the NTC and other jurisdictions in the development of this reform. The first PBS project to be developed, a set of 20 nationally agreed safety and

infrastructure protection standards, was approved by Transport Ministers in March 2004. These standards form the criteria for establishing whether proposals for vehicle operations meet the required safety and infrastructure standards to operate under the PBS approach to regulating heavy vehicle operations. The standards have been incorporated in the assessment process for permit and exemption procedures applied to heavy vehicles in Tasmania. Work at the national level has commenced on the preparation of the PBS Codes and Guidelines. Tasmania is actively participating in this process.

### *Compliance and Enforcement*

The compliance and enforcement (C&E) module is seen as being essential to the ongoing administration of the Road Transport Law package. The C&E module deals with a range of matters that are necessary to secure compliance with the requirements and standards developed in the various reforms. Model laws have been developed which apply to all areas of heavy vehicle regulations, including driving hours, speeding heavy vehicles, vehicle standards and heavy vehicle mass, dimension and load restraint. The provisions introduce stronger powers for enforcement officers, deal with evidentiary issues and contain a range of innovative sanctions and penalties. The model laws also introduce the chain of responsibility principle. This principle means that all responsible parties may be held accountable for their role in any breach of the road transport laws. In this way, responsible off-road parties can be held accountable for on-road breaches. Ministers approved the C&E package in November 2003 and national implementation is currently progressing. At this stage, Tasmania is scoping the extent of the project and the most appropriate method of implementation. An implementation date is yet to be set.

### *Driver Health and Fatigue*

Heavy vehicle driver fatigue has been identified as a considerable road safety issue at the national level and excessive driving hours is now being identified as a growing concern in Tasmania. The objective of the driver health and fatigue management project is to improve road safety and transport productivity through the development and implementation of policies and practices to assist in the management of fatigue in drivers of heavy vehicles. The NTC, in consultation with industry road transport and occupational health and safety (OH&S) agencies, fatigue experts and union representatives, has developed a policy, titled *Heavy Vehicle Driver Fatigue: Policy Proposal*. The policy proposal is an integrated package that comprises a three-option approach; standard hours, basic fatigue management and advanced fatigue management supported by a number of additional elements. This approach is based on risk management, in that greater flexibility in work and rest arrangements is linked to increased requirement to demonstrate control over factors affecting fatigue. The policy proposal was approved by the ATC in March 2004. The NTC is currently working with jurisdictions and industry on the model legislation and associated record management tools to implement this reform. At this stage, it is expected that model legislation will be submitted to the ATC for approval by December 2005. Tasmania is working effectively with the NTC and other jurisdictions on this reform with particular emphasis on record keeping and the proposed national driver work diary.

### *Load Restraint Guide*

The safe loading of vehicles is important in preventing injury and death to people and damage to property. There are economic benefits to all if the load arrives at its destination intact and without damage. The *Load Restraint Guide* achieves safer practice by providing drivers, owners, operators, freight consignors, vehicle manufacturers, equipment manufacturers and suppliers with the basic safety principles that must be complied with to ensure the safe carriage of loads. The new national Load Restraint Guide was formally adopted and distributed in Tasmania in April 2004.

## *Heavy Vehicle Noise and Emissions*

With forecasters predicting rapid growth of the freight task over the next decade, it is imperative that steps are taken to minimise the potential adverse effects of road transport, such as noise and air pollution. Noise is repeatedly identified by both transport and environment agencies as a growing problem, and one capable of adversely affecting transport growth. The approach by the NTC and jurisdictions has been to set new vehicle design standards and lock them in through a new approach to in-service noise measurement and to address the issue of engine brake noise, which is notorious for causing sleep disturbance and significant loss of amenity in towns and cities throughout Australia.

This approach has led to the development of new Australian Design Rules (ADRs) for noise standards for all motor vehicles. The new ADRs were gazetted in March 2003 and will lead to a significant reduction in noise levels from all classes of vehicles. In the longer term, this will help alleviate the amenity issues associated with the forecast growth in road transport. The NTC also commissioned extensive research to identify and measure the characteristic 'bark' of an engine brake. After taking around 600 roadside measurements and testing new trucks under controlled conditions, a characteristic has been measured and identified. The NTC is currently involved in the development of a noise camera, which can take a measurement of a vehicle's noise at the roadside without stopping the vehicle. Once development is completed and the necessary model legislation drafted and approved, Tasmania will evaluate the potential for local implementation.

# 6 CONCLUSION

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Tasmania has demonstrated that it is fully committed to meeting its NCP obligations, as set out in the three Agreements, and has adopted an open and transparent approach both in applying the competition principles and also through its reporting obligations. Tasmania continues to make very significant progress in all of the key areas, as detailed in this report, and has established good policy processes to ensure that reforms are properly targeted and well-considered.

The Government has implemented many major legislative reforms arising from NCP and the benefits accruing from these reforms have been significant and have contributed to a stronger and more flexible Tasmanian economy. These reforms have specifically contributed to increased business confidence and investment, by removing unnecessary restrictions on business. They have also brought increased choice to consumers.

In addition, Tasmania's legislative gatekeeper arrangements have ensured that proposed legislation restricting competition or impacting on business is properly justified as being in the public benefit. These arrangements have ensured that only necessary, effective and efficient legislation is made. Reducing the regulatory burden on the Tasmanian business sector and removing unnecessary legislation has also facilitated a business environment that is more conducive to investment in the State.

With almost all legislative reforms complete, the most important impact of NCP in future years in Tasmania will be in the electricity and gas sectors. Tasmania's entry to the NEM on 29 May 2005 and the introduction of generation and retail competition, along with the setting up of a contestable gas sector, will provide further opportunities for Tasmania to obtain the benefits from competition-related reforms.



# 7 PUBLICATIONS AND CONTACTS

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The Tasmanian Government has produced a number of policy statements, public information papers and reference manuals in relation to the implementation and operation of NCP and related reforms in Tasmania.

## POLICY STATEMENTS

- *Agreement between the State and Local Government Association of Tasmania on the Application of National Competition Policy and related matters to Local Government*, Government of Tasmania, July 1998.
- *Application of the Competitive Neutrality Principles under National Competition Policy*, Government of Tasmania, June 1996.
- *National Competition Policy – Applying the Principles to Local Government in Tasmania*, April 2004.
- *Legislation Review Program: 1996 - 2000 - Tasmanian Timetable for the Review of Legislation that Restricts Competition*, Government of Tasmania, June 1996.

## PUBLIC INFORMATION PAPERS

- *Audit of Local Government Water and Wastewater Businesses, 2001-02 Report*, Government Prices Oversight Commission, April 2003.
- *Community Service Obligation Policy and Guidelines for Local Government in Tasmania*, Department of Premier and Cabinet, November 2000.
- *Corporatisation Principles for Local Government Business Activities*, Department of Treasury and Finance, December 1998.
- *Extension of Part IV of the Trade Practices Act to all Businesses in Tasmania*, Department of Treasury and Finance, July 1996.
- *Full Cost Attribution Principles for Local Government*, Department of Treasury and Finance, June 1997.
- *Guidelines for Considering the Public Benefit Under the National Competition Policy*, Department of Treasury and Finance, March 1997.
- *Guidelines for Implementing Full Cost Attribution Principles in Government Agencies*, Department of Treasury and Finance, September 1997.



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Copies of these publications may be obtained by contacting:

Assistant Director, Regulation Review Unit  
Economic Policy Branch  
Department of Treasury and Finance  
GPO Box 147  
HOBART TAS 7001  
Ph: 03 6233 3407  
Fax: 03 6233 5690  
Email: [regulation.review@treasury.tas.gov.au](mailto:regulation.review@treasury.tas.gov.au)



# ACRONYMS AND ABBREVIATIONS

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ABS	Australian Bureau of Statistics
ACCC	Australian Competition and Consumer Commission
ADR	Australian Design Rule
Alinta	Alinta Limited
ATC	Australian Transport Council
Aurora	Aurora Energy Pty Ltd
BBPS	Bell Bay Power Station
CCA	Conduct Code Agreement
CCW	Cradle Coast Water
COAG	Council of Australian Governments
Code	National Third Party Access Code for Natural Gas Pipeline Systems
CPA	Competition Principles Agreement
CPI	Consumer Price Index
C&E	Compliance and Enforcement
CSO	Community Service Obligation
DA	Development Agreement
DE	Department of Education
DIER	Department of Infrastructure, Energy and Resources
DHHS	Department of Health and Human Services
DOJ	Department of Justice
DOPPS	Department of Police and Public Safety
DPAC	Department of Premier and Cabinet
DPIWE	Department of Primary Industries, Water and Environment
DTPHA	Department of Tourism, Parks, Heritage and the Arts
Duke	Duke Energy International
ESI	<i>Electricity Supply Industry Act 1995</i>
EWA	Esk Water Authority
FAGs	Financial Assistance Grants
FCA	Full Cost Attribution
FPB	Forest Practices Board
FT	Forestry Tasmania
GBE	Government Business Enterprise
GPOC	Government Prices Oversight Commission
IFS	Inland Fisheries Service
LGD	Local Government Division
LRP	Legislation Review Program
MAIB	Motor Accidents Insurance Board

MCC	Marginal Capacity Cost
Metro	Metro Tasmania Pty Ltd
NCC	National Competition Council
NCP	National Competition Policy
NEC	National Electricity Code
NECA	National Electricity Code Administrator
NEM	National Electricity Market
NEMMCO	National Electricity Market Management Company
NEVDIS	National Exchange of Vehicle and Driver Information System
NGPAA	Natural Gas Pipelines Access Agreement
NRM	Tasmanian Natural Resource Management
NRTC	National Road Transport Commission
NRTCA	<i>National Road Transport Commission Act 1991</i>
NTC	National Transport Commission (replaced NTRC in November 2003)
NTER	National Taxation Equivalent Regime
OH&S	Occupational, Health and Safety
PAHSMA	Port Arthur Historic Site Management Authority
PBS	Performance Based Standards
PFE	Public Financial Enterprise
PTE	Public Trading Enterprise
P&C	Department of Premier and Cabinet
RIS	Regulatory Impact Statement
RRU	Regulation Review Unit, Department of Treasury and Finance
RWSC	Rivers and Water Supply Commission
SBA	Significant Business Activities
SCOT	Standing Committee on Transport
SFC	State Fire Commission
SLA	<i>Subordinate Legislation Act 1994</i>
SRMC	Short Run Marginal Cost
TAS	Tasmanian Ambulance Service
Tascorp	Tasmanian Public Finance Corporation
TEC	Tasmanian Electricity Code
TER	State Taxation Equivalent Regime
T&F	Department of Treasury and Finance
TGEB	Tasmanian Grain Elevators Board
TOTE	TOTE Tasmania Pty Ltd
TPA	<i>Trade Practices Act 1974</i> (Australian Government)
Transend	Transend Networks Pty Ltd
WAT	Wheelchair Accessible Taxi

# APPENDICES

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## APPENDIX A

### Background to National Competition Policy

In October 1992, following the agreement of all Australian governments, the Prime Minister established a Committee of Inquiry to investigate and report on a recommended course of action to achieve consistent competition rules across Australia. The Committee was chaired by Professor Fred Hilmer and its final report was released in August 1993.

