Government of Western Australia

PROGRESS REPORT

Implementing National Competition Policy in Western Australia

REPORT TO THE NATIONAL COMPETITION COUNCIL

June 2003

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1. INTRODUCTION

This report provides a stock-take of National Competition Policy reforms by Western Australia. The Western Australian Government is in the final stages of implementing National Competition Policy (NCP) reforms where review has established that they are in the public interest.

Reviews are based on rigorous public interest tests, which take into account a wide range of economic, social and environmental considerations crucial to the successful implementation of NCP.

Since Western Australia's third tranche assessment in 2001 and its subsequent supplementary assessment in 2002, progress has been made in all areas of NCP. Of these, NCP reforms in the energy sector have provided the major focus because they have by far the greatest potential to impact on the State's economy. Research has shown that electricity reform alone could yield benefits of up to $300 million per annum to the Western Australian economy by 2010. The importance of competition payments to the State (even at their current inadequate levels) is highlighted by the fact that the Commonwealth will take the lions share of the fiscal benefits of these reforms through its broader tax bases, while the State will face the prospect of only retaining its currently projected dividend and tax equivalent payments from Western Power.

To promote greater competition and sustainable lower electricity prices, the Government established the Electricity Reform Task Force in August 2001 to develop a framework for the reform of the State's electricity supply industry. The Task Force's final report, submitted in October 2002, recommended the creation of a new electricity market that balances the need for greater competition, lower prices and consumer protection. Specifically, the report recommended the disaggregation of Western Power into four new entities, the creation of a wholesale electricity market, a strong and independent regulatory system and the retention of the uniform tariff and existing rebates. The Government endorsed the recommendations of the Task Force in November 2002.

The Electricity Reform Implementation Steering Committee was convened in January 2003 with responsibility for implementing the Government's electricity reform agenda. The proposed structural and regulatory reforms for introducing greater competition into the electricity industry accord with Western Australia's obligations under Clause 4 of the Competition Principles Agreement (CPA), particularly in regard to examining the merits of separating the monopoly elements from potentially competitive elements of the incumbent public monopoly, separating regulatory legislation for the electricity industry from Western Power's enabling legislation, ensuring competitive neutrality is achieved, and ensuring transparent funding arrangements for the delivery of community service obligations.

The Government has also made significant progress towards the establishment of a competitive gas market in Western Australia. Allowing customers to choose their preferred gas retailer is an outcome of the Government's energy industry reform process, and will meet Western Australia's obligations under the Competition Principles Agreement, and the recently agreed COAG National Energy Policy.

The Minister for Energy established the Gas Retail Deregulation Project Steering Group (GRDPSG) in July 2001 to consider issues necessary to facilitate full retail contestability (FRC). A number of significant milestones have been achieved towards the goal of practical FRC, which is expected in May 2004. These include:

- expanding the project to include South Australia. In recognition of the benefits of a coordinated approach to the introduction of full retail contestability, market participants and governments of South Australia and Western Australia have agreed to work together on a joint project;

- registering the Retail Energy Market Company (REMCo) with the Australian Securities and Investments Commission on 8 January 2003. REMCo will be responsible for the administration of the Retail Market Rules that will support full retail contestability in the Western Australian and South Australian gas retail markets, and for contracting of IT systems and services required to implement these rules;

- the development of a constitution for REMCo and the selection of Directors and a Chief Executive Officer;

- development of the Retail Market Rules;

- finalisation of a consultants' report on solutions for gas metering issues, such as load profiling for small use customers; and

- development of legislative provisions for the implementation of full retail contestability.

The Government has committed to the establishment of an independent economic regulator with jurisdiction over the electricity, gas, rail and water industries. The proposed framework involves the Economic Regulation Authority having an independent decision-making function with respect to access regulation and licensing, and independent inquiry and reporting functions in respect of any matters determined by Government in relation to the regulated industries, such as retail tariffs and charges.

The Economic Regulation Authority Bill 2002 is currently being debated in the Legislative Council. Subject to Parliamentary processes, it is anticipated that the Authority will be in operation by 1 July 2003.

The bulk of the State's legislation review program has been completed. A competition policy omnibus bill to expedite the implementation of reforms arising from various reviews has been introduced into the Parliament, and has progressed to the Committee stage of the Legislative Council.

This report is written in part as a response to the NCC's publication of June 2002, *Assessment of Governments' Progress in Implementing the National Competition Policy and Related Reforms*, and the subsequent correspondence between the NCC and Western Australia, particularly the NCC's detailed framework for Western Australia's 2003 assessment.

2. LEGISLATION REVIEW

Western Australia is committed to reviewing its legislation and implementing reform where such reform is in the public interest. It has continued to make progress in reviewing and, where appropriate, reforming legislation that restricts competition and has now completed the bulk of the review program.

Some significant outstanding matters have been given a high priority by the Western Australian Government so that it can achieve the fulfilment of its NCP obligations in time for Western Australia's final assessment by 30 June 2003. These include issues raised by the National Competition Council (NCC) such as the further consideration of the public interest for retail trading hours and taxi licensing legislation.

All reviews have been undertaken in accordance with the Competition Principles Agreement (CPA), Western Australia's Clause 5 Legislation Review Table and the State's *Public Interest Guidelines for Legislation Review*.

Many reviews completed to date have recommended removing those restrictions on competition which are not in the public interest. Of equal importance, rigorous analysis has established that there are good public interest reasons for retaining many restrictions.

2.1 Progress with Legislation Review and Reform

2.1.1 Review Program

Progress with individual legislation reviews is described in the updated publication, *Western Australia's Legislation Review Compendium* (attachment 4).

A total of 220 legislation reviews have been completed. Of these, 104 reviews have been implemented or recommended no change. In addition, 30 pieces of legislation have been repealed without review. A further 16 pieces of legislation have been determined not to require review at this stage because the legislation is proposed for repeal or has been reconsidered and found not to restrict competition. There are approximately 50 reviews outstanding.

2.1.2 Reform Implementation

The following Acts have been passed by Parliament in 2002-03:

- The *Grain Marketing Act 2002* has separated the roles of the regulator and the single desk marketer of prescribed grains in Western Australia. The Grain Licensing Authority (GLA) has been established as the independent regulator of exports of barley, lupins and canola. Bulk exports of prescribed grains are now allowed in competition with the main export licence holder, the Grain Pool Pty Ltd, via the use of special export licences valid for certain markets, grains, and time periods. The Grain Licensing Authority should be receiving applications for special export licences from 1 July 2003, with the licences to be effective from 1 November 2003, the start of the 2003 harvest;

- The passage of the *Bulk Handling Amendment Act 2002* repealed major restrictions on competition in the *Bulk Handling Act 1967*. Cooperative Bulk Handling Ltd no longer has the sole right to receive grain in bulk and to handle, transport and deliver bulk grain in Western Australia. Ministerial approval is no longer required for installation and alteration of grain handling and storage facilities, and the Treasurer will no longer issue government guarantees in respect of moneys borrowed by the Grain Pool Pty Ltd, the Company formed out of the merger of Cooperative Bulk Handling Ltd and the Grain Pool of Western Australia; and

- The *Betting Legislation Amendment Act 2001* came into effect on 21 September 2002. Amongst other things, it implemented a number of the recommendations that arose from the NCP Review of the *Betting Control Act 1954*, including the establishment of corporate licensing provisions for bookmakers. The *Betting Control Act 1954* previously provided that a bookmaker's licence only be granted to a sole natural person. This restriction has been amended so that a partnership and a body corporate may apply for and be granted a bookmaker's licence and to allow bookmaking to occur on a racecourse at times other than during the conduct of a race meeting, subject to approval from the Betting Control Board and permission from the relevant racecourse controlling authority.

2.1.3 Bills Currently Before Parliament

Omnibus legislation provides the central mechanism for implementing legislative reforms recommended by clause 5 legislation reviews and clause 3 competitive neutrality reviews.

The Acts Amendment and Repeal (Competition Policy) Bill 2000 was introduced into Parliament by the previous Treasurer in May 2000. The Bill proposed the repeal of two acts and the amendment of eleven other pieces of legislation. However, due to the previous Government's sizeable legislative program and the calling of the election, the Bill remained before Parliament at the time Parliament was dissolved in January 2001.

A revised omnibus bill, which incorporates some additional elements to the first omnibus bill, has passed through the Legislative Assembly following introduction on 27 November 2002 and received its second reading in the Legislative Council on 10 April 2003. The Acts Amendment and Repeal (Competition Policy) Bill 2002 was considered by the Standing Committee on Uniform Legislation and General Purposes which released its report released on 10 June 2003 recommending that the Bill be passed without amendment. The Acts Amendment and Repeal (Competition Policy) Bill incorporates:

- amendments to the *Chicken Meat Industry Act 1977* to remove the need for approval of a processing plant, as health, safety and planning laws already cover this area. The obligation for growers and processors to enter into a prescribed form of fixed-price contract is also removed, and a new section is to be inserted into the Act setting out matters that the Chicken Meat Industry Committee may take into account when determining if a grower is an "efficient" grower for the purposes of the Act;

- amendments to the *Licensed Surveyors Act 1909* to repeal the requirement that licence applicants be of "good fame and character". The review found that this requirement was overly discretionary, and a replacement section is to be inserted into the Act prohibiting a surveyor's licence being granted where an applicant has committed or been charged with an offence involving fraud or dishonesty;

- amendments making the tax equivalent arrangements for Gold Corporation and subsidiaries consistent with other significant government businesses; and

- removing the State Supply Commission's exemption from stamp duty on the transfer of property or any other relevant liability, in accordance with the principles of competitive neutrality.

Many other reforms are also being implemented in separate amendment bills forwarded by the relevant agencies.

- The recommendations of the review of the *Legal Practitioners Act 1893* and related legislation are being implemented via the Legal Practice Bill 2002 and the Acts Amendment and Repeal (Courts and Legal Practice) Bill 2002. These Bills will replace the *Legal Practitioners Act 1893* and reform the regulation of the legal profession in Western Australia. The reforms will enable legal firms to incorporate and to form multi-disciplinary partnerships. National practising certificates will be introduced for lawyers in Western Australia, and those issued in other Australian jurisdictions will be recognised in the State.

  In addition, the Bills establish the regulation of foreign lawyers advising Western Australian clients on matters of foreign law, and strengthen the disciplinary powers of the regulatory bodies (the Legal Practice Board, the Complaints Committee and the Disciplinary Tribunal). A greater role will be provided for non-lawyers in the new regulatory framework, while new provisions will clearly prohibit unqualified persons from practising law.

  The Bills reached the second reading debate stage in the Legislative Assembly in February this year, following introduction to Parliament in October 2002. The Legal Practice Bill 2002 is currently in the Legislative Assembly at the consideration in detail stage of debate.

- A package of four bills to establish a single controlling authority, known as Racing and Wagering Western Australia (RWWA), was introduced and second read into the Legislative Assembly on 13 March 2003. The Racing Restriction Bill 2003 implements a National Competition Policy review recommendation to provide for the establishment of an 'approved racing organisation' as the controlling authority for horse racing that is not thoroughbred racing or harness racing.

- The Dangerous Goods Safety Bill 2002 remains in the second reading stage in the Legislative Assembly, following introduction to Parliament in December 2002. The Bill repeals the *Explosives and Dangerous Goods Act 1961*, and the *Dangerous Goods (Transport) Act 1998*. The Bill introduces reforms lessening restrictions on competition, while recognising that some restrictions on the use of dangerous

goods need to be retained in the public interest. Amendments being implemented in line with review recommendations include aligning the licensing requirement for the manufacture of explosives with existing performance based controls for other chemicals, and amending the licensing restrictions on the storage of explosives to remove requirements for approval by inspectors, shifting responsibility for safety to the industry.

2.1.4 Legislation Reviews Endorsed by Government

- The major outcomes of the legislation review program in 2002-03 include the following:

- The review of the *Real Estate and Business Agents Act 1978* was endorsed by Government in February 2003. The review recommended a number of amendments to the legislation to improve the flexibility and consistency of the current licensing arrangements. The review found that licensing is necessary to protect consumers against the risk of significant financial loss should agents or sales representatives engage in dishonest, incompetent or negligent conduct. A number of alternative mechanisms were examined as part of the review of the licensing restriction, including deregulation, self-regulation, negative licensing, co-regulation, certification, and restriction of title. However these alternatives were assessed as inadequate for ensuring that the necessary level of consumer protection is maintained.

  Amendments will also be drafted to allow the Real Estate and Business Agents Board to recognise qualifications other than those which are prescribed, to include explicit criteria to determine whether a person has a conflict of interest or is deemed to have sufficient material and financial resources, and to remove restrictions on who may audit trust accounts. The requirement for Board approval of franchise agreements will also be removed. Licensing requirements for partnerships and bodies corporate will be amended, so that only one director or partner is required to be licensed regardless of the number of directors or partners in the firm.

- The review of the *State Superannuation Act 2000* (the Act) identified that the main restriction on competition contained in the Act is the head of power provision pertaining to choice of superannuation fund for employer contributions made on behalf of public servants. The review recommended that this restriction be retained in the public interest. The advantages of the restriction arose largely from the potentially deleterious impact choice may have on

  - the financial rights and obligations of the State Government of Western Australia and, by implication, taxpayers; and

  - members of at least one of the superannuation schemes comprising the Government Employees Superannuation Fund (GES Fund).

  However, members of West State Super, which is the accumulation scheme that is the only scheme open to new employees, are able to choose from a range of investment options for the investment of both their employer contributions and any personal contributions.

Whilst the Government Employees Superannuation Board retains overall responsibility for investment of assets within the GES Fund, private sector service providers are largely responsible for managing the assets of the GES Fund within a competitive environment. Specialist fund managers are selected by the Board in a competitive process and are subject to regular reviews of their performance.

The Government of Western Australia is prepared to examine the desirability and implications of introducing choice of fund for members of the State's superannuation schemes. To this end, in February 2003 the Government authorised a review of how choice of fund could affect the financial rights and obligations of the State.

This review is underway but is not being undertaken to address any outstanding issues under the National Competition Policy.

- The Government endorsed the review of the State Superannuation Regulations 2001 (the Regulations) in February 2003. The review recommended that the restriction on certain West State Super members' choice of death/disability insurance cover and, by implication, insurance provider is unlikely to provide a net public benefit and should be removed, subject to a feasibility study investigating the appropriate means of legislative or regulatory amendment.

- The review of the *Coal Industry Superannuation Act 1989* found that the clause providing Government assistance for the Coal Industry Superannuation Fund should be removed, as it restricts competition by conferring a competitive advantage on the fund. The review also considered clauses setting out mandatory contributions to the Fund from members and employers, finding that this restriction was in the public interest due to economies of scale and reduced administration costs, and should be retained. It was noted that there is a high rate of voluntary transfers to the Fund, with around 48% of contributions to the Fund being voluntary in 2001-02. Alternative means of Fund operation, for example under a trust deed, were considered to weaken the position of both employees and the Coal Industry Superannuation Board. However, the identification of a State position on superannuation choice, following the federal Government's proposed introduction of superannuation choice legislation to operate from 1 July 2004, may require the removal of the restriction in the future.

- The review of the *Pawnbrokers and Second-hand Dealers Act 1994* has been endorsed by Government, and the review recommendations have been drafted into the Pawnbrokers and Second-hand Dealers Amendment Bill 2003. The final draft of this Bill is awaiting Ministerial endorsement, and after final industry consultation will be sent to Government for approval to print. For consistency the review recommended placing any general licence conditions, intended to apply to all licensees, in the Regulations rather than on individual pawnbrokers' licences. The review also recommended amendments to make the repurchasing of goods by pawn brokers illegal, to increase fines for serious breaches of licence conditions, to create minor offence penalties for minor breaches of licence conditions, to require that separate business premises be licensed separately, and to require that dealers display their licence number, for example in newspaper

advertisements, to the public. The review found that these amendments would further the public interest by providing law enforcement agencies with stronger powers over licensees, to ensure effective policing of the legislation.

- The review of the *Petroleum Act 1967* and Petroleum Regulations 1987 was endorsed by Government in February 2003. The review recommended that the findings of the national Review of the Petroleum (Submerged Lands) Legislation against Competition Policy Principles (the Submerged Lands Review) be implemented. The review also recommended that restrictions on competition arising from provisions in the State's *Petroleum Act 1967* and Regulations, but not in the State's submerged lands legislation, provide a net public benefit and should therefore be retained. These additional restrictions cover drilling reservations, the exploration permit splitting provision and special prospecting authorities with an acreage option.

  – Drilling reservations are a type of exploration title unique to the *Petroleum Act 1967*. They have been considered by the Submerged Lands Review and found not to restrict competition, as they are allocated competitively in the same manner as exploration permits.

  – The permit splitting provisions unique to the *Petroleum Act 1967* provide for the split of exploration titles granted via a competitive bid process. Permit splitting creates no additional rights. What was possibly one large permit is merely split into two smaller parts, allowing the devolving of ownership by title transfer to different entities who might have different exploration philosophies for their respective permits. The provisions were therefore found not to restrict competition.

  – Special prospecting authorities with an acreage option are a valuable incentive to promote exploration of remote and underdeveloped onshore areas. No anti-competitive effects were discerned from the use of this option.

  The Submerged Lands Review was circulated in March 2001 and identified some issues relating to exploration permits renewals and retention lease re-evaluation requirements that required legislative change. These two issues were covered in the Commonwealth *Petroleum (Submerged Lands) Amendment Act 2002* (No 93 of 2002), which received royal assent on 31 October 2002, and can now be incorporated into the proposed 2003 Western Australian petroleum legislation amendment program.

- The review of the *Wildlife Conservation Act 1950* and associated regulations concluded that all of the restrictions on competition identified in this legislation provide a net public benefit, and should be retained. Restrictions include prohibitions on the taking of protected fauna from all lands and waters unless one has authority to do so under the Act, prohibitions on commercial dealings in protected fauna (including skins and carcasses) and flora unless undertaken in accordance with licensing provisions and regulations, and prohibitions on abandoning or releasing fauna and prescribed animals into the State, or moving those animals out of the State, unless licensed to do so. The review identified a range of public benefits that arise as a result of the restrictions, including increased economic activity associated with sustainable wildlife management,

enhanced tourism opportunities, enhanced environmental and recreational amenity, and the beneficial contribution of wildlife to the functioning of the ecosystem in general.

- The *Community Services Act 1972* and Community Services (Child Care) Regulations 1988 set out minimum compulsory standards for operating child care services in Western Australia. The review of the Act, endorsed by Government in February 2003, found that restrictions on competition contained in the Act were in the public interest and should be retained, on the grounds that they ensure appropriate levels of duty of care for children in care. Restrictions include that all providers of centre-based childcare or family day care for children under school age must be licensed and must comply with the mandatory standards set out in the legislation.

2.1.5 Legislation Reviews Near Completion

Substantive reviews that are nearing completion include the reviews of retail trading hours restrictions, taxi licensing and potato and egg marketing. Liquor licensing arrangements will be reviewed following a decision on the State's retail trading hours restrictions.

2.1.5.1 Retail Trading Hours

The Government recognises that there are a number of options for reform of retail trading hours, including:

- retaining the current arrangements;
- easing current restrictions on:
  - weeknight trading;
  - weeknight and Saturday night trading; or
  - weeknight, Saturday night and Sunday trading;
- completely removing retail trading hour restrictions; or
- re-instating standard opening hours for all retailers (i.e. no trading on Sundays or extended trading on Thursdays).

As part of the public interest test, which will take account of the impact of the various alternatives on all groups in the community, over 800 written submissions and 500 on-line submissions were received by 17 April 2003. The Government is currently developing options and testing them against public interest criteria. The Government is expected to make a decision on retail trading hours by 30 June 2003.