The Hilmer Report recommended that a number of steps be taken to achieve the universal application of the Australian Government's TPA to both private and public business enterprises and that a series of "additional policy elements" be implemented by governments. These additional policy elements include:

- the structural reform of public monopolies;
- the application of competitive neutrality principles to public sector businesses;
- processes for reviewing anti-competitive legislation;
- the establishment of State-based prices oversight regimes to apply to public sector monopolies; and
- guaranteed third party access to essential infrastructure facilities.

The Hilmer Report also recommended the establishment of two national bodies to oversee the administration of a NCP framework, namely the ACCC and the NCC.

The recommendations contained in the Hilmer Report were the subject of discussion and negotiation between the Australian, state and territory governments for nearly two years. At the COAG meeting on 11 April 1995, the parties agreed on the elements of NCP, which are to be progressively implemented over time to boost the competitiveness and growth prospects of the national economy. The following three Agreements were signed:

- the *Conduct Code Agreement* (relating to the TPA extension);
- the *Competition Principles Agreement* (relating to the "additional policy elements"); and
- the *Agreement to Implement the National Competition Policy and Related Reforms* (relating to the sharing of the financial benefits expected to flow from the implementation of NCP).

The NCP Agreements are summarised below and are available in full at the NCC's internet site at <http://www.ncc.gov.au>.

## *The Conduct Code Agreement (CCA)*

The CCA provides for:

- the wider application of the restrictive trade practice provisions of Part IV of the Australian Government's TPA to encompass all private and public sector business activities. This includes the removal of the 'Shield of the Crown' protection for certain state business activities, which previously did not have to comply with the requirements of Part IV of the TPA; and
- the establishment of the ACCC, which is charged with administering the TPA and the *Prices Surveillance Act 1983*.

## *The Competition Principles Agreement (CPA)*

The CPA effectively commits all Australian governments to progressing micro-economic reforms in a wide range of areas in accordance with a set of well-defined principles. The principles included in the Agreement require:

### *Monopoly Prices Oversight*

- consideration to be given to the introduction of a regime to oversee the prices charged by GBEs that are monopoly, or near monopoly, suppliers of goods or services;

### *Competitive Neutrality*

- government businesses to operate such that they do not enjoy any net competitive advantage simply as a result of their public ownership;

### *Reform of Public Monopolies*

- the conduct of an independent review before either privatising, or introducing competition to, a traditional monopoly;

### *Legislation Review*

- the review and, where governments consider it appropriate, the reform of all legislation that restricts competition by the year 2000 (this deadline has since been extended by COAG to 30 June 2002); and

### *Access to Services Provided by Significant Infrastructure Facilities*

- consideration to be given to introducing a legislated right for third parties to negotiate access to services provided by means of significant infrastructure facilities.

The CPA also makes all Australian governments responsible for the application of these principles to local government, establishes the NCC and sets out the consultative processes to be followed in relation to appointments to the NCC and the establishment of its work program.

## *The Agreement to Implement the National Competition Policy and Related Reforms*

This Agreement provides for a sharing of the financial benefits flowing to the Australian Government as a result of the states and territories implementing the proposed reforms. The financial arrangements are outlined below. It also requires each state and territory to effectively implement COAG and other Agreements on:

- the establishment of a competitive NEM (for relevant jurisdictions);

- the establishment of a national framework for free and fair trade in gas (for relevant jurisdictions);
- a strategic framework for the efficient and sustainable reform of the Australian water industry; and
- an agreed package of road transport reforms.

Although in the past the NCC has assessed the Tasmanian Government's application of water reform within the NCP Progress Report. Arising from the National Water Initiative, the 2005 NCP assessment for water is to be conducted by the National Water Commission as part of a separate report.

## The benefits of National Competition Policy

The general aim of NCP is to promote free and open competition where this is in the public benefit and therefore increase efficiency and productivity in the economy.

The benefits of greater competition extend to all participants in the economy:

- to consumers - through lower prices, more product choice and better service;
- to businesses - through cheaper inputs, better service from input suppliers, greater choice of suppliers and access to improved technology, all of which lead to greater competitiveness;
- to governments - through increased revenue from expanding the economy, lower expenditure and improvements in government services; and
- to the economy as a whole - through lower inflation, increased growth, improved international competitiveness, greater investment, a greater choice of jobs and improved standards of living.

NCP has delivered substantial benefits to the Australian community which, overall, have greatly outweighed the costs and NCP will deliver substantial ongoing benefits.

Therefore, as the financial benefits of NCP to the Australian Government are ongoing, the Tasmanian Government considers that transfers in the form of competition payments to the states and territories should also be ongoing.

## Financial arrangements

In April 1995, the Australian Government and the states concluded the *Agreement to Implement the National Competition Policy and Related Reforms*, which set out the details relating to the Australian Government's undertaking to provide additional financial assistance to the states and territories, contingent on satisfactory progress being made with the implementation of NCP and related reforms. The Agreement provided for a sharing of the benefits flowing from the Australian Government as a result of the states agreeing to implement NCP and related reforms.

Under that Agreement, the Australian Government committed to maintaining the existing real per capita guarantee on Financial Assistance Grants (FAGs), which had been introduced at the 1994 Premiers' Conference and also applied to Australian Government general-purpose payments to local government. In addition, three tranches of ongoing competition payments were provided for, commencing in July 1997 at an annual level of \$200 million, and increasing to \$400 million in July 1999 and \$600 million from July 2001. The competition



payment tranches were originally specified in 1994-95 currency terms, and are indexed in subsequent years to reflect movements in the ANTS<sup>3</sup> inclusive national Consumer Price Index between successive March quarters.

Payment of the per capita guarantee component of the FAG pool and the competition payments was linked to the progress made by each state and territory towards implementation of the agreed reforms. The NCC was charged with the task of assessing compliance by each jurisdiction with the conditions governing competition payments. States or territories that failed to undertake the required actions within the time frames specified would forfeit a share of their per capita guarantee of FAGs and competition payments from the Australian Government.

As a result of national tax reform measures from 2000-01 onwards, the per capita guaranteed FAG component of NCP related payments was replaced by the allocation of GST revenues between the states and territories by the Australian Government.

Table A1 outlines competition payments to Tasmania since the commencement of the NCP Agreements, including the breakdown between the per capita guaranteed FAG and NCP components of payments received by the State until 1999-00.

To date, Tasmania has received the full set of competition payments for which it is eligible. Tasmania's competition payments in 2003-04 were subject to a five per cent pool suspension as the result of outstanding legislation review items. However, this suspended payment was released in full to the State in the 2004-05 competition payments.

**Table A1: Competition Payments<sup>1</sup>**

Year	Per Capita FAG Guarantee <sup>3</sup>		Competition Payments	
	National	Tasmanian	National	Tasmanian
	Total	Share	Total	Share
	\$m	\$m	\$m	\$m
1997-98 actual <sup>2</sup>	175.5	6.9	213.0	5.4
1998-99 actual <sup>2</sup>	377.5	14.6	216.1	5.4
1999-00 actual <sup>2</sup>	580.9	23.0	439.5	10.8
2000-01 actual <sup>2</sup>	n.a.	n.a.	448.0	11.2
2001-02 actual <sup>2</sup>	n.a.	n.a.	733.3	17.4
2002-03 actual <sup>2</sup>	n.a.	n.a.	739.9	17.4
2003-04 actual <sup>2</sup>	n.a.	n.a.	578.5	17.2
2004-05 actual	n.a.	n.a.	724.2	19.8 <sup>4</sup>
2005-06 actual	n.a.	n.a.	792.5	18.9

Notes:

1. Based on the following assumptions: a continuation of current national and State population growth rates and the achievement of NCP targets.
2. These amounts are in nominal terms.
3. Due to the abolition of FAGs under the revised Australian Government-State financial arrangements, the per capita FAG guarantee has not applied from 1 July 2000.
4. This amount includes the full release of the State's 2003-04 suspension pool funds (\$900 000). The final amount of payments for 2004-05 is subject to adjustment for CPI and population outcomes.

<sup>3</sup> A New Tax System

In the 2003-04 Budget, the Australian Government did not provide estimates of the 2006-07 payments pool, instead indicating that payments would be the subject of negotiations with the states and territories. However, despite the reference to negotiations, the Prime Minister subsequently announced that competition payments will cease after 2005-06. This announcement was prior to the outcome of the COAG review of NCP due to be completed by November 2005.



# APPENDIX B

## Legislation Review Program – Progress Report as at 31 March 2005

This Appendix deals with the status of all legislation listed for review under the Government's LRP. The Appendix does not include a number of agreement and taxation Acts that have been excluded from the requirements of the LRP.

Table B1: LRP Progress Report as at March 2005

Primary Act	Agency	Status
<i>Adoption Act 1988</i>	DHHS	A minor review of this Act has been completed and the restrictive provisions have been justified as being in the public benefit. Licensing restrictions were retained in order to protect against trafficking in children.
<i>Agricultural and Veterinary Chemicals (Control of Use) Act 1995</i>	DPIWE	The recommendations from a national NCP review were incorporated into this Act by the <i>Agricultural and Veterinary Chemicals (Control of Use) Amendment Act 2003</i> . The amendment Act received Royal Assent on 9 May 2003. The Act removes the requirement for a permit for low risk off-label use of agricultural chemicals and limits the exemption available to pharmaceutical chemists to situations where they are acting under the instructions of a veterinary surgeon.
<i>Agricultural and Veterinary Chemicals (Tasmania) Act 1994</i>	DPIWE	A national review was completed in 2001. The recommendations of this review, as they apply to Tasmania, have been endorsed by the Government. The <i>Agricultural and Veterinary Chemicals (Tasmania) Amendment Act 2001</i> ensures that the Agvet Code is uniformly administered across jurisdictions. Amendments to the Agvet Code at Australian Government level incorporating the major recommendations of the review will automatically be adopted in Tasmania.
<i>Air Navigation Act 1937</i>	DIER	The Productivity Commission's review of the International Air Services Agreement was completed in 1998. The Australian Government issued a statement on international aviation policy in June 1999. This Act adopts by reference regulations made under the Australian Government's <i>Air Navigation Act 1920</i> and applies them to air navigation and aircraft within the jurisdiction of the State of Tasmania. The Act was enacted following agreement between the Australian Government and the states that there should be uniform rules throughout the Commonwealth applying to air navigation and aircraft. The Act does not restrict competition <i>per se</i> .
<i>Aluminium Industry Act 1960</i>	T&F	This Act was repealed by the <i>Legislation Repeal Act 1998</i> .
<i>Ambulance Service Act 1982</i>	DHHS	A minor review of this Act has been completed and the restrictive provisions have been justified as being in the public benefit. The restrictions relate to the requirement to obtain approval to operate a private ambulance service and the level of fees that may be charged by 'approved' ambulance services.
<i>Animal (Brands and Movement) Act 1984</i>	DPIWE	The review recommended that compulsory ear-marking of cattle or sheep be removed. Following a reassessment of this recommendation by DPIWE in the light of bovine spongiform encephalopathy outbreaks, these provisions were found to be in the public benefit.