2.1.5.2 Taxi Licensing

The Government is reviewing the anti-competitive restrictions in the taxi industry. The Minister for Planning and Infrastructure convened a 'Taxi Forum' in February

2003 that enabled the views of a range of taxi industry stakeholders to be aired, including those of industry and consumer groups.

The Minister has subsequently established a review group (comprising Mr Graham Giffard MLC, and representatives from the Department of Planning and Infrastructure and the Department of Treasury and Finance (DTF)) to consider the outcomes of the Taxi Forum and analyse various reform options. The options being considered include a taxi-plate buy-back scheme, as well as an immediate release of new taxi licences.

In assessing the options for reform, the Government is conscious to ensure that reform does not impact adversely on driver income, while improving fares, service standards and industry stability. The review group will consider taxi reform initiatives pursued in other jurisdictions. The Government will be making a decision on taxi licensing prior to 30 June 2003.

2.2 New Legislation

In accordance with clause 5(5) of the Competition Principles Agreement, Western Australia assesses all new legislation to determine whether it contains restrictions on competition and if so, reviews it accordingly.

Preparation of new Western Australian laws takes place in an environment where there is a high degree of awareness of competition policy principles and the State's obligations under clause 5. As part of the whole of government commitment to NCP, the Treasurer has corresponded regularly with Ministers about the State's ongoing NCP obligations. The DTF likewise corresponds regularly on NCP matters with Departmental Chief Executive Officers and Ministerial Chiefs of Staff. Western Australia's *Public Interest Guidelines for Legislation Review*, circulated to all agencies and other interested parties, also promote the need for identifying restrictions in new legislation, and reviewing the legislation where there are restrictions, to determine that such restrictions genuinely further the public interest.

2.2.1 Gate-Keeping Process for New Legislation

Western Australia has in place an effective process for ensuring that all new legislation that may restrict competition is reviewed.

The DTF advises agencies on the State's obligations to consider all new legislation to see whether it restricts competition and to review the law where this is the case. The DTF also has close links with the policy and legislation section of each agency and, through regular discussion, correspondence, meetings and presentations, encourages consideration of NCP at an early stage in preparation of all new legislation.

Agencies provide updates about proposals for new legislation from early in the process and can seek DTF input on particular restrictions.

As a check on the above, the State's legislative process also incorporates mechanisms by which DTF is formally informed of progress on new legislation:

- DTF receives from the Cabinet Office a copy of all submissions to be put to Cabinet concerning proposed new laws, generally ten days prior to the Cabinet meeting, for comment from an NCP perspective; and

- DTF receives regular reports from the database maintained by Parliamentary Counsel's Office of all new laws approved for drafting by Cabinet.

Where DTF considers that a proposed new law has the potential to restrict competition, it liaises with the proponent agency or Ministerial Office to ensure that a review is conducted and to advise on the scope and scale of the review. This advice is normally accepted. Where it is not, DTF has the opportunity to put its advice to Cabinet.

The process and method for conducting and implementing reviews of new legislation are the same as for existing legislation and are detailed in Western Australia's *Public Interest Guidelines for Legislation Review*.

While NCP processes will in the future be scaled down, DTF will retain a sufficient level of resources to maintain and monitor the effectiveness of gate-keeping arrangements and to ensure continuation of review and assessment processes for new legislation.

2.2.2 Progress with Review of New Legislation

Since 1996, the gate-keeping process has identified 80 proposals for new laws. Since June 2002, one law has been identified as containing potential restrictions on competition, which requires review. Previous legislative proposals (for which reviews have not been completed) either have not proceeded, are at an early stage of preparation, or were assessed before going to Cabinet as not requiring clause 5 review.

The majority of the reviews have recommended no amendment to the new laws under review, with many reviews also finding that a new law has a significant pro-competitive impact. This appears to reflect the effectiveness of communication with agencies, and the promotion of consideration of NCP principles in developing proposals for new laws.

2.3 Legislation Review Matters Raised in Assessment Framework

Issues raised in the NCC's publication of June 2002, *Assessment of Governments' Progress in Implementing the National Competition Policy and Related Reforms,* and in the series of working papers subsequently provided to jurisdictions by the NCC, are addressed in the following sections. These sections are structured according to the priorities detailed in Attachment 1 of the letter to the Under Treasurer of 6 November 2002, which provided the framework for Western Australia's 2003 assessment (*Attachment 1 refers*). The discussion is limited to legislation reviews as the other matters (structural and related reforms) are discussed in other chapters.

In all cases where the legislation review process is still under way, Western Australia is ensuring that the process will be finalised and any recommended changes implemented as soon as possible.

2.3.1 Electricity and Gas

The recommendations of the national Review of the Petroleum (Submerged Lands) Legislation against Competition Policy Principles (the Submerged Lands Review) are to be implemented in Western Australia during the 2003 petroleum legislation amendment program, following royal assent to the Commonwealth's *Petroleum (Submerged Lands) Amendment Act 2002* in October 2002.

Western Australian Acts to be amended as a result of the Submerged Lands Review include the State's *Petroleum (Submerged Lands) Act 1982* and the *Petroleum Act 1967*. Amendments will be drafted relating to exploration permits renewals, and retention lease re-evaluation requirements.

The issue of underground gas storage was identified in the Submerged Lands Review as requiring further investigation before it is included in the offshore legislation, which includes both the Commonwealth's *Petroleum (Submerged Lands) Act 1967,* and the State's *Petroleum (Submerged Lands) Act 1982*. Although the State's *Petroleum Act 1967* currently covers underground storage, it was recommended that no changes be made to these provisions until any amendments to the national submerged lands legislation have been considered.

2.3.2 Primary Industries

The major legislative reform implemented by Government in the primary industries sector has been to provide for greater flexibility and competition in the grain export industry. Bulk grain exports will now be allowed in competition with the main export licence holder, the Grain Pool Pty Ltd.

The Acts Amendment and Repeal (Competition Policy) Bill 2002 removes legislative restrictions on chicken meat production arrangements, private land native sandalwood harvesting, and the establishment and expansion of abattoir facilities. The Bill is also addressing competitive neutrality concerns in relation to:

- rate exemptions for any increase in the value of private land planted with plantation trees approved by the Executive Director of the Department of Conservation and Land Management; and

- preferential treatment of mining companies in the area of the Greenbushes State Forest.

The Bill has been passed by the Legislative Assembly, following its introduction to Parliament on 27 November 2002. The Legislative Council's Standing Committee on Uniform Legislation and General Purposes released its report on the Bill on 10 June 2003 and recommended that the Bill be passed without amendment.

Other reforms currently being considered by Government relate to the State's production and marketing arrangements for potatoes and eggs. Native and plantation forestry reviews are also being progressed, and restrictions relating to apiary permits granted under the *Conservation and Land Management Act 1994* are being removed.

Government has considered reviews in the fisheries sector, and significant reform endorsed. Implementation of the recommendations for reform will result in significant productivity increases particularly in the rock lobster industry, and allow for greater flexibility in private decision making throughout the sector. NCP principles will be embedded in the ongoing cycle of review of fisheries management plans and associated regulations, providing for improved transparency in fisheries management and legislation.

2.3.2.1 Agriculture

The Veterinary Preparations and Animal Feeding Stuffs Amendment Bill 2003 will amend the *Veterinary Preparations and Animal Feeding Stuffs Act 1976*, to provide for the control of use of veterinary chemical products. The amending Bill has been introduced to Parliament and is intended to be quickly progressed through both Houses. Specifically, the Bill provides for regulatory powers over:

- the use of veterinary chemicals in production animals. The Bill contains no additional controls on the use of veterinary chemicals on companion animals, as this use has no significant public health or trade implications;

- the sale of certain stock, stock products and carcasses of stock treated with veterinary chemical products;

- the sale and use of various substances that promote growth in stock; and

- the production, importation, treatment, preparation for sale, marketing, storage and sale of animal feeding stuffs;

in accordance with the recommendations of the National Competition Policy Review of Agricultural and Veterinary Chemicals legislation.

Passage of the Bill will harmonise the approach between the States to control use of veterinary chemical products. The Act will become the *Veterinary Chemical Control and Animal Feeding Stuffs Act 1976.*

Other recommended reforms to control the use of agricultural chemicals are still being developed. The *Agricultural Produce (Chemical Residues) Act 1983* provides for the regulation or prevention both of chemical residues in agricultural produce, and the use and disposal of agricultural produce in which such chemical residues are present in excess of certain limits. The *Aerial Spraying Control Act 1966* regulates the spraying of agricultural chemicals from aircraft. In due course, reforms to these Acts will be implemented through the proposed Agriculture Management Bill, and also via amendments to regulations issued under the *Health Act 1911*.

Regarding the licensing of agricultural chemical manufacturers and the regulation of sale and supply of low risk chemicals, there is no divergence between the national legislation and Western Australia's complementary legislation. In line with other States, Western Australia's A*gricultural and Veterinary Chemicals (Western Australia) Act 1995* adopts by referral the national *Agricultural and Veterinary Chemical Act 1984*. Western Australia has been part of the national agricultural and veterinary chemicals registration scheme since 1995. The State does not have a separate registration scheme for such chemicals.

The contestability of chemical assessment services and compensation for third party access to chemical assessment data are matters for the Commonwealth. Any changes that may be necessary to these procedures will be made first via amendments to Commonwealth legislation.

Part of the process for registration of an agricultural or veterinary chemical is the completion of an assessment of the chemical supplier's claim as to the efficacy of a

chemical. The decision to retain this assessment as part of the registration process, being a Commonwealth decision, was not explicitly taken by Western Australia. However, it could hardly be in the public interest to allow suppliers' statements of the efficacy of agricultural and veterinary chemicals to go unassessed and unchallenged.

The passage of the *Bulk Handling Amendment Act 2002* implemented the recommendations of the legislation review of the *Bulk Handling Act 1967.* In line with the merger of Cooperative Bulk Handling Ltd (CBH) with the Grain Pool of Western Australia in October 2002, the *Bulk Handling Amendment Act 2002* repealed a number of restrictions in the *Bulk Handling Act 1967,* including:

- the major restriction in the *Bulk Handling Act 1967*, prohibiting CBH from being involved in any business relating to the buying or selling of, or broking in, grain;

- the restriction providing CBH with the sole right to receive grain in bulk and of handling, transporting and delivering bulk grain in Western Australia;

- various provisions requiring Ministerial approval of installations and allowing the Minister to direct the Company to install, maintain and alter its facilities;

- the section allowing for government guarantees to be issued by the Treasurer in respect of moneys borrowed by the Company; and

- the section preventing CBH from altering its memorandum or articles of association without the Governor's consent. Since the Company no longer has the exclusive right to receive grain, the Government's interest in its memorandum and articles is substantially reduced. The memorandum and articles of association themselves, and the voting procedure contain adequate checks on alterations, as changes to the memorandum or articles require the approval of 75% of voting members.

The *Grain Marketing Act 2002* has separated the roles of the regulator and the single desk marketer of prescribed grains in Western Australia. The Grain Licensing Authority (GLA) has been established as the independent regulator of barley, lupin and canola exports from Western Australia. The Grain Pool Pty Ltd, formed from the privatisation of the Grain Pool of Western Australia and its merger with Cooperative Bulk Handling Ltd, now holds the main export licence for bulk prescribed grains. The Grain Pool Pty Ltd is available to farmers on a non-compulsory basis as the single desk marketer of prescribed grain exports from the State. The GLA is responsible for granting special export licenses for bulk grain exports, except in cases where the particular export market yields a demonstrated price premium due to the exercise of market power by the single desk exporter.

Draft Regulations and Ministerial Policy Guidelines, governing the interpretation and operation of the legislation, are currently being developed by the Department of Agriculture in consultation with industry and the DTF. The NCC will also be consulted in the process of developing these regulations and guidelines.

The Minister for Agriculture announced membership of the GLA on 20 May 2003. Colin Mann, a former member of the Australian Wheat Board, has been appointed as

chairman. The two grain producer members appointed to the GLA are Jim Flockart, a grain grower from Merredin, and Wayne Obst, a grain grower from Mingenew.

The two other members of the GLA will be Dr David Morrison, from the Department of Treasury and Finance, and Ian Longson, from the Department of Agriculture. Dr Morrison's appointment aims to ensure that the GLA has the expertise to identify market power related price premiums in particular grain export commodities and markets.

It is planned that the GLA will be receiving applications for special export licences from 1 July 2003, and these applications will require a response within 30 days. The first licences, granted for up to a year, are to be effective from 1 November 2003, the start of the 2003 harvest.

Government will shortly consider the legislation reviews of the *Marketing of Eggs Act 1945* and the *Marketing of Potatoes Act 1946*. It is expected that a decision on the recommendations of the reviews will be available prior to 30 June 2003.

The Acts Amendment and Repeal (Competition Policy) Bill 2002 amends the *Chicken Meat Industry Act 1977* to allow growers to negotiate contracts with processors outside of the existing compulsory collective contract system. The Standing Committee on Uniform Legislation and General Purposes released its report on the Bill on 10 June 2003 and recommended that the Bill be passed without amendment. Restrictions requiring Ministerial approval for the establishment of new processing plants, and requiring the Chicken Meat Industry Committee to advise the Minister on future production requirements of the industry, are also being removed. The Act will continue to provide a "model" contract for optional use and a dispute resolution mechanism where the model is adopted.

A legislation review of the *Veterinary Surgeons Act 1960* was endorsed by Government in December 2001. The major review recommendations include:

- introducing a competency based licensing category known as 'veterinary service provider' to reduce the extent of barriers to entry for non-veterinarians wishing to provide veterinary services. Under these new arrangements a person will be able to perform certain acts of veterinary surgery if that person has passed a relevant course offered by a training organisation;

- repealing the advertising provisions in the Act and Regulations and for these to be replaced with voluntary guidelines or a code of conduct;

- repealing restrictive aspects of the premises registration provisions, replacing them with a voluntary code of practice. The Act currently prescribes minimum standards to which veterinary premises must be built and maintained. The review found that these standards create barriers to entry via higher compliance costs incurred by those wishing to establish a veterinary practice. Furthermore, the Act specifies overly restrictive criteria for registration of premises, to the extent that innovative means of delivering veterinary services (e.g. mobile clinics) are discouraged and the provision of services in rural areas (where innovation is necessary) is limited; and

- repealing the restrictions on ownership of veterinary practices by non-veterinarians.

The recommendations, along with various other non-NCP related changes, will be implemented through a specific amendment Bill to be drafted as soon as possible.

In April 2003 Cabinet approved the drafting of a bill to repeal the following acts establishing agricultural trust funds:

- the *Pig Industry Compensation Act 1942*;
- the *Potato Growing Industry Trust Fund Act 1947*; and
- the *Poultry Industry (Trust Fund) Act 1948*.

Money in the funds established under those Acts will be transferred to the relevant producers' committee, elected and established for each of the industries under the *Agricultural Produce Commission Act 1988*. Producer committees operate with mandates to deliver specific services to industries on a fee for service basis. Prior to the introduction of a new service, producer committees will be required to conduct a poll of producers, to establish that provision of the service would be agreeable to industry. The Agricultural Produce Commission (APC) Pork Producers' Committee and the APC Egg Producers' Committee are committed to providing services, and collecting fees for services, from 30 June 2003. However, this may not be achievable given the Government's extensive legislative program. It is instead hoped that the necessary legislation will be introduced before 30 June 2003 or as soon as possible in the Spring session of Parliament.

The repeals have been drafted into the Agricultural Legislation Repeal Bill 2003, a first draft of which has been received by the DTF. Depending on likely rates of progress through the drafting and introduction stages, the Bill may ultimately be included in the proposed Acts Amendment and Repeal (Competition Policy) Bill 2003.

2.3.2.2 Fisheries

The NCP Review of Aquatic Tour Ministerial Policy Guidelines and Subsidiary Legislation is almost complete. The Review is being conducted by the Department of Fisheries in consultation with the DTF, and should be finalised shortly for endorsement by the Minister for Fisheries prior to submission to Government.

A clear implementation plan is in place to progress significant reforms to the rock lobster processing provisions contained within the *Fish Resources Management Act 1994*. The reforms remove barriers to entry and allow for greater flexibility within the industry. A new domestic processing licence is to be in place by July 2003, effectively providing holders the right to establish processing facilities at multiple locations, and also entitling the holder to hold and grow rock lobsters for domestic sale.

Cabinet also endorsed the Minister's Submission to the Expenditure Review Committee on NCP as it pertains to the *Fish Resources Management Act 1994* and subsidiary legislation on 11 April 2002. The Submission proposed that:

- the current licence transferability restrictions and limits around individual holdings of access entitlements across all fisheries be reviewed by the end of 2003, and a new framework consistent with NCP guidelines introduced by December 2004;

- clear and explicit objectives be provided for all fisheries, either within the legislative plan or in the plan of management for each fishery. Implementation of this recommendation will occur as amendments are made to the Plans, over the next 2 to 3 years;

- the maximum pot-holding restriction of 150 pots in the Western Rock Lobster Fishery be removed by 1 July 2003. The restriction allows some variation on this limit, depending on the seasonal conditions and rock lobster stocks in the fishery. The reform, which will be implemented by July 2003, will allow fishers to consolidate their pot holdings on larger vessels if they choose. The Minister is currently considering a submission by the Western Rock Lobster Council, prior to amending the management plan to remove the rule;

- the current input-based management regime remains in place until at least December 2006, with the Department of Fisheries and Rock Lobster Industry Advisory Committee (RLIAC) to review and quantify any efficiency gains available to the fishery from changes to the regulatory regime, over the next two to three years. The review will include an assessment of the net benefits of restructuring the western rock lobster Fishery towards an output-based management regime. While the NCP Review had recommended that an independent update be undertaken of earlier work on the net benefits of restructuring the fishery towards an output-based management regime, Cabinet did not endorse this recommendation. Nonetheless, the update of earlier work quantifying the net benefits of moving to an output-based regime will proceed as part of the forthcoming review;

- NCP principles be embedded in the ongoing cycle of review of fisheries management plans and associated regulations. The current input-based management regime for the Western Rock Lobster Fishery, administered via management plans for the fishery, would be liable for continual review and monitoring for anticompetitive restrictions under this Ministerial recommendation. Work has already commenced in specific management areas such as the 375 boat rule and trawl fishery gear allocation, with a schedule and timeframe for review of remaining fisheries against NCP principles to be prepared by end June 2003; and

- the composition of the RLIAC be reviewed by mid 2003, to ensure membership is consistent with the needs of all key stakeholder groups. In this regard, in 2002 RLIAC released for public comment a discussion paper considering RLIAC's composition and process for appointing members. The submission period closed on 15 November 2002. RLIAC considered the submissions at its February 2003 meeting, deferring final advice to the Minister until May 2003.

A new Pearling Act is being developed, with the draft Bill proposed to be introduced in the Autumn 2004 Parliamentary sitting. The Pearling Bill will incorporate many recommendations from the NCP Review of the Pearling Act and related legislation. Specifically, the Pearling Bill will:

- limit, wherever possible, the obligation to exercise discretion imposed on the office of the Executive Director of the Department of Fisheries. Where possible, restrictions currently contained in the Ministerial Policy Guidelines will be in the form of Regulations under the new Act. This will codify in Regulations the criteria to be employed in reaching decisions; and

- provide access to an independent review tribunal, similar to arrangements under the existing *Fish Resources Management Act 1994*.