Table B1: LRP Progress Report as at March 2005 (continued)

Primary Act	Agency	Status
<i>Animal Farming (Registration) Act 1994</i>	DPIWE	The Government has completed a review of the registration restrictions relating to fallow deer farming and is currently in the process of removing the requirement for registration of deer farms from regulations and consequently the Act. It is proposed that the management of this activity will be undertaken under the <i>Wildlife Regulations 1999</i> with the effect of considerably lessening the regulatory burden on deer farmers. It is anticipated that amendments will be completed by 30 June 2005.
<i>Animal Welfare Act 1993</i>	DPIWE	A minor review of this Act has been completed and the existing restrictions on competition contained in the Act relating to the licensing of institutions engaging in animal research have been justified as being in the public benefit.
<i>Apiaries Act 1978</i>	DPIWE	A review of this Act has been completed and the Act was repealed by the <i>Legislation Repeal Act 2001</i> .
<i>Apple and Pear Industry (Crop Insurance) Act 1982</i>	DPIWE	A review of this Act has been completed and the recommendations of the review were presented to the Government. The Government agreed that compulsory insurance for the apple and pear industry should be abolished and the Act repealed. An Act to provide for the repeal of this Act and the winding up of the scheme was passed by Parliament in November 1999. The insurance scheme was abolished on 30 June 2000 and the remaining provisions repealed in March 2001 upon satisfaction of all claims.
<i>Architects Act 1929</i>	DIER	All of the recommendations arising from the national review of the Act have been incorporated in the amendments to the <i>Building Act 2000</i> and the <i>Building (Consequential Amendments) Act 2003</i> , the latter of which amends the <i>Architects Act 1929</i> to provide for a broad role in the accreditation of architects under the Building Act. The Board of Architects Tasmania is a member of the Architects Accreditation Council of Australia, which supports the National Program of Assessment certification system for architects.
<i>Auctioneers and Real Estate Agents Act 1991</i>	DOJ	A review of this Act has been completed. The Government has considered its recommendations that include: removing the requirement of real estate agents to display fees; allowing multi-disciplinary partnerships; replacing the current Auctioneers and Real Estate Agents Council with an independent Board to oversee the regulation of the industry, deal with complaints and handle disciplinary procedures; and adopting the recommended licensing requirements. It is anticipated that a Bill to implement all of the NCP review recommendations and strengthen consumer protection measures will be introduced into Parliament in mid-2005.
<i>Australia and New Zealand Banking Group Act 1970</i>	DOJ	This Act was repealed by the <i>Legislation Repeal Act 2000</i> .
<i>Australian Titan Products Act 1945</i>	DIER	This Act was repealed by the <i>Legislation Repeal Act 1998</i> .
<i>Bank Holidays Act 1919</i>	DIER	This Act has been substantially amended to remove all anti-competitive provisions and those that impact on business. On this basis it has been removed from the LRP timetable.
<i>Bank of Adelaide (Merger) Act 1980</i>	DOJ	This Act was repealed by the <i>Legislation Repeal Act 2000</i> .
<i>Ben Lomond Skifield Management Authority Act 1995</i>	DPIWE	A minor review of this Act has been completed. The restrictive provisions were assessed as being in the public benefit as part of the review of the <i>National Parks and Wildlife Act 1970</i> .

Table B1: LRP Progress Report as at March 2005 (continued)

<i>Biological Control Act 1986</i>	DPIWE	This Act has been removed from the LRP timetable. Advice from the NCC, dated 28 July 1997, states that this Act does not contain restrictions on competition and therefore does not need to be reviewed.
<i>Botanical Gardens Act 1950</i>	DPIWE	This Act has been removed from the LRP timetable. The restrictive provisions were contained in the by-laws. The by-laws have now been rescinded and replaced with new by-laws that do not contain restrictions on competition.
<i>Building and Construction Industry Training Fund Act 1990</i>	DE	A review of this Act has been completed. No major restriction on competition was identified. However, the review recommended maintaining a central fund to provide for training in the industry as this restriction is justified as being in the public benefit. Amending legislation commenced on 1 March 2005.
<i>Burnie to Waratah Railway Act 1939</i>	DIER	This Act was to have been repealed following the proclamation of the <i>Rail Safety Act 1997</i> . The Government has received advice that third party access is guaranteed and the Act contains no provisions restricting competition.
<i>Business Names Act 1962</i>	DOJ	A minor review of this Act has been completed and the restrictive provisions were justified as being in the public benefit.
<i>Casino Company Control Act 1973</i>	T&F	This Act was repealed by the <i>Legislation Repeal Act 2000</i> .
<i>Child Welfare Act 1960</i>	DHHS	This Act has been repealed.
<i>Chiropractors Registration Act 1982</i>	DHHS	This Act was repealed and replaced by the <i>Chiropractors and Osteopaths Registration Act 1997</i> that was assessed under the LRP gatekeeper requirements as imposing a minor restriction on competition (relating to registration) which was justified as being in the public benefit.
<i>Christ College Act 1926</i>	DE	This Act will not be subject to review under the LRP as it does not restrict competition.
<i>Classification (Publications, Films and Computer Games) Enforcement Act 1995</i>	DOJ	A minor review of this Act has been completed and the restrictive provisions have been justified as being in the public benefit. This Act is national legislation that prohibits the sale, hire, exhibition and production of certain materials and introduces a classification system for certain materials.
<i>Clyde Water Act 1898</i>	DPIWE	This Act was repealed by the <i>Water Management Act 1999</i> .
<i>Commercial and Inquiry Agents Act 1974</i>	DOJ	The review has been completed and this Act has been repealed and replaced by the <i>Security and Investigations Agents Act 2002</i> , which was assessed under the LRP gatekeeper requirements and proclaimed on 1 January 2003.
<i>Commercial Bank of Australia Limited (Merger) Act 1982</i>	DOJ	This Act was repealed by the <i>Legislation Repeal Act 2000</i> .
<i>Commercial Banking Company of Sydney Limited (Merger) Act 1982</i>	DOJ	This Act was repealed by the <i>Legislation Repeal Act 2000</i> .

Table B1: LRP Progress Report as at March 2005 (continued)

<i>Companies (Acquisition of Shares) (Application of Laws) Act 1981</i> <i>Companies (Acquisition of Shares) (Tasmania) Code</i>	DOJ	The Acts listed will not be subject to review under the LRP as they do not restrict competition. They have no effect except in relation to breaches that occurred prior to the introduction of the <i>Corporations (Tasmania) Act 1990</i> .
<i>Companies (Application of Laws) Act 1982</i>		
<i>Companies (Tasmania) Code</i> <i>Companies and Securities (Interpretation and Miscellaneous Provisions) (Application of Laws) Act 1981</i>		
<i>Companies and Securities (Interpretation and Miscellaneous Provisions) (Tasmania) Code</i>		
<i>Companies and Securities (Miscellaneous Amendments) Act (No. 2) 1982</i>		
<i>Companies and Securities Legislation (Miscellaneous Amendments) Act 1982</i>		
<i>Companies Auditors and Liquidators Disciplinary Board Act 1982</i>		
<i>Construction Industry (Long Service) Act 1997</i>	DIER	The restriction on competition in this Act has been subject to a minor assessment and has been justified as being in the public benefit.
<i>Consumer Credit (Tasmania) Act 1996</i>	DOJ	A national review of the Consumer Credit Code was completed in 2002. In March 2003, Cabinet agreed to the drafting of amendments to the Consumer Credit (Tasmania) Act to implement the findings of this review. The amendments will remove doubt about the application of the Code to conditional sale agreements and to prohibit the charging of valuation fees for household goods. The Consumer Credit (Tasmania) Act is template legislation based on the Uniform Consumer Credit Code, in accordance with the Uniform Credit Laws Agreement 1993. The implementation of the national review, completed in 2002, is being progressed at a national level by the Uniform Consumer Credit Code Ministerial Committee. The Government has developed a package of amendments to align the State's Act with Australian Government changes. It is envisaged that these amendments will be introduced in Parliament in May 2005.
<i>Co-operative Housing Societies Act 1963</i>	T&F	This Act was repealed by the <i>Legislation Repeal Act 2003</i> .
<i>Co-operative Industrial Societies Act 1928</i>	DOJ	This Act was repealed by the <i>Co-operatives Act 1999</i> that commenced in May 2000.
<i>Corporations (Tasmania) Act 1990</i>	DOJ	A package of Tasmanian legislation was passed in 2001 as a result of the Australian Government <i>Corporations Act 2001</i> . The Australian Government Office of Regulation Review assessed that no RIS was necessary.
<i>Cremation Act 1934</i>	DPAC	Following the commencement of a minor review, a decision was made to repeal and replace this Act with new legislation to include matters related to burials. The <i>Burial and Cremation Act 2002</i> was proclaimed on 21 June 2002.

Table B1: LRP Progress Report as at March 2005 (continued)

<i>Dairy Industry Act 1994</i>	TDIA	A major review of this Act was completed in 1999 recommending that staged deregulation of milk production and prices commence in 5 years time or upon deregulation occurring nationally or in Victoria. The review also recommended that milk quality standards continue to be determined by the Tasmanian Dairy Industry Authority (TDIA) until such time as a national system for food safety is implemented. Licensing of producers, processors and manufacturers was retained to facilitate regulation of quality standards. Legislation implementing deregulation in line with the national agreement was passed in July 2000.
<i>Dangerous Goods Act 1976</i>	DIER	This Act has been repealed and replaced by new dangerous goods legislation. The new legislation is based on the National Road Transport Commission's legislative model for transport of dangerous goods by road, which has been expanded to include the use, storage and handling of dangerous goods. The new legislation has been assessed under the LRP gatekeeper requirements.
<i>Dental Act 1982</i>	DHHS	A new <i>Dental Practitioners Registration Act 2001</i> was passed in April 2001, removing some restrictions on practice and all specific restrictions on advertising, and clarifying that there are no restrictions on ownership. The remaining restriction, relating to the requirement to be registered, was assessed as being in the public benefit.
<i>Devonport Airport (Special Provisions) Act 1980</i>	DIER	This Act was repealed by the <i>Port Companies Act 1997</i> .
<i>Dog Control Act 1987</i>	P&C - LGD	This Act was replaced by the <i>Dog Control Act 2000</i> that received Royal Assent on 20 December 2000. It was assessed under the gatekeeper provisions.
<i>Don River Tramway Act 1974</i>	DIER	This Act was repealed by the <i>Legislation Repeal Act 2000</i> .
<i>Door to Door Trading Act 1986</i>	DOJ	A minor review of this Act has been completed and the restrictive provisions have been justified as being in the public interest.
<i>Education Act 1994 and Education Providers Registration (Overseas Students) Act 1991</i>	DE	A major review of the <i>Education Act 1994</i> and the <i>Education Providers Registration (Overseas Students) Act 1991</i> was completed in December 2000. The review found that the restrictions on competition contained in these Acts were justified in the public benefit.
<i>Egg Industry Act 1988</i>	DPIWE	A major review of this Act has been completed. The <i>Egg Industry Act 2002</i> repealed the former Act and was assessed in accordance with the gatekeeper arrangements.
<i>Electricity Consumption Levy Act 1986</i>	T&F	This Act was repealed by the <i>Hydro-Electric Corporation (Consequential and Miscellaneous Provisions) Act 1996</i> .
<i>Electricity Industry Safety and Administration Act 1997</i>	DIER	The restrictive provisions of this Act have been assessed as being in the public benefit and essentially uniform across all jurisdictions. The NCC has endorsed this decision.
<i>Electricity Supply Industry Act 1995</i>	T&F	A review of this Act has been completed. The review recommendations which proposed legislative change have either become redundant following Basslink and the subsequent legislation for Tasmania's entry to the NEM, or were specifically addressed in the <i>Electricity Supply Industry Amendment Act 2003</i> .
<i>Electricity Supply Industry Restructuring (Savings and Transitional Provisions) Act 1995</i>	DIER	This Act was reviewed as part of the implementation of the COAG reform agenda for the Australian water industry, and amended by the <i>Water Management Act 1999</i> .



Table B1: LRP Progress Report as at March 2005 (continued)

<i>Emu Bay Railway Act 1976</i>	DIER	The Act has been replaced by the <i>Rail Safety Act 1997</i> which has now been proclaimed. This Act was initially introduced without complying with the LRP. A subsequent MAS was endorsed as complying with the LRP.
<i>Environment Protection (Sea Dumping) Act 1987</i>	DPIWE	This Act was repealed by the <i>Legislation Repeal Act 2000</i> .
<i>Environmental Management and Pollution Control Act 1994</i>	DPIWE	A major review of this Act has been completed. All restrictions except one were found to be in the public benefit. The <i>Noise Regulations 1977</i> , which contained the remaining restriction, were rescinded on 1 January 2004. The new <i>Environmental Management and Pollution Control (Miscellaneous Noise) Regulations 2004</i> commenced in July 2004 and do not contain restrictions of the type identified. However, another type of restriction was addressed through a regulatory impact assessment.
<i>Evidence Act 1910</i>	DOJ	This Act was repealed by the <i>Evidence Act 2001</i> that was assessed under the LRP gatekeeper requirements as not restricting competition or having a significant negative impact on business. The new Act was proclaimed on 1 July 2002.
<i>Fair Trading Act 1990</i>	DOJ	A minor review of this Act has been completed and the restrictive provisions, namely the requirement for manufacturers to provide warranties for motor vehicles and to establish a system for dealing with customer complaints, have been justified as being in the public benefit.
<i>Fertilizers Act 1993</i>	DPIWE	A minor review of this Act has been completed. The restrictions on competition contained in the Act including labelling requirements, warnings to be placed on labels and adherence to standards have been justified as being in the public benefit.
<i>Financial Management and Audit Act 1990</i>	T&F	A minor review of this Act has been completed. The restrictions on competition arise from the Auditor General's power to audit all Government Departments and majority government-owned entities. No legislative changes were required. However, administrative separation has been put in place between the Auditor General and the Tasmanian Audit Office, competitive tendering with the private sector has been increased to 27 per cent of total audit expenditure and tender panels are formed to assess tender bids.
<i>Fire Service Act 1979</i>	SFC	A minor review of this Act has been completed. The sole restriction on competition relating to the creation of salvage corps has been justified as being in the public benefit.
<i>Firearms Act 1996</i>	DOPPS	A minor review of this Act has been completed. The restrictions on competition contained in the Act have been justified as being in the public benefit.
<i>Fisheries Act 1959</i>	DPIWE - IFS	This Act was repealed on 31 May 1996. The repealing Acts, the <i>Inland Fisheries Act 1995</i> , <i>Living Marine Resources Management Act 1995</i> and the <i>Marine Farming Planning Act 1995</i> , have been included on the LRP timetable in place of this Act.
<i>Flammable Clothing Act 1973</i>	DOJ	A minor review of this Act has been completed and the restrictive provision, the requirement to mark or label prescribed clothing (children's nightwear) with the flammability of the garment, has been justified as being in the public benefit.
<i>Florentine Valley Paper Industry Act 1935</i>	FT	This Act was reviewed as part of the implementation of the COAG reform agenda for the Australian water industry. The review recommended transfer of licensing of water rights to the <i>Water Management Act 1999</i> . This has been done.

Table B1: LRP Progress Report as at March 2005 (continued)

<i>Forest Practices Act 1985</i>	FPB	A minor review of this Act has been completed and the restrictive provisions have been justified as being in the public benefit. The restrictions relate to the Forest Practices Code, Timber Harvesting Plans, Private Timber Reserves and Forest Practices Officers.
<i>Forestry Act 1920</i>	FT	A review of the Act was completed in 1998. It noted that minimum supply restrictions are anti-competitive and recommended simplifying the Act and removing certain conditions of wood supply agreements. The minimum supply restrictions were found to be of public benefit during the process to establish a Regional Forest Agreement. The Government accepted the review recommendations and removed all the restrictions other than the minimum supply levels, by way of the <i>Forestry Amendment (Miscellaneous) Act 1999</i> , which was assessed as complying with the requirements of the LRP.
<i>Friendly Societies Act 1888</i>	DOJ	This Act has been repealed.
<i>Futures Industry (Application of Laws) Act 1987 and Futures Industry (Tasmania) Code</i>	DOJ	These Acts will not be subject to review under the LRP as they do not restrict competition. They have no effect except in relation to breaches that occurred prior to the introduction of the <i>Corporations (Tasmania) Act 1990</i> .
<i>Gaming Control Act 1993</i>	T&F	A minor review of this Act has been completed as part of a review of the State's gaming legislation and restrictions contained in the Act were justified as being in the public benefit. The Government agreed to the recommendations of the Review Group. The review specifically excluded the 1993 Deed between the Crown and Australian National Hotels. The <i>Gaming Control Amendment Act 2003</i> was passed in 2003, to provide a new exclusive licence to Federal Hotels and Resorts to operate casinos, Keno and gaming machines in Tasmania. A RIS assessing the proposed reforms found that the benefits of the measures provided in the amending legislation outweighed the costs.
<i>Gas Franchises Act 1973</i>	DIER	This Act was repealed by the <i>Gas Pipelines Access (Tasmania) Act 2000</i> , which was assessed under the LRP gatekeeper requirements.
<i>Goods (Trade Descriptions) Act 1971</i>	DOJ	A minor review of this Act is complete. The key restrictive provision, the requirement for manufacturers to disclose the materials from which textile products are made, has been justified as being in the public benefit. New regulations have been made which replace provisions regarding safety footwear.
<i>Grain Reserve Act 1950</i>	DPIWE - TGEB	The review of this Act is complete with two anti-competitive sections of the Act repealed.
<i>Groundwater Act 1985</i>	DIER	This Act was repealed by the <i>Water Management Act 1999</i> .
<i>Guns Act 1991</i>	DOPPS	This Act was repealed on 13 November 1996. The repealing Act, the <i>Firearms Act 1996</i> , was reviewed under the LRP and the restrictions were assessed as being in the public benefit.
<i>Hairdressers' Registration Act 1975</i>	DIER	This Act was repealed following an internal review.
<i>Henry Jones Limited (Huon Pine) Agreement Act 1978</i>	FT	This Act was repealed by the <i>Legislation Repeal Act 1998</i> .
<i>Hire-Purchase Act 1959</i>	DOJ	This Act was repealed by the <i>Legislation Repeal Act 2000</i> .
<i>Historic Cultural Heritage Act 1995</i>	DTPHA	The review of this Act, in conjunction with the review of the <i>Land Use Planning and Approvals Act 1993</i> has been completed. It is expected that legislative changes arising out of this review will be introduced into Parliament in mid-2005.

Table B1: LRP Progress Report as at March 2005 (continued)

<i>HIV/AIDS Preventative Measures Act 1993</i>	DHHS	A minor review of this Act has been completed and the restrictive provisions have been justified as being in the public benefit. The restrictions relate to the licensing/approvals involved in areas associated with testing, counselling and treatment of AIDS sufferers.
<i>Hobart Bridge Act 1958</i>	DIER	This Act was repealed by the <i>Legislation Repeal Act 1996</i> .
<i>Hobart Regional Water Act 1984</i>	DPIWE	This Act was repealed on 1 January 1997. The repealing Act, the <i>Hobart Regional Water (Arrangements) Act 1996</i> , was assessed under the LRP gatekeeper requirements as not restricting competition or imposing a significant impact on business.
<i>Hobart Town Gas Company's Act 1854</i>	DOJ	This Act was repealed by the <i>Gas Act 2000</i> , which was assessed as complying with the LRP gatekeeper requirements.
<i>Hobart Town Gas Company's Act 1857</i>	DOJ	This Act was repealed by the <i>Gas Act 2000</i> , which was assessed under the LRP gatekeeper requirements.
<i>Hospitals Act 1918</i>	DHHS	The Government considered a reform proposal in March 2004. A draft of the Bill was completed in December 2004 and it is expected that amending legislation to address a minor restriction will be introduced into Parliament in mid to late 2005.
<i>Housing Indemnity Act 1992</i>	DOJ	The review of this Act is complete and the restrictive provisions have been justified as being in the public benefit.
<i>Huon Valley Pulp and Paper Industry Act 1959</i>	FT	This Act was repealed by the <i>Legislation Repeal Act 1996</i> .
<i>Hutchins School Act 1911</i>	DE	This Act was repealed by the <i>Legislation Repeal Act 2000</i> .
<i>Hydro-Electric Commission (Doubts Removal) Act 1972 and Hydro-Electric Commission (Doubts Removal) Act 1982</i>	Hydro Tasmania	These Acts were repealed on 6 November 1996. The repealing Acts were included on the LRP timetable in place of a review of these Acts. The repealing Acts consist of the <i>Electricity Supply Industry Act 1995</i> and the <i>Electricity Supply Industry Restructuring (Savings and Transitional Provisions) Act 1995</i> .
<i>Hydro-Electric Commission Act 1944</i>	Hydro Tasmania	This Act was repealed on 6 November 1996. The repealing Acts were included on the LRP timetable in place of a review of these Acts. The repealing Acts consist of the <i>Electricity Supply Industry Act 1995</i> and the <i>Electricity Supply Industry Restructuring (Savings and Transitional Provisions) Act 1995</i> .
<i>Ida Bay Railway Act 1977</i>	DPIWE	This Act was repealed in April 2001.
<i>Inland Fisheries Act 1995</i>	DPIWE - IFS	A major review of this Act was completed in December 2000 and the recommendations have been implemented. These include abolition of the assistant fisher's licence, creation of a generic registration process for fish dealers and importers and provision of IFS permission for the possession of fertilised ova as a licence condition for fish farmers or owners of private fisheries, as necessary.
<i>Iron Ore (Savage River) Agreement Act 1965</i>	DIER	This Act has been repealed.
<i>Iron Ore (Savage River) Arrangements Act 1996</i>	DED	This Act does not restrict competition and will not be subject to review. The Act provides indemnity for a past operator of the mine for environmental damage.
<i>Iron Ore (Savage River) Deed of Variation Act 1990</i>	DIER	This Act was repealed by the <i>Legislation Repeal Act 2001</i> .