The following reforms are being implemented as part of the development of the Bill:

- review of the requirement that an applicant for a pearling licence have a minimum of 15 quota units;

- decoupling of licences for pearl farms from licences for pearl fishing. This decoupling will reduce barriers to entry to the industry, by removing the requirement for vertical integration – currently a hatchery operation cannot cultivate pearls from hatchery stock unless it has a commercial connection to a wild-stock licence holder;

- review of the requirement that prospective hatchery licensees acknowledge in writing that the issue of a hatchery licence will not lead to a pearling licence;

- removal of the requirement that a hatchery licensee must hold a pearling licence or have commercial contracts to supply someone who has a pearling licence;

- removal of the embargo on the hatchery licence condition that no oysters will be issued for pearl meat or mother-of-pearl production. A mother-of-pearl licence will be provided for in the new Bill; and

- the composition, focus and structure of the Pearling Industry Advisory Committee is to be considered in parallel to the review of the Act, and will be amended to reflect a more balanced representation of community interests.

In conjunction with the development of the new Act a thorough review is to be carried out of compliance procedures and mechanisms to ensure protection of wildstock, maintenance of the environment, and other fundamental aspects of the legislation. Any redundant regulations or compliance mechanisms will be removed during this process.

The Western Australian Government has agreed to review management options for wild shell quota in 2005. Until then the current practice, allowable under the Act, of allocating temporary increases in wild-stock quota to incumbents in the industry by adjusting the number of pearl oysters per unit of quota, rather than auctioning or putting them out to tender, will be retained.

The development of a new strategy pertaining to the management of hatchery quota will take place over the next two years, prior to the expiry of the current hatchery policy in December 2005. A consultant's report is due in June 2003, which will canvass alternative mechanisms for both the determination and allocation of hatchery quotas. The review will analyse options for a more market driven means of distributing additional quota units including possible auctioning. Representatives from the DTF are included on the Steering Committee for developing a new strategy for hatchery quota.

In the development of the new Pearling Bill, Government has approved the amendment or drafting of legislation according to timeframes outside the NCC deadline of June 2003. A clear outline of the schedule for reform implementation has however been provided to the DTF by the Department of Fisheries, and can be provided to the NCC on request.

2.3.2.3 Forestry

The Government is implementing the recommendations of the legislation review of the *Conservation and Land Management Act 1984* (CALM Act) and subsidiary legislation. The Acts Amendment and Repeal (Competition Policy) Bill 2002, which the Standing Committee on Uniform Legislation and General Purposes recommended be passed without amendment, repeals the following restrictions:

- administration of the CALM Act in the area of the Greenbushes State Forest being subject to the concurrence of the Minister to whom the administration of the *Mining Act 1978* is committed; and

- removal of the rate exemption for any increase in the value of land arising from planting of forest trees, if the trees were approved by the Executive Director of the Department of Conservation and Land Management as suitable for plantation uses.

The following remaining restrictions, which relate to the beekeeping sections of the CALM Act, will be repealed by an amendment to the Forest Management Regulations 1993. The amendment is intended for inclusion in the proposed Acts Amendment and Repeal (Competition Policy) Bill 2003, and will remove:

- limits on who can have an apiary: a person must be registered as a beekeeper under the *Beekeeper Act 1963* and must maintain at least 25 bee hives in the State to be eligible for an apiary permit; and

- limits on the number of permits a person may hold: no more than four permits can be held for every 50 hives kept by the person, for the areas defined by CALM as the south-west zone; and no more than two permits for every 50 hives kept by the person, for the remainder of the State.

The intended repeal of these regulations has been linked to the matter of trading of apiary sites, which has been the subject of public consultation particularly with the bee-keeping industry. The Conservation Commission of Western Australia will be considering the tradability of apiary sites when it receives a scientific review of the conservation impacts of apiary sites and bee-keeping.

The legislation reviews of the *Conservation and Land Management Amendment Act 2000* and the *Forest Products Act 2000* have been endorsed by the Minister for Environment and Heritage, and require endorsement by the Minister for Agriculture, Forestry and Fisheries prior to submission to Government.

The recommendations of the legislation review of the *Sandalwood Act 1929* are currently being implemented via the passage of the Acts Amendment and Repeal (Competition Policy) Bill 2002. The Standing Committee on Uniform Legislation and General Purposes recommended in its report released on 10 June that the Bill be passed without amendment. The Bill removes the provision that no more than 10% of the total approved sandalwood harvest in any year may be sourced from private land (excluding plantations).

The quantity of sandalwood that can be sustainably harvested from private land will be researched and the quota set accordingly. The objectives of the restriction may be equally achieved by the application of existing provisions of the legislation and regulations relating to quantities and areas able to be harvested under individual licences. Removal of the restriction will have the effect of allowing licences to be granted in accordance with generally applicable State environmental laws and policy, rather than according to whether the sandalwood is located on Crown or private land.

The review recommended the retention of various restrictions in the Act in the public interest, including:

- total harvest quotas. The State Government may restrict the quantity of sandalwood harvested in total by industry over any given period. The total quantity restriction applies to both Crown and alienated land within the State, but not to sandalwood plantations; and

- the requirement that any person harvesting sandalwood from either Crown, or non-plantation alienated land, must be licensed to do so. Harvest quotas, area harvesting restrictions and tree-size harvesting restrictions are imposed via these licences.

Separate competitive neutrality reviews, of the native forest timber operations and of the plantation timber operations of the Forest Products Commission, have been completed by independent consultants and require endorsement by the Minister for Agriculture, Forestry and Fisheries prior to consideration by Government.

2.3.3 Transport

2.3.3.1 Taxi Licensing

The Western Australian Government is undertaking a further review of its taxi industry in response to the recent Taxi Forum, held in February 2003, at which taxi licence plate owners, drivers, consumers and other industry stakeholders were represented.

The forum has provided Government with stakeholder perspectives on public interest arguments for and against a range of reform options. In addition to running the forum, the Government is surveying industry and consumer representatives

about their preferred approach to taxi industry reform with reference to these options.

One of the main objectives of the review is to meet the requirements of the NCC, which were outlined in correspondence to the State and in the last assessment of the State's progress against NCP obligations. Survey respondents have been asked to be mindful of the NCC view that there should at least be an annual release of new taxi plates when considering which options they support.

The options canvassed in the survey and being considered by Government are:

- voluntary or compulsory buy-back of all types of taxi plates. Those existing plates together with additional plates would then be reissued by licence, at least annually, at a fixed lease rate lower than the existing lease rate;

- voluntary or compulsory buy-back of restricted taxi plates only (including peak period, multi-purpose and area restricted plates). The restricted plates would then be reissued by licence, together with the release under licence of additional taxi plates of all types, at least annually, at a fixed lease rate that is lower than the existing lease rate;

- no buy-back of taxi plates. In this case, additional taxi plates could either be:

  – sold by tender at least annually, with lease rates being determined by market forces, or

  – issued by licence, at a fixed lease rate that is lower than the existing market rate.

The review will be completed by 30 June 2003.

2.3.3.2 Dangerous Goods

The Dangerous Goods Safety Bill 2002 remains in the second reading stage in the Legislative Assembly, following introduction to Parliament in December 2002. The Bill repeals the *Explosives and Dangerous Goods Act 1961,* and the *Dangerous Goods (Transport) Act 1998*. The Bill introduces reforms lessening restrictions on competition, while recognising that some restrictions on the use of dangerous goods need to be retained in the public interest. Changes include:

- aligning the licensing requirement for the manufacture of explosives with existing performance based controls for other chemicals;

- amending the licensing restrictions on the storage of explosives to remove requirements for approval by inspectors and shift responsibility for safety to the industry;

- replacement of the requirement for a permit for each fire-works display with an accreditation system and audit process; and

- removal of the present advantage granted to certain persons in the issue of permits to be replaced with a system based on competency criteria.

2.3.3.3 Maritime

The Maritime and Transport Legislation Amendment and Repeal Bill 1999, presented in conjunction with the Maritime Bill 1999, will repeal the following Acts and consolidate them into one:

- *Harbours and Jetties Act 1928;*
- *Jetties Act 1926;*
- *Lights (Navigation) Protection Act 1938;*
- *Marine and Harbours Act 1981;*
- *Marine Navigation Aids Act 1973;*
- *Pilots Limitation of Liability Act 1962;*
- *Shipping and Pilotage Act 1967;* and
- *Western Australian Marine Act 1982*.

Both of these Bills were originally introduced into Parliament in 1999, but lapsed when Parliament was prorogued before the State election in 2001. Since then a number of decisions taken by Government have affected the Maritime Bill 1999 as drafted. In particular, the Machinery of Government Taskforce recommendations restructuring the public service require the inclusion of administrative provisions in the Bill. Existing provisions enabling the creation of private multi-use ports are also being re-examined. A request for approval of extensive redrafting of the Bill will shortly be presented to Cabinet.

2.3.3.4 Passenger Transport

The NCP review of the *Transport Co-ordination Act 1966* and Subordinate Legislation was conducted between October 1998 and March 1999. The report was delivered in April 1999 and the recommendations endorsed by Cabinet in November 2000.

The review found that the key restrictions within the Act include provisions, powers and requirements related to licensing of vehicles used for commercial purposes, and the regulation of transport services provided by these vehicles. Other restrictions provide for the Minister to borrow funds and make payment of subsidies to providers of transport services. The review recommended:

- removal of provisions relating to the licensing of ships engaged in coastal trade;
- removal of requirements for public vehicles (other than ships) to be licensed;
- making of provision for licensing of public vehicles in specific circumstances where there is a consequent public benefit in the regulation of transport services; and
- limiting licence fees to an amount sufficient to recover costs incurred in administering the relevant licence system and associated regulatory activities.

Since those recommendations were made however, the effects of 11 September 2001 and the Ansett collapse of 14 September 2001 have had a significant impact on the intrastate air transport market in Western Australia, especially regional Western Australia. This prompted the Government's intrastate air services review in 2002, which found limited regulation of intrastate turbo-prop regular passenger transport (RPT) routes to be in the public interest. The independent assessment of the ability of intrastate RPT airline routes to support competition has clarified that routes of fewer than 60,000 passengers annually would be unviable if serviced by more than one operator.

The independent assessment of air routes within Western Australia was conducted in 2002 as part of the *Review and Assessment of the Effectiveness of Air Services in Western Australia.* The review recommended that the Government adopt a more active regulatory regime to support routes with passenger movements below 60,000 per annum. The review also recommended the integration of mining charters and RPT scheduled air services to support regional communities. In consideration of the review's recommendations, the Government has developed an Air Services Policy to ensure that such air routes are given the best opportunity of becoming viable and sustainable.

Central to that Air Services Policy is the Government's intention to:

- require operators on certain "one operator" non-jet air routes to be licensed, and to grant the relevant incumbent operator a licence for a period of two years. The immediate two-year time frame is necessary because the non-jet network continues to be in a state of flux with limited profitability due to world events. Immediate licensing will decrease the risk of the destabilisation of existing services;

- determine within 12 months from the initial granting of exclusive licences if a fully deregulated aviation environment can recommence at the conclusion of the two year period, and if so, to reintroduce deregulation at that time; and

- if it is determined not to deregulate the industry, then proceed with an open and competitive tender with a view to awarding the tender in time to allow successful operators to commence operations at the conclusion of the said two year period. It is intended that the contracts would be awarded for a period of up to 5 years, to give certainty to industry operators and the communities affected. The tender will be flexibly designed, to accommodate competition on routes where passenger numbers exceed 60,000 per annum during the term of the contract.

However, circumstances may arise where it is necessary in the public interest to delay or forego such a tender process, (for example where it may result in destabilising services), and in such circumstances the Minister would have the discretion to grant or not grant licences.

The policy of going to tender has already been adopted in respect of certain routes on or within the networks, with competitive tender processes currently being utilised by the Minister for sole operator rights.

It is the Government's position that this proposal balances the need for immediate stability whilst ensuring that other operators have the opportunity to be considered for these routes in a reasonable timeframe.

It is the Government's intention to work with the resources sector to improve services into regional towns by encouraging the transfer of fly in/fly out charter flights to RPT services.

The Government believes that some measure of regulation may be necessary to ensure that proposed and existing charter services do not compromise the viability of scheduled RPT services particularly into regional towns. However, in implementing any regulatory mechanisms, the Government is concerned to guard against imposing any financial imposts on the resources sector and creating distortions or restricting competition in the charter aviation sector. The design of such regulations will proceed in open consultation with industry.

2.3.4 Health and Pharmaceutical Services

Significant reform has been endorsed, or is being considered following the recent completion of national reviews, throughout Western Australia's health sector.

2.3.4.1 Health Practitioner Legislation

A key recommendation of the review of the Department of Health's *National Competition Policy Review of Western Australian Health Practitioner Legislation* was that current practice protection provisions would be replaced by protection of a narrower scope of practices identified as core practices for that profession. The Department of Health has released a discussion paper to facilitate determination of core practices in accordance with NCP principles. The Department of Health has engaged an officer to work full time on this review.

Full assessment of whether a currently protected practice is a 'core practice' will require assessment of the relative risk posed by an unqualified practitioner measured against the risk posed by a qualified practitioner, taken together with the seriousness of the loss or damage liable to result from bad practice. Against this, will be weighed the benefit of less expensive providers also offering the service.

The practices being assessed include those of chiropractors, dental hygienists, dental prosthetists, dental therapists, dentists, medical practitioners, nurses, occupational therapists, optometrists, osteopaths, pharmacists, physiotherapists, podiatrists, and psychologists.

The development of a core practice protection model is a significant reform. *The Core Practices Discussion Paper* released by the Department of Health in March 2003 seeks substantial input and participation from health practitioners and other interested parties that have the expertise to be able to identify practices that should be restricted to health practitioner groups.

It is anticipated that a review report and draft recommendations will be forwarded to the Minister for consideration in June 2003 with a view to passing any amending legislation in the autumn 2004 parliamentary session.

The process for the replacement of the State's health practitioner legislation will involve settling a new template and undertaking a short period of consultation with the professions concerned. The Department of Health has commenced the drafting process for replacement legislation. The final draft Bill should be available for stakeholders in June 2003 and on the basis of this draft and feedback, the Bills should be introduced later this year as a package.

A number of draft health practitioner Bills have been progressed in Western Australia. One of these, the Nurses Amendment Bill 2002, received the Governor's assent on 10 April 2003. The relevant remaining Bills, once settled, are likely to be progressed as a single package through Parliament.

Drafting instructions and a Cabinet Submission are currently being prepared for the proposed Food Bill, which will replace Part VIII of the *Health Act*. The Department of Health is currently working on the review of the Health Act and food regulations, for example meat hygiene regulations.

2.3.4.2 Medical Act

The aim of the review has been to develop proposals for new medical practitioner legislation for Western Australia, which will comply with competition policy principles and requirements, to replace the existing Act. The Minister of Health has submitted the review of the *Medical Act 1894* to Cabinet and sought approval to draft a Medical Practitioners Registration Bill. Cabinet has approved drafting of the Bill, which will replace the current Act.

The review has proposed that the Medical Board of Western Australia should exercise regulatory oversight over corporate involvement in the provision of medical services. This aspect of the review has not been accepted by Government, which intends to undertake further consultation on the need to apply regulatory controls in this area, and if so what controls should be applied.

The timing of new medical practitioner legislation has been influenced by the intention to establish a State Administrative Tribunal (SAT) for Western Australia. A key recommendation of the review of the Act was that disciplinary jurisdiction over doctors should in future be split between the Medical Board (which will retain responsibility for less serious matters) and an independent tribunal (which will hear and determine more serious matters). This split jurisdiction is consistent with the situation in a number of other jurisdictions (eg NSW, Queensland) and is intended to ensure that more serious complaints are dealt with under a more formal process that is separate from the day-to-day regulation of medical practice. The SAT will provide this higher-level tribunal in Western Australia. Legislation allowing for the establishment of the SAT is expected to be introduced into Parliament later this year. Preparation of new medical practitioner legislation will proceed in parallel with the SAT legislation.

Consistent with other jurisdictions and consumer protection legislation the review of the Act has proposed to prohibit advertising of medical services in a manner which offers a discount, gift or inducement to attract patients where the terms and conditions of such an offer are not outlined. The Department of Health has indicated that prescriptive controls on the form and content of advertising by medical practitioners will be discontinued.

2.3.4.3 Drugs, poisons and controlled substances

A review of Drugs, Poisons and Controlled Substances legislation (the 'Galbally Review') was one of a number of reviews undertaken under the National Competition Agreement to which all of the States and Territories and the Commonwealth are parties. This was the result of the Council of Australian Governments (CoAG) requesting examination of State and Territory legislation that imposed controls in Australia on supply and use of drugs, poisons and controlled substances.

The Galbally Review has concluded that most of the current controls provide a net benefit to the community as a whole in relation to the use of substances that have the potential to cause harm. It recommended change in the areas of:

- increasing national uniformity of regulation and administration of that regulation;
- maximising efficiency in the administration of legislation regulating the area of drugs, poisons and controlled substances;
- reducing the level of control where possible; and
- improving the net benefit to the community as a whole of those controls which rely on professional practice to be effectual.

The controls seek to prevent harm to the individual and the community as a whole. The Review considered the range of harms the legislative controls were put in place to alleviate. It established that while the use of certain poisonous substances can benefit the community, it also can and does cause harm, which might be expected to worsen under unrestrained deregulation. This harm should be reduced while minimizing the restrictions on competition, particularly by means of information available to consumers.

There are two broad classes of restriction on competition in medicines and poisons legislation: restrictions on who can supply, and restrictions on how these substances can be supplied.

The Australian Health Ministers Council (AHMC) is required by the Terms of Reference of the Review to forward the report to the CoAG with its comments. In preparing its comments, AHMC is required to take account of comments of the Primary Industries Ministerial Council (PIMC), as a number of the Galbally Review recommendations potentially impact on the management of agricultural and veterinary chemicals.

The Review's final report was presented to Health Ministers in January 2001. A Working Party of the Australian Health Ministers Advisory Council (AHMAC) was established to assist in the preparation of comments on the Review Report. AHMAC released the draft Response to the PIMC for comments on the draft AHMAC Working Party Response to the Review and the response takes account of the comments.

Western Australia has already implemented some recommendations of Galbally, including:

- That the Commonwealth, State and Territory governments agree that, in order to minimise unnecessary costs to industry and consumers, all States and Territories should adopt all the scheduling decisions covered in the Standard for the Uniform Scheduling of Drugs and Poisons (SUSDP) by reference and in accordance with timelines developed by the National Drugs and Poisons Scheduling Committee.

- That Commonwealth, State and Territory governments agree that the provisions in State and Territory drugs and poisons legislation applying to licences for *Schedules 5* and *6* be repealed. Schedules 5 and 6 cover substances with low and moderate potential for causing harm respectively.

- That Commonwealth, State and Territory governments agree that State and Territory drugs and poisons legislation be amended to provide that *Schedule 2* poisons licence holders be permitted to sell all medicines containing *Schedule 2* substances. This would be subject to the Medicines Scheduling Committee including the substances in an appendix to the *Standard for the Uniform Scheduling of Medicines and Poisons* to designate that the risk of diversion, poisoning or medicinal misadventure is such that the sale of that substance should only be from a pharmacy. Schedule 2 substances are considered to be able to be used safely when available from a pharmacy where professional advice is available.

- That all Commonwealth, State and Territory governments agree that provisions in State and Territory drugs, poisons and controlled substances legislation be amended to the effect that they:

  – retain the requirements for recording of all wholesale and retail transactions of Schedule 8 medicines and to specifically enable such records be kept electronically (Schedule 8 covers products where, in addition to requiring an authorised prescriber to diagnose and prescribe the most effective treatment (Schedule 4), further restrictions are placed on prescribing large quantities, prescribing for long term treatment or in treating drug addiction);

  – continue the consistency of the recording requirements for Schedule 8 medicines with the recording requirements relating to the supply of Schedule 8 medicines at wholesale level under the *Narcotic Drugs Act 1975* and the Customs (Prohibited Import) Regulations;

  – retain the requirements for recording wholesale supply of Schedule 2, 3 and 4 medicines, except for those provisions that mandate the form in which those records are to be kept, which should be repealed (Schedule 2 and 4 are as above, Schedule 3 products require supervision of a pharmacist for safe, effective use);

  – repeal the requirements for specific reporting of retail supply of Schedule 4 medicines (except those included in Appendix D of the Standard for the Uniform Scheduling of Medicines and Poisons);

- repeal mandatory recording of the retail supply Schedule 3 medicines;

- repeal recording of Schedule 5 and 6 poisons in those jurisdiction that have such provisions (Schedules 5 and 6 are as above); and

- repeal recording of the supply of Schedule 7 poisons at wholesale or retail level in those jurisdictions where there is other legislation within that jurisdiction that imposes requirements to meet the desired objectives (Schedule 7 substances have a high potential for causing harm at low exposure and require special precautions during manufacture, handling or use).