Table B1: LRP Progress Report as at March 2005 (continued)

<i>Irrigation Clauses Act 1973</i>	DPIWE	This Act was reviewed as part of the implementation of the COAG reform agenda for the Australian water industry. It was amended by the <i>Water Management Act 1999</i> that was assessed under the LRP gatekeeper requirements and any restrictions were found to be in the public benefit.
<i>Land Surveyors Act 1909</i>	DPIWE	A major review of this Act has been completed. The <i>Surveyors Act 2002</i> repealed the former legislation. The relevant provisions of the new legislation are less restrictive than the recommendations of the review.
<i>Land Use Planning and Approvals Act 1993</i>	DPIWE	The review of this Act has been completed and the recommended amendments were made through the <i>Land Use Planning and Approvals Amendment Act 2001</i> .
<i>Land Valuation Act 1971</i>	DPIWE	A major review of this Act, which incorporated the <i>Valuers Registration Act 1974</i> , has been completed and the Government has accepted the recommendations of the review. The <i>Valuation of Land Act 2001</i> and the <i>Land Valuers Act 2001</i> were passed by Parliament and replace these Acts. The new Acts were assessed under the LRP gatekeeper requirements and commenced in 2002.
<i>Launceston Gas Company Act 1982</i>	DOJ	This Act has been substantially repealed, with remaining sections to be repealed once an accurate mapping of the pipeline network has been completed.
<i>Launceston Savings Investment and Building Society Act 1955</i>	DOJ	This Act was repealed by the <i>Legislation Repeal Act 1996</i> .
<i>Legal Profession Act 1993</i>	DOJ	A major review of this Act has been completed. The Standing Committee of Attorneys-General is progressing the adoption of uniform national laws for the legal profession. The <i>Legal Profession Amendment Bill 2004</i> was released for public consultation and tabled in Parliament on 20 April 2004. Although it passed through the House of Assembly it did not pass through the Legislative Council. The Government has now committed to the adoption of the national reforms based on the National Legal Profession Model Laws. It is proposed that a new Bill incorporating both the national model laws and all remaining NCP issues will be introduced to Parliament in either late 2005 or early 2006. The <i>Conveyancing Act 2004</i> , which removed the reservation of work restriction relating to conveyancing was passed in July 2004.
<i>Lending of Money Act 1915</i>	DOJ	This Act was repealed by the <i>Legislation Repeal Act 2000</i> .
<i>Liquor and Accommodation Act 1990</i>	T&F	A major review of this Act was completed in 2002. The Government considered the recommendations, and amending legislation in response to the recommendations was enacted in May 2003. The <i>Liquor and Accommodation Amendment Act 2003</i> removed several restrictions. The Government implemented the majority of the review recommendations but retained the ban on the sale of packaged liquor from supermarket premises as it found this to be in the public benefit. In July 2004, upon further consideration of the recommendation to abolish the accommodation licensing scheme, the Government passed the <i>Liquor and Accommodation Amendment Act 2004</i> . This amending Act removed the accommodation licensing scheme requirement from the Act, thus reducing administrative obligations and fees imposed on accommodation operators in the State. The title of the Act was also changed to the <i>Liquor Licensing Act 1990</i> to reflect these amendments.
<i>Living Marine Resources Management Act 1995</i>	DPIWE	A major review of this Act has been completed in January 2000. The restrictions on competition contained in the Act have been justified as being in the public benefit and no changes were recommended.

Table B1: LRP Progress Report as at March 2005 (continued)

<i>Loan (Hydro-Electric Commission) Act 1957</i>	Hydro Tasmania	This Act was repealed on 6 November 1996.
<i>Local Government (Building and Miscellaneous Provisions) Act 1993 - (in so far as it relates to health issues)</i>	DHHS	All issues have been transferred to the <i>Public Health Act 1997</i> . This Act has been removed from timetable.
<i>Local Government (Building and Miscellaneous Provisions) Act 1993 - (except in relation to health issues and Part III (subdivisions))</i>	DIER	The <i>Building Act 2000</i> has replaced the building provisions of the existing <i>Local Government (Building and Miscellaneous Provisions) Act 1993</i> . The new legislation was assessed under the LRP gatekeeper requirements.
<i>Local Government (Building and Miscellaneous Provisions) Act 1993 - (Part III)</i>	DPIWE	New legislation has replaced this Act.
<i>Local Government (Highways) Act 1982</i>	P&C - LGD	A minor review of this Act has been completed and the amending legislation was passed by Parliament in late 2001, and proclaimed on 1 June 2002. The by-law making power of councils has been removed from this Act.
<i>Local Government Act 1993</i>	P&C - LGD	A review of this Act was delayed pending the outcome of the former Government's intention to pursue council amalgamations. The review has been completed and minor restrictions regarding the operation of a pound and council land certificates have been justified as being in the public benefit.
<i>Marine Act 1976</i>	DIER	This Act was repealed on 30 July 1997 and replaced by the <i>Marine and Safety Authority Act 1997</i> , the <i>Port Companies Act 1997</i> and the <i>Marine (Consequential Amendments) Act 1997</i> . These Acts were assessed under the LRP gatekeeper requirements as not restricting competition or imposing an impact on business.
<i>Marine Farming Planning Act 1995</i>	DPIWE	A major review of this Act was completed in April 2000 which found that the restrictions on competition contained in the Act were justified as being in the public benefit.
<i>Meat Hygiene Act 1985</i>	DPIWE	A major review of this Act was completed in 1999 and legislation to implement the recommendations of the review was passed in April 2001. The amended legislation provides for a simplified licensing system, acknowledges Australian Meat Standards and removes overlap with building regulations. The Act remains the primary regulatory tool for meat processors but does incorporate provisions of the Model Food Act.
<i>Medical Act 1959</i>	DHHS	This Act was repealed on 21 August 1996. The repealing Act, the <i>Medical Practitioners Registration Act 1996</i> , is included on the LRP timetable in place of a review of this Act.
<i>Medical Practitioners Registration Act 1996</i>	DHHS	A review of this Act has been completed. The review recommended that the registration of medical practitioners is justified as being in the public benefit. The review also recommended the removal of restrictions on the ownership of medical practices and the removal of controls on advertising. The Government has accepted the review recommendations and appropriate amendments have been made under the <i>Medical Practitioners Registration Amendment Act 2004</i> , which received Royal Assent in July 2004.
<i>Mental Health Act 1963</i>	DHHS	This Act was repealed by the <i>Mental Health Act 1996</i> .
<i>Merchant Seamen Act 1935</i>	DIER	This Act was repealed by the <i>Legislation Repeal Act 1998</i> .

Table B1: LRP Progress Report as at March 2005 (continued)

<i>Metropolitan Transport Act 1954</i>	DIER	This Act has been replaced by the <i>Metro Tasmania Act 1997</i> and <i>Metro Tasmania (Transitional and Consequential Provisions) Act 1997</i> . The new legislation was assessed under the LRP gatekeeper requirements as not restricting competition or imposing an impact on business.
<i>Mineral Resources Development Act 1995</i>	DIER	A major review of this Act has been completed and all restrictions have been assessed as being in the public benefit.
<i>Mining Act 1929</i>	DIER	This Act was repealed on 1 July 1996. The repealing Act, the <i>Mineral Resources Development Act 1995</i> , was reviewed and all restrictions assessed as being in the public benefit.
<i>Mock Auctions Act 1973</i>	DOJ	This Act was repealed by the <i>Legislation Repeal Act 2000</i> .
<i>Motor Accidents (Liabilities and Compensation) Act 1973</i>	MAIB	A major review of this Act has been completed and the Government has agreed to the recommendations of the review body. The Government has decided that, following an examination of the results of the Victorian review of its compulsory third party legislation, which is similar to Tasmania's, no further amendments to the Act are required.
<i>Mount Cameron Water Race Act 1926</i>	DIER	This Act was repealed by the <i>Legislation Repeal Act 1998</i> .
<i>Mount Dundas and Zeehan Railway Act 1890</i>	DIER	This Act was repealed by the <i>Legislation Repeal Act 1998</i> .
<i>Mount Dundas and Zeehan Railway Act 1891</i>	DIER	This Act was repealed by the <i>Legislation Repeal Act 1998</i> .
<i>Mount Lyell and Strahan Railway Act 1892</i>	DIER	This Act was repealed by the <i>Legislation Repeal Act 1996</i> .
<i>Mount Lyell and Strahan Railway Act 1893</i>	DIER	This Act was repealed by the <i>Legislation Repeal Act 1996</i> .
<i>Mount Lyell and Strahan Railway Act 1896</i>	DIER	This Act was repealed by the <i>Legislation Repeal Act 1996</i> .
<i>Mount Lyell and Strahan Railway Act 1898</i>	DIER	This Act was repealed by the <i>Legislation Repeal Act 1996</i> .
<i>Mount Lyell and Strahan Railway Act 1900</i>	DIER	This Act was repealed by the <i>Legislation Repeal Act 1996</i> .
<i>Mount Read and Rosebery Mines Limited Leases Act 1916</i>	DIER	This Act was repealed by the <i>Mt Read and Rosebery Mines Limited Leases (Repeal) Act 1999</i> .
<i>National Parks and Wildlife Act 1970</i>	DPIWE	A minor review of this Act has been completed and the restrictive provisions regarding the commercial use of Crown land, trade in wildlife and wildlife exhibitions and displays have been justified as being in the public benefit.
<i>North Esk Regional Water Act 1960</i>	DPIWE	This Act was repealed by the <i>Northern Regional Water (Arrangements) Act 1997</i> .
<i>North Mount Lyell and Macquarie Harbour Railway Act 1897</i>	DIER	This Act was repealed by the <i>Legislation Repeal Act 1996</i> .

Table B1: LRP Progress Report as at March 2005 (continued)

<i>North Mount Lyell Mining and Railway Act 1901</i>	DIER	This Act was repealed by the <i>Legislation Repeal Act 1996</i> .
<i>North West Regional Water Act 1987</i>	DPIWE	This Act was repealed by the <i>North West Regional Water (Arrangements) Act 1997</i> , which commenced in 1999 and was assessed under the LRP gatekeeper requirements.
<i>Noxious Insects and Molluscs Act 1951</i>	DPIWE	This Act was repealed and replaced by the <i>Plant Quarantine Act 1997</i> which was assessed under the LRP gatekeeper requirements.
<i>Noxious Weeds Act 1964</i>	DPIWE	The <i>Noxious Weeds Act 1964</i> has been repealed and replaced by the <i>Weed Management Act 1999</i> , which was assessed under the LRP gatekeeper requirements.
<i>Nursing Act 1987</i>	DHHS	This Act was repealed on 1 July 1996. The repealing Act, the <i>Nursing Act 1995</i> , is included on the LRP timetable in place of a review of this Act.
<i>Nursing Act 1995</i>	DHHS	The review of this Act has been completed. Restrictions related to registration were assessed as providing a net public benefit as they provide information to the consumer. The restrictive provisions relating to advertising were removed by the <i>Nurses Amendment Act 1999</i> .
<i>Optometrists Registration Act 1994</i>	DHHS	A review of this Act has been finalised and recommendations have been considered by the Government. Amending legislation implementing the review recommendations was assessed under the LRP gatekeeper requirements and received Royal Assent in July 2004.
<i>Partnership Act 1891</i>	DOJ	A minor review of this Act has been completed and the restrictive provisions have been justified as being in the public benefit. The restrictive provisions relate to the ability of partners to compete with their partnership.
<i>Pawnbrokers Act 1857</i>	DOJ	This Act was repealed on 1 June 1996. The repealing Act, the <i>Second-hand Dealers and Pawnbrokers Act 1994</i> , has been included on the LRP timetable in place of a review of this Act.
<i>Pesticides Act 1968</i>	DPIWE	This Act was repealed on 1 January 1997. The repealing Act, the <i>Agricultural and Veterinary Chemicals (Control of Use) Act 1995</i> , was included on the LRP timetable in place of a review of this Act.
<i>Petroleum (Submerged Lands) Act 1982</i>	DIER	A national review was completed and endorsed by the Australia and New Zealand Minerals and Energy Council. Amendments were developed by the Australian Government and reflected in state and territory legislation. The <i>Petroleum (Submerged Lands) Amendment Act 2004</i> was assessed under the LRP gatekeeper requirements and in November 2004 the amendments facilitating the establishment of the National Offshore Petroleum Safety Authority (NOPSA) were passed by Parliament. However, the amendments are yet to be proclaimed. The Australian Government is in the process of drafting a new Bill to replace the current Australian Government Act. The Government believes that it is appropriate to postpone further amendments and concentrate on drafting the new Tasmanian Act by either adoption by reference or mirror legislation which will ensure that the Tasmanian Act is fully compliant with the Australian Government model.
<i>Petroleum Products Business Franchise Licences Act 1981</i>	T&F	This Act was repealed as a result of the High Court ruling of August 1997 that states are unable to collect franchise fees.
<i>Petroleum Products Emergency Act 1994</i>	DOPPS	This Act has been removed from the LRP timetable. The legislation requires that any restrictions must be justified in the public benefit, therefore no further justification is necessary.

Table B1: LRP Progress Report as at March 2005 (continued)

<i>Pharmacy Act 1908</i>	DHHS	The Australian Government has completed a national review, in conjunction with a review of the Australian Government's Community Pharmacy Agreement. This Act has been replaced by the <i>Pharmacists Registration Act 2001</i> , which governs the registration of pharmacists and the ownership of pharmacies. The Government considered the outcome of the national review and, following advice from the Prime Minister, drafted legislation to amend the Pharmacists Registration Act. Advice received from the Prime Minister indicated that Tasmania would be NCP compliant if the Act was amended to relax ownership restrictions to allow a pharmacist or a Friendly Society to own up to four pharmacies each, and restrict Friendly Societies, other than those already providing pharmacy services or with an interest in a pharmacy business upon commencement of the amending Bill. The amending legislation was passed through Parliament in November 2004.
<i>Physiotherapists Registration Act 1951</i>	DHHS	This Act has been repealed and replaced by the <i>Physiotherapists Registration Act 1999</i> , which was assessed under the LRP gatekeeper requirements. Restrictions relating to registration were assessed as providing a net community benefit as they provide information to the consumer. Restrictions on ownership and advertising were removed from the new legislation.
<i>Plant Diseases Act 1930</i>	DPIWE	This Act was repealed and replaced by the <i>Plant Quarantine Act 1997</i> which was assessed under the LRP gatekeeper requirements. The new Act was recognised as containing a restriction on competition, but this was justified in the public benefit as being for the purpose of preventing the introduction and spread of plant and animal pests and diseases.
<i>Plant Protection Act 1994</i>	DPIWE	The <i>Plant Protection Act 1994</i> was passed by Parliament in 1994, but not proclaimed. The Act was repealed and replaced by the <i>Plant Quarantine Act 1997</i> , which was assessed under the LRP gatekeeper requirements as not imposing an impact on business. Other restrictions were justified in the public benefit in relation to preventing the spread of plant and animal pests and diseases.
<i>Plumbers and Gas-fitters Registration Act 1951</i>	DIER	The review of this Act is complete. Proposed new occupational licensing legislation is scheduled for introduction into Parliament in mid-2005.
<i>Podiatrists Registration Act 1974</i>	DHHS	This Act was repealed on 1 July 1996. The repealing Act, the <i>Podiatrists Registration Act 1995</i> , is included on the LRP timetable in place of a review of this Act.
<i>Podiatrists Registration Act 1995</i>	DHHS	The review of this Act is complete. The advertising and ownership restrictions were removed from the Act in November 2000. All other restrictions were justified in the public benefit.
<i>Poisons Act 1971</i>	DHHS	A national review has been completed and the DHHS is drafting legislation to replace the <i>Poisons Act 1971</i> that will be progressed under the LRP gatekeeper requirements. Amending legislation will be introduced in 2005. None of the recommended changes to the legislation will have a major impact on competition.
<i>Police Offences Act 1935</i>	DOPPS	A minor review of this Act has been completed. Two anti-competitive provisions have been repealed and those remaining have been justified as being in the public benefit.
<i>Port Arthur Historic Site Management Authority Act 1987</i>	PAHSMA	A minor review of this Act has been completed. The restrictive provisions were assessed as being in the public benefit as part of the review of the <i>National Parks and Wildlife Act 1970</i> .
<i>Port Huon Wharf Act 1955</i>	T&F	This Act was repealed on 30 July 1997.



Table B1: LRP Progress Report as at March 2005 (continued)

<i>Primary Industry Activities Protection Act 1995</i>	DPIWE	A minor review of this Act has been completed. The restrictions on competition contained in the Act which protect existing primary producers pursuing legitimate activities adjoining new subdivisions have been justified as being in the public benefit.
<i>Printers and Newspapers Act 1911</i>	DOJ	This Act was repealed by the <i>Legislation Repeal Act 1998</i> .
<i>Psychologists Registration Act 1976</i>	DHHS	New psychologists registration legislation ( <i>Psychologists Registration Act 2000</i> ) has replaced the existing Act and has been assessed under the LRP gatekeeper requirements as having no restrictions and only minor impacts on business. The new legislation removes restrictions on advertising and reservation of practice, and streamlines complaints and administration procedures.
<i>Public Health Act 1962</i>	DHHS	This Act has been repealed and replaced by the <i>Public Health Act 1997</i> and the <i>Food Act 1998</i> which were assessed under the LRP gatekeeper requirements. The Australian Government has consulted with the states on national reviews relating to food regulation, including a review of the Australia and New Zealand Food Authority Council Act and the Model Food Act. As a result, the <i>Food Act 1998</i> was replaced by the <i>Food Act 2003</i> , which is based on the Model Food Act.
<i>Pulpwood Products Industry (Eastern and Central Tasmania) Act 1968</i>	FT	This Act was repealed by the <i>Legislation Repeal Act 1995</i> .
<i>Racing Act 1983</i>	DIER	New racing legislation was drafted following the restructure of the racing industry in 2000. Three new Acts replacing the racing aspects of this Act were assessed under the LRP gatekeeper arrangements and a RIS was required. The RIS justified all major restrictions in the Acts, which were in the <i>Racing Act 1983</i> , as being in the public benefit. The restrictions contained in the new Acts are the same as those in the repealed legislation. These restrictions have been justified as being in the public benefit. Therefore, the LRP obligations in respect of this Act have been met. The new Acts were passed by Parliament in November 2004 with the <i>Racing Act 1983</i> being repealed at this time.
<i>Racing and Gaming Act 1952 (except minor gaming)</i>	DIER	This Act has been renamed the <i>Racing Regulation Act 1952</i> . Progress as per <i>Racing Act 1983</i> .
<i>Racing and Gaming Act 1952 (in so far as it relates to minor gaming)</i>	T&F	A minor review of this Act was completed as part of a review of the State's gaming legislation. In 2001, the gaming components of this Act were transferred to the <i>Gaming Control Act 1993</i> and were assessed under the LRP gatekeeper requirements.
<i>Radiation Control Act 1977</i>	DHHS	A national review has been completed which recommended the continuation of a regulatory approach but with a move to an outcome based rather than prescriptive controls over the possession or use of radiation sources. The Government has considered the outcomes of the review and legislation will be introduced into Parliament in mid 2005.
<i>Radiographers Registration Act 1971</i>	DHHS	This Act has been replaced by the <i>Medical Radiation Technologists Registration Act 1999</i> , which was assessed under the LRP gatekeeper requirements, and the minor restrictions justified in the public benefit.
<i>Railway Management Act 1935</i>	DIER	This Act has been repealed.
<i>Railways (Transfer to Commonwealth) Act 1975</i>	DIER	This Act was repealed by the <i>Legislation Repeal Act 1998</i> .

Table B1: LRP Progress Report as at March 2005 (continued)

<i>Railways Clauses Consolidation Act 1901</i>	DIER	This Act was repealed by the <i>Legislation Repeal Act 2000</i> .
<i>Renison Limited (Zeehan Lands) Act 1970</i>	DPIWE	This Act was repealed by the <i>Legislation Repeal Act 1998</i> .
<i>Roads and Jetties Act 1935</i>	DIER	A minor review of this Act has been completed and concluded that the restrictions that related to limited access provisions should be retained because they are in the public interest. The recommendations have been accepted by the Government.
<i>Rossarden Water Act 1954</i>	DPIWE	This Act has been repealed by the <i>Water Management Act 1999</i> , which was assessed under the LRP gatekeeper requirements.
<i>Rules Publication Act 1953</i>	DOJ	The restrictive provisions in this Act were repealed by the <i>Legislation Publication Act 1996</i> which was proclaimed in early 1998. The repealing legislation was assessed under the gatekeeper requirements as not restricting competition or impacting on business.
<i>Sale of Condoms Act 1987</i>	DHHS	A minor review of this Act has been completed. The Act has been repealed.
<i>Sale of Hazardous Goods Act 1977</i>	DOJ	A minor review of this Act has been completed. The restrictive provisions have been justified as being in the public benefit.
<i>Salt-water Salmonid Culture (Supplementary Agreements Validation) Act 1992</i>	DPIWE	This Act was repealed by the <i>Legislation Repeal Act 1998</i> .
<i>Salt-water Salmonid Culture Act 1985</i>	DPIWE	This Act was repealed by the <i>Legislation Repeal Act 1998</i> .
<i>School Dental Therapy Service Act 1965</i>	DHHS	This Act was replaced by the <i>Dental Practitioners Registration Act 2001</i> which was assessed under the LRP gatekeeper requirements. Most restrictions on practice were removed, including the limit on public sector employment. The remaining restrictions relating to the requirement to be registered was assessed as being in the public benefit.
<i>Second-hand Dealers Act 1905</i>	DOJ	This Act was repealed on 1 June 1996. The repealing Act, the <i>Second-hand Dealers and Pawnbrokers Act 1994</i> , was included on the LRP timetable in place of a review of this Act.
<i>Second-hand Dealers and Pawnbrokers Act 1994</i>	DOJ	A minor review of this Act has been completed. The restrictive provisions have been justified as being in the public benefit.
<i>Securities Industry (Application of Laws) Act 1981</i>	DOJ	This Act will not be subject to review under the LRP as it does not restrict competition <i>per se</i> . This Act currently has no effect except in relation to breaches that occurred prior to the introduction of the <i>Corporations (Tasmania) Act 1990</i> .
<i>Securities Industry (Tasmania) Code</i>	DOJ	This Act will not be subject to review under the LRP as it does not restrict competition <i>per se</i> . This Act currently has no effect except in relation to breaches that occurred prior to the introduction of the <i>Corporations (Tasmania) Act 1990</i> .
<i>Seeds Act 1985</i>	DPIWE	The <i>Seeds Amendment Act 1999</i> removed the restrictive provisions from this Act. The Act therefore has been removed from the timetable.
<i>Sewers and Drains Act 1954</i>	DPIWE	The restrictive provisions contained in this Act have been removed. The Act has been removed from the LRP timetable.
<i>Shop Trading Hours Act 1984</i>	DIER	The <i>Shop Trading Hours Amendment Act 2002</i> , which commenced operation on 1 December 2002, removed the restrictive provisions.