2.3.4.4 Pharmacy

The Council of Australian Governments (CoAG) released the NCP Review of Pharmacy Final Report (the Wilkinson Report) in February 2000. This review of pharmacy legislation was the first national review of a profession commissioned under the NCP systematic legislative review process. All States and Territories participated in the review.

In line with the CoAG Competition Principles Agreement, the Department of Health is considering the recommendations in consultation with key stakeholders and the Minister will seek Cabinet approval to implement legislative reform. It is intended that a range of recommendations from the CoAG response to the national NCP review of pharmacy regulation would proceed as part of the legislation to replace the *Pharmacy Act 1964*.

The Wilkinson Report examined legislative restrictions in three specific areas of pharmacy practice and the commercial operation of the pharmacy industry:

- ownership of pharmacies;

- registration of pharmacists; and

- the location of pharmacies to dispense benefits under the Commonwealth Pharmaceutical Benefits Scheme.

The report made recommendations for the removal of or amendment to various provisions in each State's pharmacy legislation, such as Western Australia's *Pharmacy Act 1964*, and in the Commonwealth's Ministerial Determination under the *National Health Act 1953*, which were assessed as inhibiting competition and not being in the public interest.

The review found that, on balance, current pharmacist-only ownership restrictions provide a net public benefit and should remain largely unchanged.

The Prime Minister suggested CoAG provide a coordinated response to the Wilkinson Report, in order to promote national consistency in pharmacy regulation. A Senior Officials Working Group comprising Commonwealth, State and Territory Officers released their response to the Wilkinson Report which accepted most of the

Wilkinson Report's recommendations for implementation of reform. The proposed reforms included lifting restrictions on the number of pharmacies owned and nationally consistent and equitable treatment of Friendly Society pharmacies. The review also recommended phasing out rules on locating new and existing pharmacies.

2.3.5 Legal and Other Professions and Occupations

2.3.5.1 Legal Services

A number of the recommendations from the review of the *Legal Practitioners Act 1893* and related legislation have been implemented in the Legal Practice Bill 2002 and an Acts Amendment and Repeal (Courts and Legal Practice) Bill 2002, which will replace the *Legal Practice Act 1893*. The Bills will give greater flexibility and competition within the legal profession. The Bills had their second reading speech in the Legislative Assembly in February 2003. The Legal Practice Bill 2002 was transferred to the Assembly's Committee of the Whole on 20 March 2003.

The changes to legal practice that the Bills will introduce are:

- the capacity to create incorporated legal practices;
- the capacity to create multidisciplinary partnerships;
- the regulation of foreign lawyers wishing to practice in Western Australia to bring them into line with Western Australian lawyers;
- the introduction of the national practice certificate which allows practitioners from around Australia to be recognised automatically in Western Australia and vice versa;
- a broader definition of unsatisfactory conduct;
- new powers for the Legal Practitioners Complaints Committee and the Legal Practitioners Disciplinary Tribunal to take action against recalcitrant lawyers. For example, the Board can appoint a practitioner to undertake an inquiry as to the capacity of another to properly conduct their practice; and
- clearer provisions that prohibit unqualified people from practising law.

Incorporation will enable lawyers to operate in multi-disciplinary practices with other professionals. A single firm would be able to offer its clients a more complete range of services than a legal practice can currently provide.

The regulation of foreign lawyers will allow them to be registered in Western Australia and be subject to ethical and practice standards, trust account controls, disciplinary arrangements and professional indemnity insurance requirements similar to those to which local lawyers are subject and ensure that they contribute to a separate fidelity fund. These arrangements reduce the barriers to entry to foreign lawyers entering the local market clarifying the standards required of and regulation of legal practitioners. Importantly, a condition imposed on a foreign lawyer cannot

be harsher than a condition that would apply to a local practitioner in the same circumstances.

National practice certificates will allow practitioners from around Australia to be recognised automatically in Western Australia and vice versa. Current arrangements (through the Mutual Recognition Scheme) require a practitioner from one State to apply to be registered in Western Australia, and similarly, Western Australian lawyers wishing to practice inter-State must apply for registration in the other State. National practice certificates remove the requirement to go through a registration process as the practitioner's right to practice will be automatically recognised. This will make inter-State practice less complex and considerably cheaper than under the Mutual Recognition Scheme.

The definition of unsatisfactory conduct will be expanded by adding to the existing grounds of unprofessional conduct, contravention of the Act and conduct that fails the test of the level of competence and diligence that could reasonably be expected.

With exceptions, anyone other than a certified legal practitioner cannot engage in legal practice. The need to protect the community from unqualified persons practicing law is seen as important and so a breach of this provision will result in a $10,000 penalty.

2.3.5.2 Occupational Licensing

Occupational licensing boards in Western Australia currently exercise both regulatory and disciplinary functions. Each board will generally have authority to:

- licence people to carry on activities in designated professional, occupational and business areas;
- receive complaints about professional misconduct; and
- hear and determine the complaints, and impose disciplinary penalties.

Both the Gunning Inquiry and the Temby Royal Commission illustrated the need to separate the disciplinary function of professional and occupational boards and tribunals from their regulatory and investigatory functions.

In July 2002, the Attorney General released the report of the Western Australian Civil and Administrative Review Tribunal taskforce, which recommended the establishment of the SAT to take over the disciplinary functions of dozens of boards and tribunals in Western Australia. The independent tribunal would take over responsibility for, among other things:

- disciplinary proceedings affecting a variety of trades and professions; and
- civil and customer complaints against builders.

The SAT is being developed for operation from January 2004. The Department of Justice is currently in the process of assessing affected legislation for the amendments required to dismantle disciplinary processes from affected Boards.

Following the separation of the major disciplinary functions of occupational licensing boards from their regulatory functions, the boards will remain responsible for complaint handling and investigation. Existing boards will retain the following types of functions:

- the licensing power;
- the setting of regulations that govern conduct of licensed persons;
- the publication of guidelines to govern desirable conduct;
- encouragement of good education and training practices;
- complaint handling and investigation;
- the exercise of the power, where it exists under statute, to suspend a licence in urgent circumstances;
- the exercise of conciliation powers, where it exists under existing statutes, in respect of complaints that result in no disciplinary action being required; and
- with the consent of the practitioner concerned, the exercise of summary disciplinary power in circumstances of minor breaches of discipline. Substantial disciplinary matters will be referred to the SAT.

A number of boards, tribunals and other bodies previously reviewed as requiring reform in line with National Competition Policy are to have their jurisdiction to hear disciplinary matters taken over by the SAT. Although more Boards are expected to be included, as at May 2003 the SAT was envisaged to become a single appeals body for the following supervisory Boards:

- Architect's Board of Western Australia;
- Builders Registration Board;
- Dental Board of Western Australia;
- Dental Prosthetists Advisory Committee;
- Chiropractors Registration Board;
- Land Surveyors Licensing Board;
- Nurses Board of Western Australia;
- Podiatrists Registration Board;
- Osteopaths Registration Board;
- Podiatrists Registration Board;
- Veterinary Surgeons Board;

- Finance Brokers Supervisory Board;
- Motor Vehicle Dealers Licensing Board;
- Real Estate and Business Agents Supervisory Board;
- Settlement Agents Supervisory Board;
- Hairdressers Registration Board of Western Australia;
- Occupational Therapists Registration Board;
- Medical Board of Western Australia;
- Electrical Licensing Board;
- Land Valuers Licensing Board;
- Optometrists Registration Board;
- Painters Registration Board;
- Plumbers Licensing Board; and
- Psychologists Board of Western Australia.

The SAT will also have appellate jurisdiction including over the Land Valuation Tribunal, and appeals against licence and registration refusals.

The benefits of moving to a single adjudicative body include:

- the removal of confusion in the public mind if one overarching tribunal is identified as the place to seek redress;
- the establishment of a body that, by adopting a less adversarial and a more inquisitorial approach, would develop procedures of a less formal, less expensive and more flexible kind than used in traditional courts;
- the potential for the development of best tribunal practices, both procedural and in terms of common decision making principles, across the various jurisdictions;
- in a democratic context, the provision of a more appropriate and timely means for citizens to obtain administrative justice;
- in many instances, the improvement in public accountability of official decision making flowing from heightened scrutiny of administrative decisions; and
- avoiding the ad hoc creation of new tribunals to provide administrative review in evolving areas of government decision making.

The Department of Consumer Protection is finalising a general review of the *Auction Sales Act 1973* in line with the recommendations of the NCP review. The NCP review concluded that licensing of auctioneers was the main restriction in the Act, which lead to minor restrictions such as the fit and proper person test, but recommended retention of the licensing provisions until completion of the general review. The general review was to consider the adequacy and scope of the provisions of the Act, and investigate amending the Act to allow for modern trading practices such as internet auctions. Issues such as dummy bidding and reverse auctions have also been included in the general review. It is expected that the general review will be completed and forwarded to the Minister for Consumer and Employment Protection by the end of June 2003. Depending on the findings of the general review, alternative industry-specific regulation such as voluntary accreditation or auctioneer registration may replace the Act's occupational licensing provisions.

Cabinet endorsed a final report of the legislation review of the *Settlement Agents Act 1981 and Regulations* on 20 March 2002. The review report recommended that the requirement for settlement agents to be licensed be retained in the public interest because the benefits of reduced risk of financial loss and increased consumer confidence outweighed the costs associated with reduced competition. However the report recommended a number of lesser restrictions be amended, including:

- the existing requirement for agents to have "sufficient material and financial resources available to enable them to comply with the provisions of the Act". This requirement will be replaced with provisions preventing insolvent persons and persons with a recent history of insolvency from holding or obtaining a settlement agents licence. The provisions will also prevent a licence being granted to or held by a firm or body corporate where a partner in the firm or a director of the body corporate is an insolvent or has a recent history of insolvency;

- the requirement for natural persons to be ordinarily resident in the State. This restriction constitutes an unnecessary barrier to entry to the market and cannot be justified on public interest grounds; and

- regulation of the maximum fees an agent can charge for services rendered. This restriction will be removed by the repeal of the Settlement Agents (Remuneration) Notice 2000. The Act will be amended to make it a disciplinary offence for an agent to receive or demand a fee which is excessive, and to give the Board the power to review fees demanded or charged, including the power to order the repayment of an excessive fee received.

The requirement for all agents to hold professional indemnity and fidelity insurance will be retained, but the Act will be amended to give licensees the option of either arranging their own insurance at a prescribed minimum level of cover with an insurer of their choice, or of insuring under any master policy negotiated by the Board.

The draft review of the *Employment Agents Act 1976* has been completed and is currently being considered by the Department for Consumer and Employment Protection prior to referral to the Minister. It is expected that the review report will be completed in time for it to be considered by Cabinet before 30 June 2003.

The legislation review of the *Hairdressers Registration Act 1946* was endorsed by Government in February 2003. The review recommended the retention of the hairdressers' registration scheme. It was assessed that the public interest was best served by requiring that hairdressers are qualified in order to ensure that hygiene and sanitation is maintained, to reduce the risk of physical harm to customers and to provide higher quality services. Registration as a hairdresser requires the completion of an appropriate course of training, and the passing of examinations. In addition, the review recommended that the Hairdressing Registration Board be given discretionary power to create different classes of registration.

The NCP review of the *Debt Collectors Licensing Act 1964* will be finalised and forwarded to Cabinet before 30 June 2003.

The legislation review of the *Real Estate and Business Agents Act 1978* was endorsed by Government in February 2003. The review recommended a number of reforms to reduce the extent of restrictions in the legislation, including that:

- for registration by the board, qualifications in addition to those which are currently prescribed be acceptable;
- criteria which determines whether a person has a conflict of interest or is deemed to have sufficient material and financial resources be made explicit;
- licensing requirements for partnerships and bodies corporate be amended;
- restrictions on account-keeping requirements be amended;
- restrictions on who may audit trust accounts be amended; and
- the requirement for approval by the Board for franchise agreements be amended.

The review found the following restrictions on competition to be in the public interest, and recommended their retention:

- the requirement for real estate agents and business agents to be licensed;
- the exemption for developers, receivers and trustees from the requirement to be licensed, since they do not negotiate real estate or business transactions in a fiduciary capacity;
- registration of sales representatives, on the basis of reduced risk of financial loss for consumers, and reduced training costs for agents; and
- the ability to make agents' licences and sales representatives' registration subject to periodic renewal and review.

The required amendments to the *Real Estate and Business Agents Act 1978* are being progressed together with amendments to the *Settlement Agents Act 1981,* in a Bill that is currently being developed.

The NCP review of the *Motor Vehicle Driving Instructors Act 1963* is almost complete, however, has not yet been referred to the Minister as the peak industry body has sought an extension of time to make its submission.

The review will recommend that the restriction on competition, requiring persons wishing to act as paid driving instructors be licensed, be retained in the public interest. The rationale for doing so is the protection of consumers, as licensing requirements are intended to ensure that the instructor is competent to teach and is a person of good character. Other means of achieving this objective were examined and found to be less effective, especially when it is considered that a large number of driving instructors' customers will be young people who are not informed or confident enough to identify substandard service and to seek redress for it.

Legislation amending the *Motor Vehicle Dealers Act 1973* was introduced into Parliament in December 2002. The Motor Vehicle Dealers Amendment Bill (No. 2) 2002 is expected to complete its passage through Parliament in the Autumn 2003 Parliamentary Session. The Bill:

- provides for the Board to perform functions under both the *Motor Vehicle Dealers Act 1973* and the *Motor Vehicle Repairers Act 2002*, and therefore changes the title of the Motor Vehicle Dealers Licensing Board to "Motor Vehicle Industry Board";

- amends the composition of the Board membership to include a Chairperson, two people with experience in the motor vehicle dealing sector, two people with experience in the motor vehicle repair sector, three people representing the interests of consumers and a nominee of the RAC; and

- provides for the Minister to give written directions to the Board of a general nature only, and requires the text of any Ministerial direction to be included in the Board's annual report.

2.3.6 Finance, Insurance and Superannuation Services

Western Australia has made substantial progress in reviewing its insurance and superannuation services legislation.

2.3.6.1 Insurance

The previous government endorsed the legislation review of the *Motor Vehicle (Third Party Insurance) Act 1943*. The review recommended amending the Act to allow the Minister to approve people other than the Insurance Commission of Western Australia (ICWA) to issue motor vehicle compulsory third party (CTP) insurance policies. However, the amendments had not been implemented prior to the change of government in 2001. The current Government is reconsidering the review's recommendations in relation to revoking ICWA's sole CTP insurance status, in light of the recent crises in other parts of the insurance sector.

The Western Australian CTP scheme continues to:

- provide the lowest premiums for a family vehicle in Australia;

- provide claimant benefits equal to or better than those offered elsewhere in Australia; and

- be fully funded (even after allowing for a commercially prudent 75% level of confidence to meet the outstanding claims liabilities).

Matters associated with compulsory third party motor vehicle insurance are treated in more detail in section 7.1.

The legislation review of the *Workers Compensation and Rehabilitation Act 1981* was finalised and endorsed by Government in February 2002. Drafting instructions have been prepared, and approval to draft the NCP and other amendments to the Act was granted by Government on 5 May 2003. The Workers Compensation and

Rehabilitation Amendment Bill 2003 should be prepared for introduction to Parliament in the Spring session of 2003.

Western Australia's civil liability reforms will largely leave compulsory third party and workers' compensation schemes untouched. This is consistent with the Ipp Report recommendations, which were aimed at the tort system and not at statutory schemes. The proportionate liability reform outlined in the *Civil Liability Amendment Bill 2003* is expected to have a significant impact on pure economic loss claims but not on personal injury claims. It is expected to improve the prospects of professional and occupational groups, including lawyers, to find affordable insurance for pure economic loss.

The review of the *Legal Practitioners Act 1893* found that the benefits of the Law Society coordinating professional indemnity insurance cover through the mutual scheme outweighed the costs associated with these restrictions. Moreover, it was deemed unlikely that net benefits would be increased if the terms and conditions and a minimum level of cover were prescribed by regulation with legal practitioners left to negotiate with an insurer of their choice.

However, to ensure that the net benefit is maintained the legislation will be amended to codify the current practice of the Council of the Law Society so that a legal practitioner or a class of practitioners can leave the scheme where they give adequate notice of their intention to do so and provide evidence that they have made suitable alternative arrangements for professional indemnity insurance cover.

Matters associated with legal practitioners' professional indemnity insurance arrangements are treated in more detail in section 7.2.

2.3.6.2 Superannuation

The *State Superannuation Act 2000* (the Act), which commenced on 17 February 2001, repealed both the *Government Employees Superannuation Act 1987* and the *Superannuation and Family Benefits Act 1938*. The *State Superannuation Regulations 2001* were also introduced under the Act with effect from 17 February 2001.

The Act and the Regulations together provide a more flexible, timely and responsive legislative framework that enables new superannuation initiatives to be addressed promptly via regulations as would occur through changes to trust deeds in other superannuation funds.

The Government Employees Superannuation Board (GES Board) is the monopoly provider of superannuation for public servants. While the GES Board maintains overall responsibility for investment of assets within the GES Fund, private sector service providers are largely responsible for managing the assets of the GES Fund. Specialist fund managers are selected by the Board in a competitive process and are subject to regular reviews of their performance.

The extent to which GES Fund members are able to select alternative superannuation funds for the investment of their employer contributions is dependent on the responsible Minister and the Treasurer approving proposals for other schemes or funds. The objective of this "head of power" restriction is to enable the Government to manage risks that will or may affect the financial rights or obligations of the Crown.

The legislation review of the *State Superannuation Act 2000* concluded that the "head of power" for choice of fund gives rise to a net public benefit and, accordingly, recommended that it be retained in the public interest. The conclusion and recommendation in relation to the restriction arose largely from the impact choice of fund may have the financial rights and obligations of the State and on members of the GES Fund.

There is no prima facie evidence that members of the State's public sector superannuation schemes would experience lower retirement benefits through reduced returns or higher costs as a result of a restriction on choice of fund.

In contrast, the introduction of choice of fund for members of the State's public sector superannuation schemes could potentially have a significant adverse impact on the State's ability to manage its financial rights and obligations.

It should be noted that a major reform under the State's new legislative framework for the provision of public sector superannuation has been the removal of the legislative restriction on choice of investment strategy for West State Super members from 1 July 2001. Member investment choice enables members to meet their individual superannuation needs and preferences by providing them with the ability to choose how their superannuation is invested.

The Government of Western Australia endorsed the recommendations of the review of the *State Superannuation Regulations 2001* in February 2003. The review recommended that the restriction on West State Super members' choice of death/disability insurance cover, which compels members to pay an insurance premium for the scheme's compulsory death and disability insurance cover and, as a result, also restricts their choice of insurance provider is unlikely to provide a net public benefit, and should be removed. Accordingly, the Government has endorsed the removal of the compulsory death and disability insurance cover, subject to clarification about whether the restriction can be removed by regulation or whether a legislative amendment is required.

Further, it is noted that there are numerous private sector employees who do not provide choice of fund for their employees, and therefore by definition are also "monopoly providers" of superannuation.

2.3.6.3 Retail Trading Hours

The Western Australian Government has announced a new NCP review of Retail Trading Hours. In November 2002 the NCC notified Western Australia that it was facing the loss of an unspecified but substantial portion of the $75 million of ongoing

payments from the Commonwealth if it did not reform its retail trading hours regulations.

Previously, the Government had undertaken a review and had indicated that it was satisfied that the current arrangements were in the public interest. However, in view of the NCC's position, the Government has undertaken to carry out another review that will address the issues of particular concern to the NCC - which are the discriminatory treatment of large and smaller businesses and the impact of restrictions on consumers.

The Western Australian Government recognises that there are a number of reform options including:

- retaining the current arrangements;
- completely removing retail trading hour restrictions;
- re-instating standard opening hours for all retailers (i.e. no trading on Sundays or extended trading on Thursdays);
- easing current restrictions on:
  - weeknight trading;
  - weeknight and Saturday night trading; or
  - weeknight, Saturday night and Sunday trading.

Over 1300 public submissions have been received and these are currently being considered as part of the public interest test.

A Government decision is likely before 30 June 2003.

2.3.6.4 Liquor Licensing

In response to NCC concerns, the Premier of Western Australia announced that the liquor licensing arrangements would be re-examined prior to 30 June 2003. The NCC has raised as its main concerns the discriminatory treatment between different liquor outlets (particularly liquor store versus hotel bottle shops) and the 'needs criteria' that are included in the process of licensing liquor outlets.

A decision on the review of the *Liquor Licensing Act 1988* is expected to be available prior to 30 June 2003.

2.3.6.5 Petroleum Products Pricing

In its last assessment, the NCC raised concerns about Petroleum Pricing Legislation. Specifically, it asked for evidence that the restrictions on petrol prices were in the public interest, and noted that the ACCC monitoring of petrol prices had found that the legislation had no consistent impact on prices. The NCC also cited concerns of the ACCC that petrol pricing regulations were not supported by industry or consumers.

Subsequently, the ACCC released a report which said that it was hard to conclude that fuel pricing arrangements introduced by Western Australia had been successful to date. While acknowledging that few sales had been made under the legislation, the ACCC was concerned about the impact, on the petroleum industry in Western Australia, of the combination of the fuel price regulations and the tighter Western Australian fuel standards. Perth petrol prices had increased by 2.5 – 3.0 cents per litre against various benchmarks. The ACCC noted that a significant proportion of this increase could be attributable to the higher fuel standards, but that some of it was likely to be due to other factors such as the 24-hour rule and a reduction in competition as a result of the fuel standards.

Petroleum Legislation Amendment Act 2001

The *Petroleum Legislation Amendment Act 2001* provides for the right to purchase 50 per cent of petroleum products from a supplier other than the Primary Supplier (50/50 legislation). The 50/50 legislation commenced on 1 January 2002.

The Act also includes a provision that requires retailers to nominate standard retail prices for the different kinds of motor fuel for a period fixed by the regulations. This provision commenced operation on 24 August 2001.

The provisions have been subjected to a rigorous public interest test and found to be in the public interest. Furthermore ongoing monitoring of prices indicates that the restrictions are meeting the objectives of reducing price variability, providing greater information to the public and promoting pricing transparency between suppliers.

Environmental Protection (Diesel and Petrol) Regulations 1999

The Environmental Protection (Diesel and Petrol) Regulations 1999 prescribe fuel quality standards for motor fuel (petrol and diesel) sold in Western Australia since 1 January 2000. The specifications for unleaded petrol are unique in that they are not currently matched by any other State in Australia although national unleaded petrol standards will align with the WA specifications from 1 January 2006.

There have been concerns about the Western Australian fuel specifications inhibiting competition because the cost to import compliant fuel would exceed the price charged by the only refinery in Western Australia which is able to produce the Western Australia specification fuel.

However, one refiner/marketer has imported several cargoes of unleaded petrol from one of its Australian refineries and has imported fuel from an aligned Asian refinery over the last 12 months at very competitive prices. The refiner/marketer is understood to be providing most of its own unleaded petrol needs, as well as supplying some product to other refiner/marketers, via importation. This suggests that the fuel specifications in Western Australian may not be as restrictive as originally thought.

The BP refinery imposes a "WA quality premium" of US $1.60 per barrel (approx A1.62 cents per litre at current exchange rate) for unleaded petrol supplied into the Western Australian market. In a recent survey undertaken by the RAC the majority of respondents (both members and non-members) indicated they were willing to pay up to an extra 2 cents per litre (cpl) for "cleaner" fuel. Given that the rest of Australia

will align with Western Australia in just over two years the public benefit of a significantly higher quality fuel, at a cost Western Australian motorists have indicated they are willing to pay, is considered to be in the public interest.

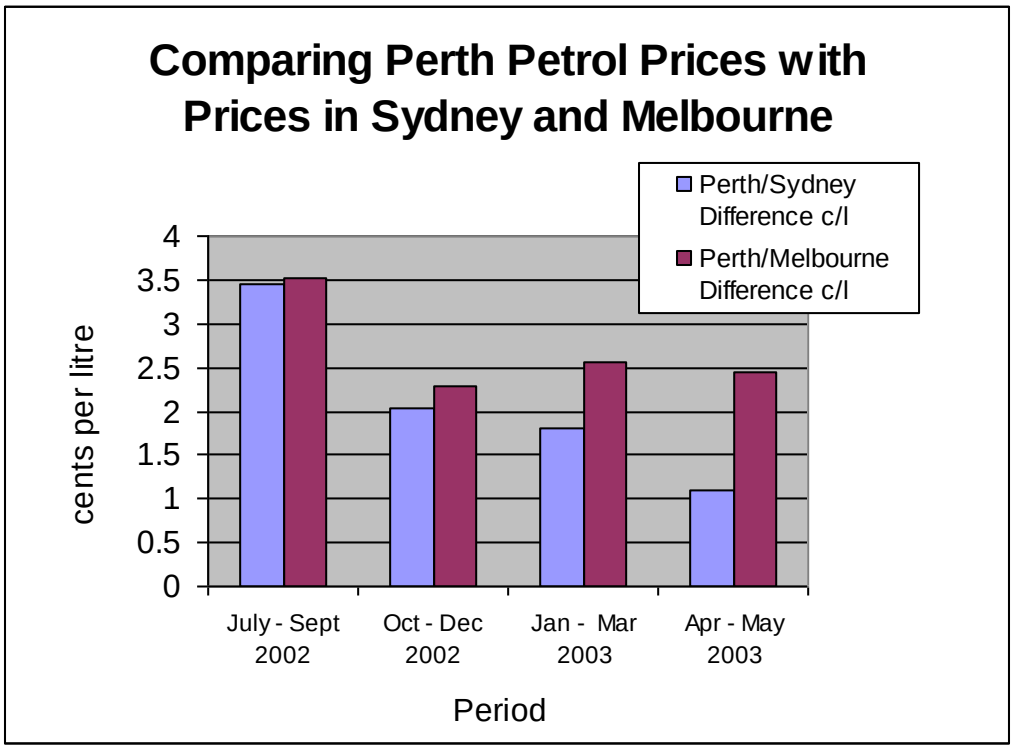
Petroleum Pricing Legislation – Response to ACCC Reports

On 14 May 2002 the ACCC released a report entitled Reducing Fuel Price Variability. The report raised a number of concerns in relation to the impact of the Western Australian petroleum pricing legislation. The Western Australian Government strongly disagreed with the views published by the ACCC.

The Commonwealth Government asked the ACCC to continue to monitor Western Australia's regulations, Western Australia's and Victoria's terminal gate pricing arrangements and the impact of terminal gate pricing arrangements voluntarily implemented by some oil companies during 2002.

The ACCC completed a second report in December 2002 but this was not released until 23 April 2003. Accordingly, a lot of the data in the report is now dated and reported results have effectively been superseded by more contemporary data.

For example, the period covered in the latest report is July to September 2002 immediately following the end of refinery exchange. Perth prices in that quarter were significantly higher than Melbourne or Sydney – possibly reflecting uncertainty over pricing changes associated with the end of refinery exchange agreements and the increase in the WA fuel quality premium. Since that time, however, prices in Perth have been much more competitive as the graph below shows.



The 'Cheapest 100' sites in Perth now consistently offer lower prices than Melbourne or Sydney averages notwithstanding the fact Western Australian motorists are paying around 1.6 cpl for the cleanest fuel in Australia.

The ACCC report noted that previous terminal gate pricing arrangements in Western Australia had not worked as intended. The report also noted the Western Australian Government had responded by introducing the Petroleum Products Pricing (Maximum Terminal Gate Price) Order 2003 and revoking the Petroleum Products Pricing (Maximum Wholesale Price) Order (No. 4) 2001.

The new terminal gate pricing arrangements, which commenced on 19 December 2002, are less prescriptive than the previous arrangements and also apply to all seaboard terminals across Western Australia.

The Western Australia Terminal Gate Pricing arrangements are closely modelled on the Victorian Terminal Gate Pricing arrangements and were introduced to increase price transparency in the wholesale fuel market and provide access to petroleum products directly from the terminal at competitive Maximum Wholesale Price (MWP) for eligible distributors and retailers. These are identical to the objectives of the Victorian model.

The ACCC commented in its report that the Victorian arrangements had increased price transparency because prices were available on oil company websites. Despite prices having been available on the FuelWatch website for over 18 months no such comment was made in respect of Western Australian arrangements.

Similarly, the exit of Liberty as a retailer is cited as a possible reason for an increase in average prices in Melbourne but no mention is made of their exit from the Perth market (note that Liberty sites now operating in Perth are branded but not owned by Liberty).

The ACCC compared Perth's average prices with prices from the period between 12 April 2001 and 30 September 2002. The report stated "On only three out of 537 days were MWP's above Perth average retail prices". Given that the MWP was a maximum wholesale price marker it would be somewhat extraordinary if the retail prices had been above the MWP any more than this.

It may be that the ACCC was confusing the MWP with its own Import Parity Indicator, which, even when first set many years ago, was so unrealistic (i.e. high) oil companies automatically discounted off it by at least 8 cents per litre.

In regard to the 24 hour rule, the report claims that the publication of prices under the 24 hour rule creates distortions. The report states in relation to the Cheapest 100 that if there were 20 sites ranked between 90 and 110 the first 10 in alphabetical order would be listed and the other 10 would miss out. This inequity was brought to FuelWatch's attention in November 2001 and it was rectified.

2.3.7 Fair Trading and Consumer Protection Legislation

The *Fair Trading Act 1987* contains a number of restrictions relating to the conduct of business, aimed at protecting consumers. A major general review is now being undertaken, as part of the Consumer Justice Strategy, which is scheduled for completion in December 2003. An NCP review of the Act is also currently underway, and should be completed by the end of June 2003. Interstate reviews of similar legislation have recommended no significant change.

The NCP review of the *Retirement Villages Act 1992* has been completed and was endorsed by Government on 6 May 2002. Amendments are currently being drafted to enact reforms. The review recommended:

- amendment of restrictions on the use of retirement village land. The review concluded that the advantages of the Act's protection of tenure, and of residents' investments in a retirement village, clearly outweighed the disadvantages associated with restricting the use of the land for retirement village purposes. However, such restrictions can be lessened by simplifying the processes for termination of a village scheme, and for the removal of a memorial from the whole or part of the village land;

- incorporating the Act and the Code of Fair Practice for Retirement Villages into a single Act, to remove unnecessary regulatory duplication and to ease the process of effecting fundamental change; and

- amendment of restrictions associated with the marketing and price determination rights of residents. Residents will be provided with the right to be involved in the marketing of their unit, will receive monthly marketing reports, and will have some influence over the determination of unit price.

The remaining restriction on competition in the Act, regarding representation for parties in proceedings before the Retirement Villages Disputes Tribunal, is to be retained. The restriction requires parties to any proceedings before the Tribunal to present their own case at the hearing, unless the party is unable to appear personally or conduct proceedings properly, or all parties agree to the representation of any of the parties by legal practitioners, or an order is sought for a monetary amount in excess of $10,000. The review concluded that the restriction provides residents and administering bodies with access to a relatively quick, informal and inexpensive dispute resolution forum, unencumbered by the expense and complexity that legal practitioners might bring to a hearing.

The NCP review of the *Credit (Administration) Act 1984* was completed in June 1998, and major parts of the Act were recommended for repeal. However, in preparing the first draft of the amendments, Parliamentary Counsel raised a number of complex legal issues requiring detailed consideration, particularly in the context of the emergence in the marketplace of payday lenders. Amendments to the *Consumer Credit (WA) Act 1996* (the Code) in 2001 resulted in payday lenders becoming regulated under the Code, and therefore emerging as an additional category of licensed credit providers under the *Credit (Administration) Act 1984*.

A strong public benefit argument for retaining the licensing requirement for payday lenders made it necessary to reassess the NCP review's recommendations, to assess whether the amendments needed minor modifications prior to finalisation. The original NCP report has been re-examined to take into account the relevant market changes. The amended report is shortly to be submitted to Government for endorsement.

Amendments to the *Hire Purchase Act 1959* are currently being progressed through the Parliament as part of the Acts Amendment and Repeal (Competition Policy) Bill 2002. The Standing Committee on Uniform Legislation and General Purposes

recommended in its report released on 10 June that the Bill be passed without amendment.

The amendments are in accord with the findings of the NCP review. The review found that, in most respects, consumer protection objectives are achieved through the 1996 Consumer Credit Code. The Consumer Credit Code does not cover commercial transactions, but the review found that applying the Act to commercial transactions is not necessary or justified.

The *Hire Purchase Act 1959* is therefore being amended so that only selected provisions of the Act continue to apply for new transactions. These relate to surplus from sale of goods, equitable relief, and farm good purchases. The section in the Act which sets out the hirer's rights and immunities when goods are re-possessed has ongoing operation, apart from subsections which are contingent on notice requirements elsewhere in the Act that will not have ongoing operation.

The *Weights and Measures Act 1915* has not been reviewed, as it will be repealed upon the enactment of new trade measurement legislation, which is to be based on the national model. A Cabinet Submission seeking permission to draft the new legislation is currently being developed, and the Government has allocated a priority for the Bill to be introduced in Spring 2003. An NCP review of the Commonwealth uniform trade measurement legislation has been completed at the national level. The State's position with regards to weights and measures legislation will conform to national standards.

2.3.8 Social Regulation: Education, Child Care and Gambling

2.3.8.1 Education

The competitive neutrality review of TAFE colleges in Western Australia is shortly to be considered by Government.

Legislation reviews of the universities' enabling Acts were endorsed by the previous Government in March 1999. The reviews concluded that most restrictions were minor and in the public interest, while recommending that the investment powers of Edith Cowan University be aligned with those of other universities. The amendments to the *Edith Cowan University Act 1984* are being progressed through the State's Acts Amendment and Repeal (Competition Policy) Bill 2002. The Standing Committee on Uniform Legislation and General Purposes recommended in its report released on 10 June 2003 that the Bill be passed without amendment.

Matters arising from the review of the universities' legislation relating to local council rates, State taxes and land tenure were deferred to the competitive neutrality review of the universities which has now been completed and endorsed by Government. The review of universities recommends the adoption of competitive neutrality by university business activities.

As a result of the review, legislation is being drafted to clarify the powers of universities to engage in commercial activities in Western Australia and outside of Western Australia, including activities that do not directly relate to the universities' core functions of education and research. The amendment will require that universities must comply with guidelines approved by the Minister for Education on

the advice of the Treasurer. The guidelines would govern the types of commercial activities that a university could engage in. Of particular importance will be the arrangements that govern the financial monitoring of universities' commercial activities, such as having the universities report to the Treasurer when required on matters related to their commercial activities.

The review has recommended that a rigorous process for competitive neutrality complaints be established and that this process include the involvement of the Department of Education Services.

The review recommended that where university activities are predominantly commercial in nature, they should be provided on a fee-for-service basis with direct outside competition. The review also recommended that universities should (in the main) introduce full commercial pricing policies.

2.3.8.2 Child Care

At present, provisions in the *Community Services Act 1972* and the Community Services (Child Care) Regulations 1988 regulate childcare and the registration of child carers in Western Australia. A bill to replace this and other Acts is currently being developed and is on the Parliaments legislative agenda for this year. The Department of Community Development expects the bill to be considered in the Spring sitting of Parliament.

Since the bill was not finalised in 2002, the Department of Community Development carried out a NCP legislation review of the existing child care legislation which was completed by the deadline of June last year. The review report of the *Community Services Act 1972* and Community Services (Child Care) Regulations 1988 was agreed to by the Expenditure Review Committee at its 5 February 2003 meeting and subsequently endorsed by Cabinet on 10 February 2003.

The review recommended retaining the restrictions present in the *Community Services Act 1972* and the *Community Services (Child Care) Regulations 1988* as they are in the public interest, and expanding the current three yearly review process of the Regulations to encompass the Outside of School Hours Day Care. Another recommendation was to examine, via the three yearly review process, the changing of prescriptive regulations to a more outcome-based system within the regulatory framework.

2.3.8.3 Gambling

The review of the *Lotteries Commission Act 1990*, which was approved by Government in 1998, found that it was in the public interest to retain the following restrictions in the Act:

- the Lotteries Commission (the Commission) can enter into agreements with other State lotteries agencies to conduct pools jointly, whereas other lotteries operators are not able to;

- the Commission has exclusive use of lotteries trading name and symbols;

- the Commission can obtain permits directly from the Minister for Racing and Gaming whereas other lotteries providers apply to the Gaming Commission and must provide more information;

- approval from the Commission is necessary if a fee or reward is to be derived from lotteries; and

- the Commission enjoys the status, immunities and privileges of the Crown, unlike potential competitors.

The Commission can enter into agreements with other State lotteries agencies for the purposes of jointly conducting Lotto and Soccer Pools. Therefore, although other parties are not prevented from running lotteries, the ability of the Lotteries Commission to enter into block agreements with other State lotteries means that it can consistently offer substantial prizes. This clearly makes the product appealing and since sales of lottery products fund charitable groups and projects, this serves the public interest.

Allowing the Commission to use trading names and symbols avoids the Commission needing to increase spending on recognition of its product. The association of trading names and symbols with the Commission has been developed over about 70 years of trading. Furthermore, any necessary increase in expenditure if the Commission could not use trading name and symbols would direct money away from causes supported by the Commission and possibly increase the price of products.

Allowing the Commission to obtain permits directly from the Minister for Racing and Gaming is in the public interest because it both increases the administrative efficiency of the Commission which has to provide less information for each permit application. A change to this process would increase costs to the Gaming Commission, which would have to manage substantial new work. The review also noted that there has been no breach of integrity under this system so it is not in the public interest to change it, given the costs.

It is an offence for a person, without the approval of the Commission, to derive a fee or reward for promoting or forming a syndicate to purchase a ticket in a game conducted by the Commission. The review concluded that this restriction is justified since it protects members of the public from the operation of sham lottery syndicates.

Allowing the Commission to enjoy the status, immunities and privileges of the Crown is a reasonably standard clause for statutory bodies and the Commission pays taxation equivalents in some cases.

The *Betting Legislation Amendment Act 2001* came into effect on 21 September 2002. Amongst other things, it implemented a number of the recommendations that arose from the National Competition Policy Review of the *Betting Control Act 1954*, including:

- the establishment of corporate licensing provisions for bookmakers. The *Betting Control Act 1954* previously provided that a bookmaker's licence only be granted to a sole natural person. This restriction has been amended so that a partnership and a body corporate may apply for and be granted a bookmaker's licence;

- subject to the approval of the Betting Control Board and permission from the relevant racecourse controlling authority, allowing bookmaking to occur on a racecourse at times other than during the conduct of a race meeting at the racecourse. The *Betting Control Act 1954* previously restricted race bookmakers to operating only when a race meeting was in progress at a racecourse; and

- the *Betting Control Act 1954* was amended to remove those provisions that provided for the Betting Control Board to refuse an application for a bookmakers licence, without specifying the reason for refusal.