Table B1: LRP Progress Report as at March 2005 (continued)

<i>Stock Act 1932</i>	DPIWE	This Act was repealed on 1 September 1996 and replaced with the <i>Animal Health Act 1995</i> , which has been included on the LRP timetable in place of a review of this Act.
<i>Stock, Wool, and Crop Mortgages Act 1930</i>	DOJ	A review of this Act has been completed and the restrictive provisions justified as being in the public benefit.
<i>Substandard Housing Control Act 1973</i>	DHHS	This Act is expected to be repealed following further assessment of the <i>Residential Tenancy Act 1997</i> and the <i>Public Health Act 1997</i> to ensure that these Acts can address the issues currently regulated by the <i>Substandard Housing Control Act 1973</i> . There are no major restrictions on competition in this Act.
<i>Sunday Observance Act 1968</i>	DIER	This Act was repealed by the <i>Sunday Observance Act (Repeal) Act 1997</i> .
<i>Survey Co-ordination Act 1944</i>	DPIWE	The minor restrictive provision contained in the Act will be repealed in the <i>Legislation Repeal Bill 2005</i> which is expected to go to Parliament in mid 2005.
<i>Tasmanian Government Insurance Act 1919</i>	T&F	This Act has been repealed.
<i>Tasmanian Harness Racing Board Act 1976</i>	DPIWE - TRA	This Act has been repealed and replaced by the <i>Racing Amendment Act 1997</i> , which resulted from the Racing Industry Review. This legislation was assessed under the LRP gatekeeper requirements as not restricting competition or impacting on business.
<i>Tasmanian Public Finance Corporation Act 1985</i>	T&F	A minor review of this Act has been completed and the restrictive provisions justified as being in the public benefit.
<i>Taxi and Luxury Hire Car Industries Act 1995 (formally the Taxi Industry Act 1995)</i>	DIER	A major review of this Act has been completed. The <i>Taxi and Luxury Hire Car Industries Amendment Act 2003</i> was passed by Parliament during the Spring 2003 Session. The amendments, including the Act and regulations, commenced on 12 March 2004 and took effect from 17 March 2004. This legislation provides for tendering of additional perpetual taxi licences and for a new category of licence for wheelchair accessible taxis. The <i>Taxi Industry Amendment Regulations 2004</i> enable taxi operators to offer discounted taxi fares to customers.
<i>The Mount Lyell Mining and Railway Company Limited (Continuation of Operations) Act 1985</i>	T&F	This Act was repealed by the <i>Legislation Repeal Act 1996</i> .
<i>The Mount Lyell Mining and Railway Company Limited (Continuation of Operations) Act 1987</i>	T&F	This Act was repealed by the <i>Legislation Repeal Act 1996</i> .
<i>The Mount Lyell Mining and Railway Company Limited (Continuation of Operations) Act 1992</i>	T&F	This Act was repealed by the <i>Legislation Repeal Act 1998</i> .
<i>Therapeutic Goods and Cosmetics Act 1976</i>	DHHS	This Act has been replaced by the <i>Therapeutic Goods Act 2001</i> . This legislation was assessed under the LRP gatekeeper requirements as not restricting competition or impacting on business.
<i>Thomas Owen and Co. (Australia) Limited Act 1948</i>	DPIWE	This Act was repealed by the <i>Water Management Act 1999</i> .

Table B1: LRP Progress Report as at March 2005 (continued)

<i>Threatened Species Protection Act 1995</i>	DPIWE	A minor review of this Act has been completed and the restrictive provisions were justified as being in the public benefit.
<i>Tobacco Business Franchise Licences Act 1980</i>	T&F	This Act was repealed as a result of the High Court ruling of August 1997 that states are unable to collect franchise fees.
<i>Tobacco Products (Labelling) Act 1987</i>	DHHS	This Act was repealed by the <i>Public Health Act 1997</i> .
<i>Traffic Act 1925</i>	DIER	This Act has been substantially reviewed in terms of the restrictive provisions of Part III, by the independent Committee of Review into Public Vehicle Licensing in Tasmania, chaired by Mr David Burton (the "Burton Review"). The anti-competitive provisions in Part III were replaced by the <i>Passenger Transport Act 1997</i> , the <i>Passenger Transport (Consequential and Transitional) Act 1997</i> and the <i>Traffic Amendment (Accreditation and Miscellaneous) Act 1997</i> . All these Acts were assessed as complying with the requirements of the LRP.
<i>Travel Agents Act 1987</i>	DOJ	A national review of the Act has been completed and a final report released. National working parties have been appointed to assess the report's findings and to provide recommendations concerning their implementation. The majority of the recommendations from the review have already been implemented in Tasmania. The only outstanding issues are in relation to qualifications of licensed agents and authorisation of travel agents licensed in a reciprocating state or territory to advertise and solicit business in Tasmania. These outstanding recommendations have now been implemented, completing Tasmania's involvement in the review.
<i>Trustee (Insured Housing Loans) Act 1970</i>	T&F	This Act was repealed by the <i>Trustee Amendment (Investment Powers) Act 1997</i> that was assessed under the LRP gatekeeper requirements as not restricting competition or imposing a significant negative impact on business.
<i>Trustee Act 1898</i>	DOJ/T&F	The restrictive provision, regulation of trustee investments, was repealed and replaced in 1997 with a 'prudent person' approach to trustee investments. This provision was progressed through the LRP gatekeeper requirements and assessed as not restricting competition or impacting on business. The Act will ultimately be repealed.
<i>Trustee Banks Act 1985</i>	T&F	This Act was repealed by the <i>Trust Bank Sale Act 1999</i> , which was assessed as not restricting competition or imposing a significant negative impact on business.
<i>Trustee Companies Act 1953</i>	DOJ	A national review of trustee companies legislation is currently being finalised. Further negotiations in relation to an appropriate regulatory model are being progressed through the Standing Committee of Attorneys-General (SCAG). Progress is pending on SCAG negotiations.
<i>TT-Line Gaming Act 1993</i>	T&F	A minor review of this Act has been completed as part of a review of the State's gaming legislation and restrictions contained in the Act were justified as being in the public benefit. The restrictions provide for the overall integrity of the State's gaming industry and maintain the State's highly reputable probity environment.
<i>United Milk Products Ltd (Amalgamation) Act 1981</i>	DED	This Act was repealed by the <i>Legislation Repeal Act 1998</i> .
<i>Universities Registration Act 1995</i>	DE	A minor review of this Act has been completed and the restrictive provisions have been justified as being in the public benefit. The restrictions relate to the registration and accreditation of private universities.

Table B1: LRP Progress Report as at March 2005 (continued)

<i>Valuers Registration Act 1974</i>	DPIWE	This Act was reviewed with the <i>Land Valuation Act 1971</i> . The review is complete and new legislation has been passed to replace these Acts, which was assessed through gatekeeper provisions.
<i>Van Dieman's Land Company's Waratah and Zeehan Railway Act 1895</i>	DIER	This Act was to have been repealed following the proclamation of the <i>Rail Safety Act 1997</i> . The Government has received advice from the Solicitor-General that third party access is guaranteed and the Act contains no provisions restricting competition.
<i>Van Dieman's Land Company's Waratah and Zeehan Railway Act 1896</i>	DIER	This Act was to have been repealed following the proclamation of the <i>Rail Safety Act 1997</i> . The Government has received advice from the Solicitor-General that third party access is guaranteed and the Act contains no provisions restricting competition.
<i>Van Dieman's Land Company's Waratah and Zeehan Railway Act 1948</i>	DIER	This Act was to have been repealed following the proclamation of the <i>Rail Safety Act 1997</i> . The Government has received advice from the Solicitor-General that third party access is guaranteed and the Act contains no provisions restricting competition.
<i>Vermin Destruction Act 1950</i>	DPIWE	This Act was replaced by the <i>Vermin Control Act 2000</i> , which was assessed under the LRP gatekeeper requirements as not restricting competition or impacting on business.
<i>Veterinary Medicines Act 1987</i>	DPIWE	This Act was repealed on 1 January 1997. The repealing Act, the <i>Agricultural and Veterinary Chemicals (Control of Use) Act 1995</i> , was included on the LRP timetable in place of a review of this Act.
<i>Veterinary Surgeons Act 1987</i>	DPIWE	A minor review of this Act was completed in February 2000. The review recommended that the Veterinary Board of Tasmania continue to approve educational qualifications and training courses, regulate practice. Mandatory registration for veterinary surgeons and specialists and a requirement to keep records were retained. A number of restrictions on bodies corporate providing veterinary services were removed by the <i>Veterinary Surgeons Amendment Act 2002</i> which came into effect on 1 September 2002.
<i>Vocational Education and Training Act 1994</i>	DE	A major review of this Act has been completed. Amendments arising from the review of the Act were enacted through the <i>Vocational Education and Training Amendment Act 2003</i> , which was proclaimed on 17 November 2003.
<i>Water Act 1957</i>	DPIWE	This Act was repealed and replaced by the <i>Water Management Act 1999</i> . This legislation was assessed under the LRP gatekeeper requirements, and any restrictions justified in the public benefit.
<i>Waterworks Clauses Act 1952</i>	DPIWE	This Act was reviewed as part of the implementation of the COAG reform agenda for the Australian water industry. It was amended by the <i>Water Management Act 1999</i> that was assessed under the LRP gatekeeper requirements and any restrictions were found to be in the public benefit.
<i>Wee Georgie Wood Steam Railway Act 1977</i>	DIER	This Act was repealed by the <i>Legislation Repeal Act 2000</i> .
<i>Weights and Measures Act 1934</i>	DOJ	This Act has been repealed and replaced by State-based uniform trade measurement legislation, the <i>Trade Measurement Act 1999</i> , which was assessed under the LRP gatekeeper requirements. The restrictions in the 1999 legislation were assessed as being in the public benefit. A national review considering a number of restrictions within the trade measurement legislation was undertaken in 2001 and a Public Benefit Test Report was released. Consultation was undertaken in 2003 on the remaining issue dealing with the sale of meat, Victoria is currently progressing this issue as lead agency and the Government is awaiting the recommendations of this report.
<i>Wellington Park Act 1993</i>	DPIWE	A minor review of this Act has been completed. The restrictive provisions were assessed as being in the public benefit as part of the review of the <i>National Parks and Wildlife Act 1970</i> .