Western Australia has played a major role in co-ordinating a national approach to racing issues, particularly through the Cross-Border Betting Taskforce, which was established by the Australasian Racing Ministers Conference at its meeting of 17 May 2002 in Adelaide.

On 21 May 2002, the Government announced the restructuring of the racing industry governance system in Western Australia. As a result, the principal club functions of The Western Australian Turf Club, Western Australian Trotting Association and Western Australian Greyhound Racing Authority, together with the off-course betting activities of the TAB, are being merged into a single controlling authority to be known as Racing and Wagering Western Australia (RWWA).

Legislation to effect the restructure has been drafted and submitted to the Parliament and includes the following changes:

- RWWA will be established as the controlling authority for thoroughbred, harness and greyhound racing in Western Australia;

- the Western Australian Turf Club, the Western Australian Trotting Association, and the Western Australian Greyhound Racing Authority will each remain as racing clubs, responsible for the conduct of racing activities at their respective venues;

- the TAB will be abolished and RWWA will assume responsibility for the conduct of off-course betting; and

- the Racecourse Development Trust will be abolished and the development of racing and training infrastructure will become a function of RWWA. The Trust's obligations, unallocated funds and funding source (unclaimed TAB dividends and refunds) will be transferred to RWWA.

To manage these changes, four separate Bills have been prepared:

- Racing and Wagering Western Australia Bill 2003;

- Racing and Gambling Legislation Amendment and Repeal Bill 2003;

- Racing Restriction Bill 2003; and

- Racing and Wagering Western Australia Tax Bill 2003.

The Racing and Wagering Western Australia Bill 2003 establishes Racing and Wagering Western Australia (RWWA) as the controlling authority for thoroughbred, harness and greyhound racing in Western Australia. The Bill also outlines the structure of this new agency, its subsequent board of directors and its particular purpose.

The Racing and Wagering Western Australia Tax Bill 2003 applies the tax equivalent regime that is currently in place in respect of the TAB under the *Totalisator Agency Board Betting Tax Act 1960* to the newly formed RWWA's off-course wagering turnover.

The Racing and Gambling Legislation Amendment and Repeal Bill 2003 provides the transitional provisions necessary to manage the establishment of RWWA and the consequential amendments needed to other Acts to recognise RWWA and to achieve complementary aspects of the governance restructure. Part 6 of this Bill repeals the *Racing Restriction Acts 1917* and *1927.*

The Racing Restriction Bill 2003 ensures that no thoroughbred, harness or greyhound race for a stake or prize, or the purpose of betting, may be held unless the race is licensed by RWWA and is held at a racecourse that is licensed by RWWA. The Bill also implements an NCP review recommendation to provide for the establishment of an 'approved racing organisation' as the controlling authority for horse racing that is not thoroughbred racing or harness racing.

In addition to the main changes above, the Bills also include amendments that arose from NCP reviews of the *Racing Restriction Acts 1917* and *1927* and the *Western Australian Greyhound Racing Authority Act 1981*. The Bills are at the second reading stage in the Legislative Assembly.

The package of Bills also implements the following reforms:

- whereas previously the Totalisator Agency Board (TAB) was restricted to conducting betting on races which were held at prescribed venues, and sports betting on cricket matches, Australian Rules Football and other prescribed sporting events, the proposed amendments will authorise RWWA to conduct totalisator wagering and fixed odds wagering on races, sporting events and other events in accordance with the rules of wagering, except where, in the opinion of the Gaming Commission of Western Australia, it would not be in the public interest to do so;

- repeals the restriction that precludes betting with bookmakers before 12.00 noon on Anzac Day;

- the requirement for Ministerial approval to establish a TAB agency is to be replaced with a provision requiring the TAB to advise the Gaming and Wagering Commission of its intention to establish a TAB agency and to provide the Commission with the power of veto over any proposal to establish an agency where such establishment detrimental to the public interest;

- repeals the requirement for the TAB to credit an amount of 1.75% of the totalisator pool to promote totalisator betting on sporting events; and

- repeals the provisions of the TAB Act which provide for the TAB to compulsorily acquire a loan of $100,000 from The WA Turf Club or the WA Trotting Association.

While many NCP review recommendations are being implemented under the above arrangements the prohibition on the licensing of additional off-course totalisators, which will provide a competitive advantage to the RWWA, will remain in place. In this regard it is considered necessary for the newly established RWWA to have time to establish itself and consolidate its racing and wagering activities before possible competition is contemplated.

With effect from 1 April 2003, minimum bet levels lodged via telephone or Internet transactions with Western Australian bookmakers were reduced from $200 to $100 for metropolitan betting and from $100 to $50 for country betting. This brings WA into line with Victoria, South Australia and Tasmania. Furthermore, from July 1, the minimum bet for metropolitan betting will be further reduced to $50, with no minimum bet for country betting. A further review of minimum bet levels is expected to be undertaken by the newly established RWWA before 1 July 2004, at which time an assessment can be undertaken to determine whether or not the reductions have adversely affected funding of the State's racing industry and whether the remaining limits should be abolished.

The *Gaming Commission Act 1987* was to have been amended to allow for the licensing of professional fundraisers. However, legislation for the licensing of commercial fundraisers and fundraising consultants is contained under section 9(1)(c) of the proposed Public Collections Bill 2002. As the Public Collections Bill will provide for the licensing of all fundraisers, it is not currently considered necessary to duplicate this function by pursuing amendments to the *Gaming Commission Act*.

Last year Western Australia's casino licensing arrangements satisfied the State's clause 5 obligations by removing legislative barriers to entry. The remaining exclusivity provisions relating to the Burswood International Resort Casino contained in the *Casino (Burswood Island) Agreement Act 1985* have been the subject of negotiation with Burswood Nominees Pty Ltd. The Government has reached agreement with Burswood Nominees Pty Ltd in relation to modifying the remaining restrictions and Cabinet has given approval to draft the necessary legislative amendments to the *Casino (Burswood Island) Agreement Act 1985*. These include:

- removing the 10% individual shareholder limitation in September 2003; and

- the Government accepting, in principle, a three-tier taxation system for a ten year period, where the rate varies according to whether the format is video gaming machines, table games or international business.

2.3.9 Planning, Construction and Development Services

2.3.9.1 Planning

The Urban and Regional Planning Bill 2000 (the URP Green Bill 2000) was reviewed under the previous Government in conjunction with the *Town Planning and Development Act 1928*, the *Metropolitan Region Town Planning Scheme Act 1959* and the *Western Australian Planning Commission Act 1985*. The review examined both the

proposed and existing legislation, because the URP Green Bill 2000 was essentially a consolidation of the existing legislation. The review was almost finalised, but the change of Government in November 2001 meant that it was not submitted to Cabinet.

The current Government re-activated the consolidation of the planning legislation with the release of a Position Paper in April 2002. The Government received a number of submissions on the Position Paper. After considering each submission, the Government is currently developing a new Green Bill, which will be called the Planning and Development Bill 2003 (the PD Green Bill 2003). It is expected that the PD Green Bill 2003 will be released for an 8 week public comment period in late August. The purpose of the PD Green Bill 2003 is to elicit submissions on the broad proposals contained in the Position Paper and a number of fresh proposals. Following review and analysis of submissions on the PD Green Bill 2003, it is anticipated that a consolidated Planning and Development Bill 2003 will be introduced into the Spring Session of Parliament in December 2003. It is proposed that a reworked joint NCP review of the existing legislation and the PD Green Bill will be submitted to Cabinet as soon as the provisions to be contained within the Planning and Development Bill 2003 are finalised.

The *Planning Appeals Amendment Act 2002* came into operation on 18 April 2003. The Act establishes the Planning Appeals Tribunal, which replaces the system of Ministerial planning appeals to provide greater transparency and accountability in decision-making. Initial appointments to the Planning Appeals Tribunal were announced on 22 April 2003. It is anticipated that the Planning Appeals Tribunal will be incorporated into the State Administrative Tribunal when it is established.

The NCP review of the Planning Appeals Amendment Bill 2001, endorsed by Government in February 2002, had recommended that the minor restriction on competition in the Bill should be retained in the public interest. The Bill barred legal representation during the planning appeals process in the case of less significant appeals. Provisions in the Act allowing the appellant to access legal representation with constraints, mean that the restriction has little impact on few potential appellants. The review noted that it is difficult to quantify the public benefits of the minor restriction on legal representation during planning appeals. However the cost of drawn out appeals would have a negative impact on the other party to the appeal, who may not wish to expend resources on planning matters that are not overly complex or significant economically.

The restriction contained in the Bill was less restrictive than that proposed in the initial Planning Appeals Bill 1999, because in that case the restriction excluded legal representation at all appeals, and at both mediation and investigation except with the approval of the assessor. The current Act allows legal representation at the discretion of the appellant, and would therefore only restrict respondents and other parties from engaging legal practitioners in respect of minor and less complex appeals.

New legislation is currently being drafted to replace the *Local Government (Miscellaneous Provisions) Act 1960* and the Building Regulations 1989. However, responsibility for the administration of the Act and regulations was transferred to the Department of Housing and Works in May 2003. Drafting of the new legislation,

postponed while the decision about the transfer of responsibilities was being made, has now been resumed.

2.3.9.2 Construction and Development Services

Government endorsed the legislative review of the *Architects Act 1921* in December 2001. It recommended the removal of various restrictions to competition within the Act. In addition, Western Australia was a participant in the Inter-government Working Group (IGWG) that examined the Productivity Commission's Review of Legislation Regulating the Architectural Profession. The IGWG established a framework of regulatory principles to be realised in each jurisdiction according to its preferred legislative vehicle and timing. Cabinet endorsed the IGWG's draft response to the review in February 2002.

Cabinet approved the drafting of amendments to the *Architects Act 1921* in March 2002. Accordingly, the Architects Act Amendment Bill is currently being drafted in line with the recommendations of the legislative review and the IGWG's recommendations.

The *Architects Bill 2003* will be in keeping with all of the IGWG recommendations set out below:

- membership of the Architect's Board will be broadened to include industry, consumer and educational representatives;

- the Bill does not include restrictions on practice, it protects title only;

- the title "architect" will be restricted to registered persons only, but derivatives which describe a recognised competency are permitted, for example, landscape architect, or architectural draftsperson;

- only natural persons will be registered as "architects", and organisations which offer the services of an architect must have adequate arrangements in place to ensure an architect supervises, controls, and is ultimately responsible for the architectural work provided;

- modifications to complaints and disciplinary procedures will be made, with the introduction of an informal conciliation and inquiry process, and avenues for appeal being provided; and

- requirements for registration will be moved to the regulations, and refer to a national standard setting body, the Architects Accreditation Council of Australia (AACA). Consistent with the IGWG recommendation, the AACA is developing a broader system of certification for consideration by Boards that has regard to different combinations of qualifications and experience.

The public consultation period for the *Architects Bill 2003* closed on 4 April 2003, with a final draft Bill being prepared to be ready for introduction to Parliament in June 2003.

The legislation review of the *Licensed Surveyors Act 1909* recommended:

- broadening the make-up of the Land Surveyors Licensing Board to include consumer representation; and

- replacing the requirement for licensed surveyors to be of good fame and character with specific provisions determining eligibility to practise. A more detailed rule, prohibiting the grant of a licence in circumstances where an applicant has a criminal record of offences involving business fraud or dishonest business practices, should be enacted.

These reforms are being implemented in the Acts Amendment and Repeal (Competition Policy) Bill 2002. The Standing Committee on Uniform Legislation and General Purposes recommended in its report released on 10 June that the Bill be passed without amendment.

Restrictions recommended by the review for retention in the Act include the following:

- the major occupational restriction of licensing and regulation of surveyors, including the requirement for periodic renewal of a practising certificate to be based on the applicant's ability to provide proof of investment in continuing professional development, such as education, survey practice, or training of a survey graduate. The public benefit of this restriction, being the maintenance of ongoing minimal professional standards, and therefore of the integrity of the State's cadastral infrastructure, was seen to outweigh the potential disadvantages of funding and administrative costs to the Western Australian Land Surveyors' Licensing Board (the Board), and the costs to individual surveyors of complying with ongoing professional development requirements;

- a surveyor whose licence or practising certificate has been suspended or cancelled, or restricted with special conditions, has an opportunity to make further application to the Board for the alteration or removal of those conditions. The potential of the Board to discriminate unfairly between surveyors charged with similar offences, and therefore to unnecessarily restrict the availability of surveying services in the marketplace, was seen to be outweighed by the potential benefit of restoring the full range of business opportunities to affected surveyors;

- the requirement that licensed surveyors either:

  – purchase professional indemnity insurance cover; or

  – show proof of existing cover under employee-employer subcontracting arrangement,

  as a condition of annual renewal of the practising certificate. The review found that the restriction addresses a specific commercial failure in the provision of surveying services, thereby contributing to improved performance in the industry, and reduces the number of incidents of severe financial loss suffered by users of surveying services.

The review of the *Land Valuers Licensing Act 1978* was completed by the Department of Consumer and Employment Protection (DOCEP) in 1999, and recommended the

discontinuation of licensing and of the Land Valuers Licensing Board. However, the Temby Royal Commission recommended the retention of licensing and of the Board. Following discussions with the DTF, DOCEP is redrafting the NCP report consistent with the Temby recommendations. It is anticipated that the report will be available to the Minister by the end of June 2003.

Required amendments to the *Valuation of Land Act 1987* are being progressed via the Acts Amendment and Repeal (Competition Policy) Bill 2002. The Standing Committee on Uniform Legislation and General Purposes recommended in its report released on 10 June 2003 that the Bill be passed without amendment. The amendments implement the recommendations of the legislation review of the Act, including:

- removal of the restriction that the Valuer-General shall be qualified for membership of the Australian Institute of Valuers (Incorporated) as a fellow or associate. The amended section will require only that a person appointed Valuer-General shall be able to demonstrate a high level of qualifications and experience in the valuation of land;

- removal of the restriction that any person engaged as a valuer by a rating or taxing authority for the purpose of making valuations for rating or taxing purposes, must be licensed under the Land Valuers Licensing Act 1978 or qualified for membership of the Australian Institute of Valuers (Incorporated) as a fellow or associate; and

- introduction of a legislative requirement for the Valuer-General to regularly advise the Minister of the types of information collected under the Act, and for the Minister to provide authorisation for the release of such information to the public at large, when the Minister is of the opinion that it is in the public interest to do so.

The review identified the following restrictions to be retained in the Act, on the basis of furthering the public interest:

- currently, the Valuer-General cannot engage any person who is employed by or is a member of any rating agency or taxing authority, under contract as a valuer. The review recommended the retention of this restriction, due to the need to separate valuation activities from the rating and taxing functions of Government;

- any person employed in the administration of the Act is prohibited from engaging in any private valuation work without the written consent of the Valuer-General. The review recommended the retention of this restriction, because of the unfair competitive advantages that may accrue to employees of the Valuer-General's office in the absence of the restriction;

- rating and taxing authorities must obtain the Valuer-General's approval to enable them to undertake valuation activities for rating and taxing purposes, and the Valuer-General may attach conditions to this approval. The review recommended the retention of this restriction, due both to the need for

separation of valuation from rating and taxing activities, and also to allow the Valuer-General to maintain consistency in valuation practices over time;

- the Valuer-General's Office has powers to obtain information for the purpose of making valuations that exceed the powers available to private valuers. The information is not used in the provision of commercial services, therefore the restriction conveys no competitive advantage to the Office over private valuers. However, such information is regarded as critical for core valuation activities of the Office. To reduce the chances of competitive advantages arising in the future, the above-mentioned legislative requirement was introduced for the Valuer-General to regularly advise the Minister of the types of information collected under the Act, and for the Minister to provide authorisation for the release of information to the public at large when the Minister is of the opinion that it is in the public interest to do so;

- the Valuer-General has immunity for any act or omission carried out in good faith and relating to activities under the Act. The limited protection afforded to the Valuer-General against claims of negligence arising in the performance of statutory activities, does not provide protection against liabilities potentially incurred in performing non-statutory activities that are also provided by the private sector. The Valuer-General purchases relevant insurances at commercial rates, and enjoys no competitive advantage from this provision. Given the advantage of the limited statutory immunity however, the restriction was assessed by the review as providing a net public benefit; and

- fees may be levied on members of the public, including on private valuers, for copies of or extracts from valuation rolls. A small public benefit is provided by this restriction through cost recovery, while significant costs are not imposed on the public or on private valuers who wish to obtain information from the valuation roll.

The completed NCP review of the *Painters Registration Act 1961* was overtaken by the Gunning Inquiry, which was commissioned in April 2000 to conduct a Special Inquiry under the *Public Sector Management Act 1994* into the operations of the boards and committees in the Fair Trading portfolio. The final report by the Gunning Committee was published in September 2000. A wider general legislative review of the *Painters Registration Act 1961* will be referred to the Minister in May 2003.

3.

STRUCTURAL REFORM

Structural reform is part of a package of State reforms of government businesses, which includes corporatisation, privatisation, and the application of competitive neutrality principles. The reforms also build on reforms in the early 1990s, preceding National Competition Policy (NCP), such as the separation of the State Energy Commission of Western Australia into Western Power and AlintaGas, and corporatisation of the Water Corporation.

Western Australia continues to meet its structural reform commitments in accordance with Clause 4 of the Competition Principles Agreement (CPA). This section outlines Western Australia's progress with structural review and reform. Where appropriate, it also provides detail on matters raised in the NCC's Assessment Framework working papers.

3.1 Electricity

The Western Australian electricity industry is dominated by the wholly government-owned corporatised business entity, Western Power Corporation. Western Power is the State's major generator, transmitter, distributor and retailer of electricity, operating two major interconnected transmission and distribution systems – the South West Interconnected System (SWIS) and the North West Interconnected System (NWIS) – and also 29 isolated regional systems. The remainder of the electricity industry is characterised by a number of private companies throughout the State that generate electricity primarily to supply their own mining, mineral processing or other operations and in some instances public and private townships.

In recent years, Western Power has been progressively exposed to competition through the provision of open access rights to its transmission and distribution systems to allow private generators to supply electricity to contestable customers (discussed in further depth in Section [6.3]).

To promote greater competition and sustainable lower electricity prices, the Government established the Electricity Reform Task Force in August 2001 to develop a framework for the further reform of the State's electricity supply industry. The Task Force's final report, submitted in October 2002, recommended the creation of a new electricity market that balances the need for greater competition, lower prices and consumer protection. Specifically, the report recommended the disaggregation of Western Power into four new entities, the creation of a wholesale market, a strong and independent regulatory system and the retention of the uniform tariff and existing rebates. The Government endorsed the recommendations of the Task Force in November 2002.

The Electricity Reform Implementation Steering Committee chaired by the Acting Coordinator of Energy and consisting of representatives of relevant government agencies, was convened in January 2003 with responsibility for implementing the government's electricity reform agenda. The proposed structural and regulatory reforms for introducing greater competition into the electricity industry accord with Western Australia's obligations under Clause 4 of the CPA, particularly in regard to examining the merits of separating the monopoly elements from potentially competitive elements of the incumbent public monopoly, separating regulatory

legislation for the electricity industry from Western Power's enabling legislation, ensuring competitive neutrality is achieved, and ensuring transparent funding arrangements for the delivery of community service obligations.

3.1.1 Structural Reform and Market Design

Central to the Task Force's proposed structural change is the disaggregation of Western Power. The Task Force recommended that Western Power's activities in the SWIS be vertically disaggregated into three independent entities – State Generation, State Networks and State Retail – and the establishment of a fourth entity, the Regional Power Corporation, with responsibility for electricity supply in the north west interconnected system and Western Power's non interconnected systems. Such separation will require substantial revision to the *Electricity Corporation Act 1994*.

Separation of the networks business from the vertically integrated incumbent is considered necessary to ensure that it operates in the best interests of all market participants. State Networks, which will undertake transmission and distribution activities in the SWIS, is to consist of two separate and financially ring-fenced business units. Network Management is to be responsible for managing and operating the network assets, whilst System Management is to undertake system operation, market operation and system planning.

It is also considered essential that State Generation and State Retail are separate entities to allow them to act independently to achieve the best outcome for the generation and retail sectors and for customers. As a separate entity, State Retail would seek the most competitive sources of generation and this should encourage other market participants and also ensure that State Generation acts in a competitive manner.

The proposed wholesale market model is designed to promote greater competition and private sector investment in the SWIS. The model comprises a bilateral contract market with an associated residual trading market (RTM), and mechanisms for balancing and congestion management, and for maintaining capacity reserves. The RTM will be a day ahead market used to trade uncontracted energy in the short term. The proposed market model will extend the bilateral contracting system currently in place and make it operate more effectively by addressing issues that have inhibited the development of a competitive bilateral market in Western Australia. A number of transitional restrictions on business investment and regulation of the conduct of the State-owned successor entities will also be enforced to mitigate their market power.

The wholesale market will be operated by the System Management business unit of State Networks, with the Economic Regulation Authority monitoring the effectiveness and functionality of the market. A Market Rules Panel will be responsible for developing, maintaining and revising the Electricity Market Rules.

The main objective of the reforms is to achieve, where practicable, sustainable lower electricity prices for all customers while maintaining the uniform tariff for residential and small business customers, and ensuring adequate reliability, security, quality and safety of electricity supply. Through the reform process, consumers will also

benefit from increased choice of supplier and service options as the newly competitive market develops.

For a resource based economy like Western Australia's, lower electricity prices are essential to improve our competitiveness and encourage economic growth.

3.1.2 Regulatory Reform, Retail Contestability and Consumer Protection

A new regulatory framework is proposed as part of the reform of the electricity supply industry. This includes the establishment of a licensing regime for generators and other wholesale market participants, transmitters, distributors and retailers of electricity. Licensing will allow the State to identify operators, and to monitor and report their performance in relation to specific criteria for prudential and service standards.

An Electricity Access Code providing for open access to network assets is currently being developed to suit conditions prevailing in Western Australia. The electricity network facilities to be covered by the Electricity Access Code will be those that currently form part of Western Power's Networks business, and any other transmission and/or distribution facilities that meet specified criteria. The Electricity Access Code is to incorporate the use of incentive regulation, including the use of price and/or revenue caps and, where efficient and practicable, cost reflective network pricing. Access arrangements will set out the terms and conditions for standard access services and will be approved and monitored by the Economic Regulation Authority.

Administration of the Electricity Access Code by the Economic Regulation Authority will for the first time see network access terms and conditions independently assessed, consistent with the obligations under Clause 4 of the Competition Principles Agreement. The Access Code arrangements are reported in greater detail at Section [6.2.2].

The Government had a target of introducing full retail contestability (FRC) in 2005. However, noting that FRC requires effective competition at all levels of the industry and at the generation and wholesale market levels in particular, the Task Force recommended the delay of the FRC because the prerequisites for facilitating FRC would not all be in place by this time.

To maintain the momentum of reform however, the Task Force proposed that the threshold for contestability be reduced to 5.7 kW average load (50 MWh per annum) on 1 January 2005. This level of consumption is typical of small businesses, for example, small corner shops, and would result in an additional 10,000 contestable consumers. This is in addition to the recent reduction in the contestability threshold to 34 kW in January 2003.

The cost of processes and systems necessary to accommodate this interim step will be lower than the costs of FRC because of the smaller number of contestable customers and will result in a total number of around 12,500 consumers (which equates to around 60 per cent of Western Power's current load) in the SWIS being contestable and therefore open to competition from other generators and retailers. Competition in the retail market will ensure the benefits of upstream efficiency gains are passed through directly to consumers.

Consumer protection for residential and small business customers will be addressed by a number of measures, including the implementation of a Customer Service Code; obligations on retailers to have a standard contract with associated standard tariff at or below the uniform tariff cap which is available to any existing or new tariff customer; obligations on network service providers to publish an approved consumer connection and extension policy detailing the technical and economic conditions for connection of customers; implementation of an Energy Ombudsman scheme providing consumers with a complaint resolution mechanism; and a retailer of last resort obligation on State Retail in the SWIS and the Regional Power Corporation in the NWIS and non-interconnected systems to ensure that supply is available to customers whose retailer exits the market.

Western Australia has had a long-standing policy of providing electricity in rural and remote areas at the same tariff as in the Perth metropolitan area, to provide equitable outcomes for people in regional areas and to encourage regional development. The financial losses due to providing electricity at the extremities of the SWIS and in regional areas at uniform tariffs are currently borne internally by Western Power through cross-subsidisation.

The Council of Australian Governments (COAG) considered the issue of cross subsidies in 1994 (in the context of water reform) and their decision, which was reflected in the Competition Policy Agreements, states that cross-subsidies should be transparently reported, and ideally removed where they are "inconsistent with efficient and effective service, use and provision" (clause 3 of the water-related section of the Agreement On Related Reforms). The decision recognises that, in certain circumstances, cross subsidies that are transparently reported are appropriate and consistent with National Competition Policy.

It is Government policy that uniform tariffs across Western Australia be retained. The Government has recently reaffirmed its objective that "the uniform electricity tariff is to be provided as a safety net in a transparent manner that encourages efficiency in the delivery of the service."

To facilitate the provision of uniform tariffs within the SWIS, the Task Force has proposed that network pricing and loss factors are to be averaged below a certain level of consumption within the SWIS. In addition, a Tariff Equalisation Fund is to be established to cover the uncommercial activities of the Region Power Corporation in the NWIS and non-interconnected systems. Funding for both of these mechanisms will be derived from existing network charges in the SWIS. However, the cross subsidies will be made transparent, consistent with NCP principles.

3.1.3 Implementation Timetable and Public Consultation

The Government has committed to an ambitious timetable for implementing the proposed structural, market and regulatory reforms. The key milestones that the Government has identified include:

- the disaggregation of Western Power to be completed and the successor business entities to be in operation prior to 1 July 2004;

- the development of the Western Australian Electricity Access Code by 1 January 2004, and the operation of the new access framework and licensing regime by 1 January 2005;

- the reduction in the contestability threshold to 5.7kW on 1 January 2005; and

- the implementation of the new wholesale electricity market by 1 July 2005.

The Government's work program continues to include extensive stakeholder consultation and participation. The Electricity Reform Task Force consulted widely during its deliberations, releasing discussion papers in November 2001 and April 2002 and considering numerous submissions from this public consultation process prior to delivering its recommendations to government in October 2002.

The high-level Electricity Reform Implementation Steering Committee, supported by the Electricity Reform Implementation Unit, was established following the Government's endorsement of the Task Force's recommendations in November 2002. The Steering Committee and the Implementation Unit will continue to facilitate the consultation process initiated by the Task Force.

A Union Consultation Committee has commenced operation to address any concerns of Western Power employees in relation to job security, career paths, remuneration and employment conditions. An Electricity Industry Reference Group is also in the process of being established to provide a sounding board for industry with respect to electricity reform implementation issues.

It is also intended that the Implementation Unit will release exposure drafts and host workshops on specific electricity reform matters such as regional issues, wholesale market implementation, access code, licensing regime, customer protections, transitional arrangements and sustainable energy initiatives.

3.2 Gas

Since 1995, Western Australia has implemented a broad range of structural reform initiatives in the gas industry to ensure a competitive market conducive to private investment. These initiatives have included:

- disaggregation of the major domestic gas supply contracts and compulsory third-party access to the transmission and distribution networks;

- separation and corporatisation of the former State-owned gas and electricity utilities;

- structural separation of the gas transmission and distribution functions; and

- the subsequent privatisation of transmission and distribution/retail activities of the formerly government owned corporation, AlintaGas.

The Government is committed to the establishment of a competitive gas market in Western Australia. Reforms to the gas access regime and preparations for the move to full retail contestability are addressed in more detail in Section 6.1.

3.3 Economic Regulator

The Government is committed to the establishment of an independent Economic Regulation Authority (ERA) with functions across the gas, rail, water and electricity industries. Establishment of such a multi-industry economic regulator was a central feature of the Government's pre-election electricity reform policy statement and was a significant recommendation of the Machinery of Government (MoG) Task Force report.

The ERA will perform a range of economic regulatory functions currently performed by Ministers, sector-specific regulators and public sector officials. It is proposed that the ERA will:

- independently regulate access to significant economic infrastructure under industry-specific access regimes. It would initially assume responsibility for the existing gas and rail access regimes. Responsibility for a future electricity access regime is subject to implementation of the Electricity Reform Task Force recommendations;

- independently grant industrial licences and ensure compliance with terms and conditions applying to licences;

  – the ERA would initially assume responsibility for water industry licensing;

  – gas industry licensing functions would be transferred at a later date, which is expected to follow the implementation of Full Retail Contestability;

  – electricity industry licensing functions are subject to the implementation of the Electricity Reform Task Force recommendations; and

- make expert recommendations to government about tariffs and charges for government monopoly services, and any other matters requested by the government.

The ERA will comprise at least one and up to three Commissioners with a supporting office. It is to be established as an independent statutory authority under a centre-piece enabling Act. A range of industry-specific legislation will then define the functions, and ensure the independence of the ERA for each industry.

Like the existing independent Gas Access and Rail Access Regulators, the ERA will be an independent, specialist regulatory body with technical expertise and a clear regulatory mandate. The design of the ERA has focussed on best practice regulatory principles and is consistent with the Government's vision of competitive utilities markets.

The Government will remain responsible for the laws administered by the ERA, and to support this function will establish an advisory committee drawn from the relevant government policy agencies.

The Economic Regulation Authority Bill 2002 was introduced into Parliament on 4 December 2002. The Bill was passed by the Legislative Assembly on 13 March 2003, and is currently being debated in the Legislative Council. Subject to

Parliamentary processes, it is anticipated that the ERA could be in operation by 1 July 2003.

4. COMPETITIVE NEUTRALITY

The application of competitive neutrality to all significant government businesses is an integral part of the State's ongoing reform of government owned businesses, to increase efficiency and generate benefits to the community. Western Australia's commitment is outlined in the State's Policy Statement on Competitive Neutrality (June 1996) which includes an implementation schedule for significant business activities.

Western Australia's program of competitive neutrality implementation and review is substantially complete. The State's biggest utilities have been subject to competitive neutrality for a number of years. These businesses have accounted for more than 80 per cent of the business revenues earned by the Government and provide the bulk of the benefits expected to be received from implementing competitive neutrality.

Western Australia has in place a competitive neutrality complaints mechanism in accord with its obligations. Western Australia's clause 3 policy statement notes that '*the complaints mechanism will apply only to public sector agencies which are required to comply with competitive neutrality and to in-house bids taking part in a formal tender process*'.

Complaints may be made by individuals, businesses and industry groups in the private sector and agencies of other jurisdictions (which are already subject to competitive neutrality) who:

- are, or may be, directly and adversely affected by the competitive advantage alleged to be enjoyed by the Western Australian Government agency carrying on a significant business activity; and

- compete in a particular market with the Western Australian Government agency, or seek to compete in a particular market with the Western Australian Government agency but are prevented from doing so by the competitive advantage alleged to be enjoyed by the agency.

4.1 Progress of Competitive Neutrality Reviews

Western Australia has recently focused its attention on the smaller government agencies that are considered to be significant on the basis of criteria outlined in the State's Policy Statement on Competitive Neutrality. This has involved conducting reviews to see whether implementing competitive neutrality is in the public interest, and if so how competitive neutrality should be introduced. Western Australia has completed 26 competitive neutrality reviews of significant business activities.

Given the extent of legislative amendments required for implementing competitive neutrality, consideration is being given to including these amendments in umbrella legislation for statutory authorities. Umbrella legislation would contain generic provisions applicable to all government business enterprises, with a separate class of generic provisions that relate only to the subset of these agencies that are corporatised and commercialised.

4.1.1 Gold Corporation

The Review of the *Gold Corporation Act 1987* and Regulations, undertaken to fulfil both competitive neutrality and legislation review obligations, recommended several amendments to the act to remove the competitive advantages enjoyed by the Gold Corporation and its subsidiaries. These include:

- the Gold Corporation paying a fee for its Government guarantee on liabilities;
- removing the Western Australian Mint's statutory exemptions from rates and taxes; and
- applying an income tax equivalent regime to the Gold Corporation.

These measures are being implemented through the Acts Amendment and Repeal (Competition Policy) Bill 2002. The Standing Committee on Uniform Legislation and General Purposes recommended in its report released on 10 June that the Bill be passed without amendment.

4.1.2 Department of Justice Prison Industries

The Department of Justice Prison Industries Competitive Neutrality Review has been completed and was endorsed by Cabinet in April 2002. The review recommended full cost pricing be introduced for the Prisons Industries Programme (PIP). The review noted that there are a potentially large number of private sector competitors to the PIP, because the programme could cover a wide range of low-skilled product markets.

In particular, three existing markets were outlined as potentially impacted by the PIP, including the markets for:

- concrete products, such as those manufactured at Hakea Prison;
- cabinet products competing with the products of the cabinet shop at Casuarina Prison; and
- textile products, such as the products of the textile shop at Bandyup Prison.

Unlike private sector operators, the PIP has very low labour costs, and the allegation is often made that this allows it to undercut private sector providers. However, a comparison of direct labour costs between the private sector and the PIP is misleading, as:

- the review report provided evidence from New South Wales suggesting that inmates are between four and six times less productive than employees in the private sector. Adjusting the direct cost of prison labour in Western Australia by its relative productivity, results in the real cost of prison labour being comparable to wages in the private sector. As a result, complaints about the low cost of prison labour are unjustified; and
- private sector production in the markets in which the PIP operates is commonly characterised by capital-intensive production, which is generally more efficient.

However, PIP production is quite deliberately labour-intensive, as the prime aim is to provide work for inmates, not to produce product at minimum efficient cost.

The review report noted that the important competitive advantages arising from Government ownership are as follows:

- there is no requirement for the PIPs to pay income tax;
- the PIPs are exempt from various State Government fees and charges; and
- local government rates are based on nominal values.

PIPs are not subject to any major competitive disadvantages due to their public sector ownership.

The review noted that removing the identified advantages would produce both costs, in the form of increased product prices and reduced demand for prison products, and benefits, in the form of increased accountability and transparency of prison operations, and reduced negative impact on the private sector. The review concluded that imposition throughout the PIP of full competitively neutral pricing would further the public interest.

The analysis indicated that the implementation of competitive neutrality is unlikely to impact heavily on the significant positive social impacts associated with the PIP, being reduced recidivism, easier prisoner management, and skills acquisition by prisoners, since price adjustments were estimated to be between 2% and 5% on the current pricing.

Full cost pricing has been implemented throughout the prison industry. They mainly compete with imported products or simply provide the labour component with another party supplying materials and marketing the final product to retailers. The prisons will cover the cost of products as determined by full cost pricing and negotiate a price between that and any higher price that the market can bear.

Prisons have a product pricing form which specifies prisoners wages as an hourly rate for various tasks. There is also allowance for the hourly rate of an instructor/supervisor, materials and consumables, depreciation of equipment used and cost of floor space or workshop. Then a 20% contingency fee is added to cover costs such as land rates.

4.1.3 Valuer General's Office

The competitive neutrality review of the Valuer General's Office, which was endorsed by Cabinet in November 2000, has led to the Office changing its cost and pricing structures to a full cost recovery basis.

4.1.4 Universities

The competitive neutrality review of universities was endorsed by Government in February 2003. The review was wider than a strict competitive neutrality review, as it also considered whether universities should be given greater autonomy in using

vested land and in undertaking commercial activities. These broader policy issues were identified as part of the legislation review of university Acts completed in December 1998, which deferred consideration of these issues to the competitive neutrality review. The issues were referred to an inter-agency working party comprising representatives of the universities, Department of Treasury and Finance and Department of Education Services.

The competitive neutrality review identified the following competitive disadvantages to universities arising from Government ownership:

- public universities face costs associated with compliance and reporting under the *Financial Administration and Audit Act 1985* and Annual Reports to Parliament . Public universities are also subject to a wide range of social legislation dealing with matters such as Freedom of Information and Affirmative Action. Scrutiny and reporting of various university operations occurs at both the Commonwealth and State levels; and

- Western Australia's public universities are restricted from engaging in commercial activities that are not directly related to the objectives of the universities.

The review highlighted the differential treatment of universities, and in particular that Curtin University of Technology is the only public university in Western Australia that is allowed to undertake activities outside Australia.

The most contentious issue considered in the review was whether all university Acts should be changed to make it clear that universities can engage in purely commercial activities, which are not necessarily ancillary to, or directly facilitating education and research, but which further the objectives of the university.

The review recommended:

- where a university seeks to enter into a number of leases, the university Acts should allow for the concept of a Head Lease. That is, provision should apply within each Act so that the Governor's approval can be sought for a Head Lease and the university would have the flexibility to enter into subleases subject to the provisions and conditions of the Head Lease, thus obviating the necessity of all university subleases being required to be submitted for Governor's approval;

- the university Acts be amended to enable the Senate or Council to establish common funds into which smaller donations can be aggregated for investment purposes and to enable common funds to be invested as trust funds;

- no major change be made to individual university Acts in relation to existing exemptions from rates and taxes on vested property, on the understanding that where vested lands are being used for commercial or private purposes all university Acts have provisions for taxes and charges to apply, and that similar provisions should apply to all the universities in relation to exemption from rates and taxes in the university Acts;

- where university activities are predominantly commercial in nature, provided on a fee-for-service basis with direct outside competition, that universities should introduce full commercial pricing policies;

- an appropriate competitive neutrality complaints procedure be established which is rigorous and transparent with open reporting of findings, including some form of appeals process and involving the Department of Education Services. The complaints handling mechanism, which will hold the universities accountable for introducing full commercial pricing policies, is necessary given the independent relationship between universities and government; and

- the university Acts be amended so that each university is clearly able to conduct commercial activities, by use of its real personal property, both within and outside Western Australia and Australia, where the university's Senate or Council considers that the activities are most likely to promote the interest or objects of the university, its management or the conduct of its affairs or concerns;

In addition, the Government endorsed the Treasurer's recommendation that an inter-agency working group be established, comprising representatives of the Department of Treasury and Finance and Department of Education Services, to report to the Treasurer on the most appropriate way of mitigating the financial risks associated with allowing universities to engage in commercial transactions. These risks include the possibility of having to provide funding if a business venture makes substantial losses and loss of Commonwealth revenue. The working group will consider the risk mitigating measures that were introduced in New South Wales, which has recently passed legislation allowing its public universities to engage in commercial activities.

As a result of the review, legislation is being drafted to clarify the powers of universities to engage in commercial activities in Western Australia and outside of Western Australia, including activities that do not directly relate to the universities' core functions of education and research.

4.1.5 TAFE Colleges

A competitive neutrality review of TAFE colleges is near completion and is expected to be submitted to Cabinet for endorsement in the near future.

4.1.6 Native and Plantation Forestry

Competitive neutrality reviews of native forestry activities, and of plantation forestry activities of the Forest Products Commission, have been completed by independent consultants and are currently being considered by Government.