Table B1: LRP Progress Report as at March 2005 (continued)

<i>Wesley Vale Pulp and Paper Industry Act 1961</i>	FT	This Act was reviewed as part of the implementation of the COAG reform agenda for the Australian water industry. It was amended by the <i>Water Management Act 1999</i> that was assessed under the LRP gatekeeper requirements and any restrictions were found to be in the public benefit.
<i>Whales Protection Act 1988</i>	DPIWE	A minor review of this Act has been finalised and all restrictions justified in the public benefit.
<i>Workers' (Occupational Diseases) Relief Fund Act 1954</i>	DIER	The restriction on competition initially identified was removed by the <i>Workers Compensation Legislation Amendment Act 1993</i> on 1 February 1994. This Act was subsequently removed from the LRP timetable.
<i>Workers Rehabilitation and Compensation Act 1988</i>	DIER	The Tasmanian Parliament established a Joint Select Committee to examine the further reform of this legislation. The Committee submitted its final report in May 1998. Minor amendments were recommended, mainly in relation to the design of the scheme. These have been passed by Parliament. In 2000, the NCC subsequently advised that no further review of this legislation was required.
<i>Workplace Health and Safety Act 1995</i>	DIER	The Labour Ministers' Council has undertaken a review of the National Occupational Health and Safety Commission (NOHSC). On 30 May 1997, the Labour Ministers' Council agreed on a new direction for the NOHSC and a new role for the Council in approving any new occupational health and safety standards. The <i>Workplace Health and Safety Act 1995</i> is consistent with occupational health and safety legislation in all other jurisdictions and gives effect to Ministerial decisions on national uniformity. Any restrictions in the Act were also addressed by the RIS prepared in relation to the <i>Workplace Health and Safety Regulations 1998</i> .
<i>Wynyard Airport (Special Provisions) Act 1982</i>	DIER	This Act was repealed by the <i>Port Companies Act 1997</i> .



# APPENDIX C

## Status of implementation of competitive neutrality principles across Government agencies

This Appendix deals with the status of the implementation of competitive neutrality principles across the Tasmanian Government agencies.

**Table C1: Status of implementation of competitive neutrality principles across Government agencies as at 31 December 2004**

Agency	Significant Business Activity	Status of implementation of competitive neutrality principles
Department of Primary Industries, Research Farms and Water and Environment	Stations	Research farms and stations are price takers in deregulated markets and enjoy no special arrangements regarding the sale of produce.
	Analytical Services Tasmania	These facilities are price takers in a competitive market that includes both private and interstate facilities. As such, they are subject to market forces and are adhering to competitive neutrality principles.
	Valuation Services	Government Valuation Services now competes by open tender for revaluation and maintenance services to local government. Bids are calculated in accordance with competitive neutrality principles.
Department of Education	Hire of School Facilities	The business activities in relation to the hire of school facilities are limited. The majority of schools and colleges hire out their facilities on a casual or once-off basis and charge a hire fee to recoup costs associated with the hire of the facilities. A small number of schools and colleges are engaged in what may be termed "significant hire activities". This includes certain child care facilities and the operation of student hostels which has been recognised as a SBA by GPOC. These schools generally charge hire fees based on commercial rates, with possible allowance made for facility use out of normal hours, which has positive community and site security benefits.



Table C1: Status of implementation of competitive neutrality principles across Government agencies as at 31 December 2004

Agency	Significant Business Activity	Status of implementation of competitive neutrality principles
Department of Premier and Cabinet	Teacher Residences	The Department rents a number of teacher residences to employees in remote locations of Tasmania. The management of the residences has now been devolved to the Department and rentals previously set by the State Government Rental Committee are now determined by the Department. While rentals are based on market valuation, rentals for Departmental employees are generally below this level, taking into account existing tenancy arrangements and also the teacher transfer/employment policy. Teacher residence rental remains the subject of ongoing review.
	<i>Service Tasmania</i>	In 1999, the <i>Service Tasmania</i> Board undertook a full cost attribution study in accordance with competitive neutrality principles. In the same year, fees for service delivery to external partners (local government, Australian Government organisations, government businesses and Westpac Banking Corporation) were set to reflect NCP principles, having regard for the social policy objective of extending government services within the reach of rural Tasmania. In 2003, the <i>Service Tasmania</i> Board reviewed and updated the schedule of service charges taking account of prevailing market prices.
Department of Infrastructure, Energy and Resources	<i>Land Transport Safety</i>	
	Vehicle Standards and Compliance <ul style="list-style-type: none"> <li>• Light vehicle inspections</li> </ul>	Fully outsourced.
	Motor Registry Business <ul style="list-style-type: none"> <li>• Drivers licences and registration</li> </ul>	Delivered by <i>Service Tasmania</i> and Tasmania Police.
	<ul style="list-style-type: none"> <li>• Motor cycle rider training and testing</li> <li>• Printing and personalisation of Registration Certificates and Labels</li> </ul>	Fully outsourced to the private sector. Fully outsourced to the private sector.

Table C1: Status of implementation of competitive neutrality principles across Government agencies as at 31 December 2004

Agency	Significant Business Activity	Status of implementation of competitive neutrality principles
	<ul style="list-style-type: none"> <li>• Registration renewal payments</li> <li>• Manufacture of number plates</li> <li>• Management of mail delivery</li> <li>• Printing and personalisation of driver licences</li> <li>• Printing and personalisation of licence renewal notices</li> <li>• Programming requirements</li> <li>• Storage and distribution of forms</li> </ul>	<p>Over-the-counter payments have been outsourced to <i>Service Tasmania</i> and Westpac.</p> <p>Fully outsourced to the private sector.</p> <p>Fully outsourced to the private sector.</p> <p>Fully outsourced to the private sector.</p> <p>Fully outsourced to the private sector.</p> <p>Fully outsourced to the private sector.</p> <p>Fully outsourced to the private sector.</p>
	<i>Roads and Public Transport</i>	
	<ul style="list-style-type: none"> <li>• Delivery of Roads Program</li> <li>• Collection of Asset Information for Roads</li> <li>• Collection of Asset Information for Traffic and Bridges</li> <li>• Delivery of Public Passenger Transport Services</li> <li>• Traffic signal maintenance and operational control</li> <li>• Transport Planning studies</li> <li>• Conducting safety audits</li> </ul>	<p>Operated fully under competitive neutrality principles for all service and works tenders.</p> <p>Fully outsourced to the private sector.</p> <p>Bridge and traffic data are collected in-house, with FCA applied.</p> <p>Outsourced to the private sector.</p> <p>Service provided in-house with FCA applied.</p> <p>Operates fully under competitive neutrality principles for all tenders.</p> <p>The Department continues to tender out most of this work and applies the Full Cost Attribution (FCA) model to the remainder of the work carried out internally.</p>

Table C1: Status of implementation of competitive neutrality principles across Government agencies as at 31 December 2004

Agency	Significant Business Activity	Status of implementation of competitive neutrality principles
	<i>Workplace Standards</i>	
	<ul style="list-style-type: none"> <li>Inspection of Hazardous Plant in workplaces</li> </ul>	Outsourced to the private sector.
Tasmanian Audit Office	Financial Audits	Competitive neutrality principles have been fully implemented since 1 July 1997.
Department of Economic Development	No SBAs identified	
Department of Tourism, Parks, Heritage and the Arts	Tasmanian-based travel wholesaling for interstate agents	In October 2004 work commenced on a detailed evaluation of the role and strategic importance of the Government wholesaler, Tasmania's Temptations Holidays (TTH), to the Tasmanian tourism industry. Outcomes of the review will include the identification of current points of intervention in the supply chain and clarification of those areas where Government involvement is or isn't required to reduce the likelihood of market failure due to issues such as scale and innovation. The lower risk areas will be subject to a public benefit test in assessing Government's ongoing role. The review is scheduled for completion by 30 June 2005.
Department of Treasury and Finance	No SBAs identified	All previously identified SBAs have been outsourced to the private sector.
Department of Justice	Correctional Enterprises	<p>Tasmanian Prison Industries operates in accordance with the Prison Industries Competition and Service Policy. This policy is consistent with the National Code of Practice for the operation of prison industries.</p> <p>The operation of Tasmanian Prison Industries was considered in the context of a funding review of the Department of Justice in early 2002. As a result of decisions made following that review, it will continue to operate in accordance with the above general framework.</p> <p>A focus will be maintained to ensure that the industries continue to meet the needs of the Prison Service as well as ensuring that the Tasmanian Prison Industries operate in accordance with the Prison Industries Competition and Service Policy.</p>

Table C1: Status of implementation of competitive neutrality principles across Government agencies as at 31 December 2004

Agency	Significant Business Activity	Status of implementation of competitive neutrality principles
Department of Police and Public Safety	No SBAs identified	
Department of Health and Human Services	<i>Community and Rural Health</i>	
	Public Health Microbiology	The microbiology unit provides microbiological examination of food and water and the provision of advice to clients. A new fees schedule was issued in April 2004 and is now being reviewed annually, with unit cost recovery the goal where commercial situations apply.
	Adult Rehabilitation Services	In July 2003, the provision of adult rehabilitation services to the public sector was transferred back to the Department of Health and Human Services, following a review of the service provided by the private sector that identified the Department as the preferred supplier.
	Mental Health	The provision of Supported Accommodation by the non-Government sector has not altered.  Under the auspices of <i>Bridging the Gap Mental Health Review Implementation</i> , a significant expansion of mental health support services is presently underway.
	<i>Hospital Services</i>	
	Royal Hobart Hospital	The Royal Hobart Hospital supplies meals to nursing homes and the Police Remand Centre. The meals are charged at agreed rates. Full cost attribution for meal services was determined in consultation with the Launceston Regional Hospital and North West Regional Hospital.
	North West Regional Hospital	The North West Regional Hospital provides store and pharmacy supply functions to the North West Hospital. Prices will continue to be monitored utilising full cost attribution pricing.

**Table C1: Status of implementation of competitive neutrality principles across Government agencies as at 31 December 2004**

Agency	Significant Business Activity	Status of implementation of competitive neutrality principles
Launceston Regional Hospital		<p>The Launceston General Hospital provides a variety of items to external consumers. Stores are supplied at cost plus 10 per cent and GST. Food services are supplied to nursing homes at full cost attribution rates. Housing is provided to students and assistance has been requested from the Valuer-General to ascertain the correct market value due to the recent rapid price increase in property values. Linen is laundered for a variety of customers. The major linen customers have contracts with the Department; smaller clients are billed as the service is consumed, with all linen laundering prices set at full cost attribution rates. The central sterilising department sterilise a variety of items for external consumers from small medical practices to veterinarians, which are charged at full cost attribution rates. Pharmacy items are provided to external consumers at cost plus 15 per cent and GST.</p>
Ambulances		<p>The Government has decided:</p> <ul style="list-style-type: none"> <li>• not to pursue the introduction of ambulance fees for the general public;</li> <li>• not to outsource ambulance service provision; and</li> <li>• to charge fully cost attributed fees for routine patient transport services (PTS) for the few areas where there is a contestable market with a commercial provider of PTS services.</li> </ul> <p>The Tasmanian Ambulance Service (TAS) completed a Full Cost Attribution (FCA) model for all classifications of ambulance transport with involvement of KPMG and Treasury in the FCA study. New fees for compensable ambulance transports have been implemented in accordance with the FCA analysis and following new fee regulations. The Subordinate Legislation Committee has endorsed the fee regulations. A public benefit assessment has been completed on the routine PTS in southern Tasmania with external involvement of KPMG. The PTS service will continue to operate as a ring fenced service providing free services to the general public and to all DHHS facilities, and will charge FCA costs for that small area of the market which is contestable (private hospital routine patient transfers).</p>

**Table C1: Status of implementation of competitive neutrality principles across Government agencies as at 31 December 2004**

Agency	Significant Business Activity	Status of implementation of competitive neutrality principles
		<p>The fees set through the full cost attribution study have been adjusted annually under the Fee Units legislation. Currently the PTS provided by the Launceston Regional Hospital and North West Regional Hospital are being incorporated with the Southern PTS services to form a statewide PTS. Once this is established a FCA analysis will be conducted to set fees for the statewide service.</p>