4.2 Competitive Neutrality Complaints

4.2.7 Complaints Handling Process

The complaints handling process involves complainants initially making contact with the agency alleged not to be complying with competitive neutrality to discuss (and, if possible, resolve) the allegation. If resolution of an allegation of non-compliance with competitive neutrality between the complainant and the relevant

agency cannot be reached, complainants are then advised to lodge a complaint in writing to the Complaints Secretariat. Allegations of non-compliance need to be accompanied by sufficient evidence to establish a prima facie case for investigating an agency's pricing strategy, cost structure and behaviour.

The Complaints Secretariat is responsible for the initial screening of the complaint. The Secretariat will determine whether the complaint falls within the scope of the complaints mechanism and warrants further investigation.

Where a complaint meets the criteria the Complaints Secretariat carries out the investigation in accord with the State's policy statement on competitive neutrality and report its finding to the Expenditure Review Committee. The report would contain an assessment of whether the Government agency enjoys a competitive advantage by virtue of its ownership by Government, and whether the removal of this advantage is in the public interest.

4.2.8 Complaints Received

The Complaints Secretariat has received a complaint about the activities of Government owned businesses, or businesses linked to Government, where an allegation of non-compliance to the policy of competitive neutrality was raised:

- Kable Export Pty Ltd which exports potatoes to Mauritius (among other things) has contended that the Potato Marketing Corporation of Western Australia (Western Potatoes) has been significantly undercutting its prices in this export market. It is argued that Western Potatoes are able to undercut prices in export markets due to its monopoly status over the Western Australian domestic market. However, the competitive neutrality review of Western Potatoes has not been completed, which is a prerequisite for complaints to be considered. Kable Export has been advised to resubmit its complaint if the NCP review of the *Marketing of Potatoes Act 1946* does not adequately deal with its concerns.

The Secretariat has however received the following complaints which are against agencies that are not formally required to comply with competitive neutrality:

- The private provider of radiation oncology services has complained that the pricing policy of Sir Charles Gairdner Hospital's radiation oncology service may be in breach of competitive neutrality principles. Perth Radiation Oncology Centre (PROC) has complained that Sir Charles Gardiner Hospital (SCGH) should be required to charge a co-payment for the patients they treat. However, the Department of Health take the view that a co-payment is against the principles of the public health services.

  The Department is of the view that there is no 'market' for radiation oncology treatment since patients are not able to insure for treatment in the private sector, and critically, it is not a discretionary treatment. Treatment is one part of a broader range of health services that need to be provided in an integrated package, and it would be undesirable for components of the package to be "cherry picked" on the basis of profitability.

  In Western Australia, the operations of State owned hospitals are not subject to the principles of competitive neutrality. However, the Minister for Health is

currently considering whether there is sufficient justification for a competitive neutrality review of radiation oncology services to be undertaken.

In considering this issue, the Minister will examine the findings of the Report of the National Radiation Oncology Inquiry, which will make recommendations in relation to Commonwealth and State funding of public and private providers. The Inquiry has shown that there are many problems in radiation therapy due to fragmentation between the different levels of government. To address this, a centrepiece of the Report is the establishment of an independent national body for planning, quality and funding purposes. The national review of radiation oncology has recommended wide ranging changes that if implemented will render the complaint by PROC irrelevant.

- A provider of tree seedlings has been concerned with the policy of the Department of Conservation and Land Management to provide trees below cost through funding provided through the Natural Heritage Trust. The complainant has been informed that the contract for production of the seedlings was let out to competitive tender and that the seedlings have been provided at less than their market price for environmental purposes.

- A private company has made an informal complaint against the Department of Justice's PIP in relation to a product manufactured in prisons that competes with products it sells. Full cost pricing has, however, been implemented throughout the PIP since this complaint was made (see discussion in section 4.1.2).

4.3 Implementation of Competitive Neutrality Principles

For the larger public trading enterprises, competitive neutrality has been effectively achieved through commercialisation and corporatisation, which establishes an arms length relationship between an agency and its Minister through the constitution of an independent board of directors. The board takes responsibility for all aspects of the agency's operations, while the strategic direction is negotiated between the board and the Minister.

Corporatisation and commercialisation is designed to achieve:

- clarity and consistency of agency objectives;

- greater autonomy and authority for agency management;

- external monitoring of agency performance;

- effective rewards and sanctions for agency management reflecting the agency's performance; and

- competitive neutrality.

The Productivity Commission report Financial Performance of Public Trading Enterprises 1996-97 to 2000-01, provides financial performance reports for a number of public trading enterprises in Australia. In relation to Western Australia, performance reports are provided for Western Power, Water Corporation,

Western Australian Government Railways Commission (WAGRC) and the Fremantle and Bunbury Port Authorities.

Over 2000-01, the rates of return on capital exceeded the 10 year Commonwealth bond rate of 5.8% for all these public trading enterprises except the Water Corporation (which had a return of 5.1%) and the WAGRC (which had a return of -4.5%).

- In relation to the Water Corporation, this was due to the fall in the Corporation's operating margin (due to the drought) and a steady increase in the Corporation's assets over the past five years. In 2000-01, a record capital works program of $497 million also ensured that the Water Corporation's return in 2001-02 did not improve (and in fact decreased to 4.9%).

- In relation to the WAGRC, this was on account of the December 2000 sale of the freight division, which reduced the group's assets, debt, revenues and expenditure. The WAGRC incurred an extraordinary loss of $116 million in contract revenue due to the sale. However, since then the performance of the WAGRC has improved, and in 2001-02 it recorded a return of 3.9%.

5. RELATED REFORMS

Western Australia is committed to the agreement to implement related reforms in the areas of water, gas, electricity and road transport and has substantially met its reform obligations. Sections 5.1 to 5.4 provide an outline of Western Australia's progress on each of the related reforms.

5.1 Water

In line with its commitment to the COAG water reform agreements, the WA Government has undertaken detailed reviews of its remaining valuation based charges in country and metropolitan areas. As a direct result, measures have been put in place to implement further tariff reforms throughout the State.

As mentioned earlier the Government has included a role for independent Economic Regulation Authority (ERA) in the water industry. The ERA will assume responsibility for the water industry licensing regime which is currently contained in the *Water Services Coordination Act 1995*. The functions of the ERA under the amended *Water Services Coordination Act 1995* are to:

- monitor and report to the Minister on the operation of the licensing scheme and on compliance by licensees with their licences;
- inform the Minister about any failure by a licensee to meet operational standards or other requirements of its licence;
- monitor the performance of the water services industry and of those participating in that industry, and the performance of providers of water services; and
- for the purposes of such monitoring, to consult with interested groups and persons.

In addition, the ERA will also have the capacity to inquire and report on matters related to the water industry, such as pricing and pricing policy. It remains for the Minister to act on the Authority's report recommendations. For example, amending the Water Agencies (Charges) By-laws following a report by the ERA.

5.1.1 Consumption Based Pricing

5.1.1.1 Water Supply Services

There are three main providers of water services in Western Australia: the Water Corporation, Aqwest (formerly the Bunbury Water Board), and the Busselton Water Board (BWB). All three organisations have made significant progress in eliminating free water allowances and gross rental values from water and wastewater charges and have implemented reforms for metropolitan commercial waste water services.

There are no free water allowances for water service customers, except for a relatively small group of metropolitan 'exempt' properties that include local government community facilities, churches, hospitals, sporting facilities, museums and private schools. The Water Corporation is removing these allowances and replacing them with a more suitable charging structure.

The Minister for the Environment and Heritage (the Water Industry Minister) has recently approved the introduction of a two part tariff for non-residential water customers of the Aqwest and the Busselton Water Boards.

The two-part tariff for both Water Boards comprises a fixed charge that is proportional to the size of the meter used to service the property (as a larger meter will require greater capacity infrastructure and consequently higher maintenance costs) and a two-tiered volumetric charge (1 to 1,000kL and >1,000kL).

5.1.1.2 Sewerage and Drainage Services

Sewerage charges for metropolitan commercial customers have met COAG requirements with a two part tariff consisting of a fixed charge based on the number of major fixtures and a usage charge based on the volume of water discharged to the sewerage system. This reform required an overall reduction in business sewerage charges of $26 million per annum to align business sewerage revenue with costs.

Increases to the charges associated with the reform of metropolitan commercial wastewater services have been limited to the general price increase (GPI) plus 10 per cent per annum.

Since all effluent must be discharged as a community health service, a discharge allowance of 200kL per annum is provided to commercial sewerage customers to avoid the cost of assessing discharge factors for properties where the resulting volumetric charges would be relatively small. The discharge allowance will therefore not influence the frequency of use of the service.

In 2002 a working group was established to examine alternatives to the remaining valuation based charges for residential sewerage, country commercial sewerage and metropolitan drainage.

The Joint Working Party was established with representatives from the Minister for Government Enterprises (the Shareholder Minister), the Minister for the Environment and Heritage (the Industry Minister), the Department of the Premier and Cabinet, the DTF, the Office of Water Regulation, the Water and Rivers Commission and the Water Corporation.

Of the recommendations of the Joint Working Party, the Government has adopted the following:

1. replace country commercial sewerage charges with the metropolitan commercial charges, comprising a two-part major fixture and volumetric tariff; and
2. maintain the existing valuation based charges for residential sewerage, subject to the Water Corporation publishing information of the distribution of sewerage charges in its Annual Report.

However, no decision has yet been made for metropolitan drainage pricing reform. That decision is expected by July 2003.

The decision to retain valuation based charges for residential sewerage is due primarily to the large redistributional impacts of the reform. Analysis found that some customers from lower income groups would experience increases in their

sewerage charges of more than 100% (for example, the current country minimum charge is around $198, while a Statewide flat charge would need to be levied at around $430).

Consequently, in accordance with NCP requirements, the existing cross subsidisations that will remain are to be transparently reported in the Water Corporation's annual report or in another form that is acceptable to the Council. It is proposed that the cross subsidies will be illustrated using a distribution chart or another similar medium. The Water Corporation and the DTF have undertaken to finalise these arrangements.

In regard to the City of Kalgoorlie-Boulder's commercial sewerage customers (approximately 7,100 customers), a decision has been taken that it would not be in the public interest to shift from the current charging structure because of the large redistributional impacts and administrative expense.

5.1.2 Full Cost Recovery

The three main providers of water services in Western Australia have water supply tariffs in place which are based on achieving full cost recovery, in accordance with COAG requirements. In addition, the majority of Western Australia's urban wastewater services are now recovering costs consistent with COAG commitments.

However, in line with other locally operated country sewerage schemes, the City of Kalgoorlie-Boulder sewerage scheme is run solely by the Council and does not operate under a subsidiary entity. Therefore, the separate costs (including the asset replacement and maintenance costs) cannot be separated and recovered from users of the sewerage service.

5.1.2.1 Tax Equivalent Regimes

The Water Corporation, Aqwest and the Busselton Water Board are subject to the National Tax Equivalent Regime in accord with the principles of competitive neutrality. In 2001-2002, the Water Corporation's liability for income tax equivalents, payroll, land and other statutory taxes was approximately $131 million.

In 2001-2002 Aqwest made income tax equivalent payments of $1.2 million and the Busselton Water Board made payments of $66,000.

The City of Kalgoorlie operates under the *Local Government Act 1995* and therefore the application of the National Taxation Equivalent Regime is not appropriate for the City of Kalgoorlie.

5.1.2.2 Asset valuations

As State Government Trading Enterprises, the Bunbury and Busselton Water Boards are required to use the Australian Accounting Standard Board's Accounting Standard 1041 (or fair value) for the valuation of its non-current assets for external reporting purposes.

Because of the relatively small size of the respective operations at Aqwest and the Busselton Water Board, the minor differences in resultant valuations between the fair

value approach and the deprival value approach for non-current assets are not significant enough to warrant either Board maintaining separate asset registers using both methods.

The City of Kalgoorlie-Boulder as a local government is also bound to comply with the Australian Accounting Standards. As with the Water Boards, there is insufficient justification for the City of Kalgoorlie-Boulder to maintain separate asset registers using both the fair value and the deprival value approach methods of non-current asset valuations.

5.1.3 Consideration of Externalities

Western Australia is committed to accounting for externalities in important decisions involving water resources.

In 2002, Cabinet approved a Water and Rivers Commission investigation for the development of a water resource management charge designed to account for and recover the cost of managing the State's water resources. The charge will seek to account for externalities in the industry.

Externalities are already considered in all cases as part of the resource management decision making process and are therefore indirectly factored into the cost of any action which has the potential to produce environmental externalities.

5.1.4 Institutional Reform

The institutional structuring of the Western Australian water industry demonstrates substantial commitment to the COAG strategic framework. Restructuring and corporatisation of the Western Australian Water Authority has resulted in the establishment of the Water Corporation, the Office of Water Regulation and the Water and Rivers Commission.

As previously mentioned, the Government has a Bill in Parliament to establish the independent Economic Regulation Authority (ERA) with functions across various industries including water. The Authority will comprise at least one and up to three Commissioners reporting to the Treasurer, while water services will remain the portfolio responsibility of a separate Minister.

The ERA will perform a range of economic regulatory functions currently performed by Ministers, sector-specific regulators and public sector officials. As indicated in section 3.3, it is proposed that the ERA will:

- independently regulate access to significant economic infrastructure under industry-specific access regimes;

- independently grant industrial licences and ensure compliance with terms and conditions applying to licences; and

- make expert recommendations to Government about tariffs and charges for government monopoly services, and any other matters requested by the Government.

5.1.5 Management of Irrigation Services

Western Australia has made further progress in giving irrigators more responsibility for the management of the remaining irrigation schemes.

5.1.5.1 Ord River Irrigation Scheme

As indicated in the 2002 assessment, Stage 1 of the Ord Irrigation Scheme, including the distribution system and the headworks (the Ord Main Dam and the Ord Diversion Dam), is on track to be fully transferred from the Water Corporation to the Ord Irrigation Cooperative (OIC). On 1 July 2002 the management of the Scheme was transferred and by December 2003 the assets will also be transferred.

Following the transfer the Water Corporation will continue to supply OIC with bulk water under a Water Supply Agreement. OIC will own, operate and maintain the Ord Irrigation Scheme (Stage 1) distribution system and will have responsibility for retail water service delivery to growers in the Scheme. The Water Corporation would continue to own, operate and maintain the M1 channel (the main irrigation channel) and the Hillside Levies.

5.1.5.2 Carnarvon Irrigation Scheme

In August 2001, an Operation and Management contract was signed between the Water Corporation and the local Carnarvon irrigation cooperative. Subject to government approval, the transfer of the Carnarvon Irrigation Scheme to the irrigation cooperative is planned for 30 June 2003. The transfer would give the Carnarvon Irrigation Cooperative responsibility for:

- retail water service delivery to irrigators within its designated district; and
- operations, maintenance and renewal of the pipe distribution system and service connections.

5.1.6 New Rural Schemes

The Government is investigating the establishment of a Rural Water Supply Investment Appraisal Steering Committee. The Committee would investigate potential investments in new, or extensions to existing, rural water supply infrastructure in Western Australia, to appraise and evaluate the economic viability and ecological sustainability of the investment.

5.1.7 Water Allocation and Trading

5.1.7.1 Water Allocations and Property Rights

Under Western Australian legislation all water licences are tradeable.

Western Australia has continued to progress water allocation and property rights reform by implementing a new registry system to register water licence holders. It includes the necessary forms to be completed by persons changing the status of their water holding or usage. The registry has been available to the public since late June 2002.

The Water and Rivers Commission, industry and financial organisations established a working group which is at present engaged in discussions to clarify issues arising from the registration of securities on licences when loans have been granted and security is required. The work of this committee has been temporarily put on hold since the major banks withdrew their membership in Western Australia. The State is closely monitoring development in other States.

5.1.7.2 Provision for the Environment

Western Australia continues to progress the implementation of water allocations for the environment. The *Rights in Water and Irrigation Act 1914* (the Act) formalises Western Australia's approach to providing water for the environment through a tiered system of statutory water management plans (regional, sub-regional and local).

Environmental water provisions are set in water management plans in either the form of a notional or interim allocation limit, or through formal assignment in areas where the resource is highly or fully committed.

Table 1 below indicates the current status of water management plans in Western Australia. The table includes a list of existing plans and the date of effect of these plans for both surface and groundwater systems. These plans continue indefinitely but are reviewed every seven years. However if water use has not increased the review of plans may be deferred.

Reviews are undertaken after:

- plans have become outdated. The update takes into account increasing demand and changing water and land use patterns resulting in revised forecasts for future use, climate change etc;

- it is decided older plans do not have the comprehensive environmental allocation analysis required to establish environmental water requirements;

- further data acquisition and analysis yields a better hydrological understanding leading to a revision of allocations with some being increased and some being decreased;

- a sharp increase in demand for water required a more comprehensive and exact determination of environmental water requirements and resource limits being undertaken; and

- in some cases where greater 'in depth' public consultation has been undertaken.

The Water and Rivers Commission is progressing to schedule and developing additional allocation plans, reports, strategies and time-lines as required.

Table 1: Revised Groundwater Management Plans, Reports and Allocation Strategies (WRC)

Plan	***Year***	***Last Report***	***Last action***	***December 2002 position***	***March 2003 position***	***May 2003 position***
Goldfields Regional	1994	Under Review	Position paper completed (2001/02)	No action proposed at this time	Nothing proposed	No action proposed
South West Coastal Groundwater Management Review	1989	Deferred	Position assessed	Incorporated in Kemerton Plan (2002/03) on schedule	On schedule, will be completed December 2003	On Schedule
Broome Subregional	1994	Deferred	Position assessed	Review 2004/05	On schedule	On Schedule
Derby Local	1992	Review 2001/02	Position assessed	Review 2004/05	On schedule	On Schedule
Exmouth Local	1999	Review 2002/03	Position assessed	Review 2006/07	On schedule	On Schedule
Jurien Subregional	1995	Under review	Completed 2001/02	2nd Review by 2009/10	On schedule	On Schedule
Arrowsmith Subregional	1995	Under review	Completed 2001/02	2nd Review by 2009/10	On schedule	On Schedule
Gingin Subregional	1993	Under Review	Completed 2001/02	2nd Review by 2009/10	On schedule	On Schedule
Gnangara Groundwater Resources, Environmental. Review and Management Program	1986 /92	Under Review	Section 46 review completed 2001/02	Under review 2002-03 on schedule	On schedule, will be completed December 2003	On Schedule
Swan Subregional	1997	Under Review	Position assessed	Review 2004/05	On schedule	On Schedule
Perth Northwest Corridor Groundwater Management Plan	1992	Deferred	Position assessed	Review 2002/03 on schedule	On schedule, will be completed December 2003	On Schedule
Wanneroo Local	1993	Under Review	Under review	Review 2004/05	On schedule	On Schedule

Plan	***Year***	***Last Report***	***Last action***	***December 2002 position***	***March 2003 position***	***May 2003 position***
Rottnest Groundwater Management Review	1987	Deferred	Assessed as low priority	No action proposed at this time	Nothing proposed	No action proposed
Bolgart Groundwater Management Review	1990	Deferred	Assessed as low priority	No action proposed at this time	Nothing proposed	No action proposed
Cockburn Subregional	1993	Under Review	Completed 01/02	2nd Review by 2009/10	On schedule	On Schedule
Rockingham/Stake Hill Subregional	1988	Under Review	Completed 2000/01	2nd Review by 2008/09	On schedule	On Schedule
Jandakot Groundwater Review	1991	Deferred	Assessed as low priority	No action proposed at this time	On schedule	On Schedule
Busselton-Capel Subregional	1995	Under Review	Position assessed Position reviewed	Review 2003/04 extended to include SW & GW 1st draft 2004/05 final 2005/06	On schedule	On Schedule
Bunbury Subregional	1994	Review 2002/03	Continuing review	To be incorporated in Kemerton Plan 2002/03 on schedule	On schedule, will be completed December 2003	On Schedule
Collie Water Resource Management Strategy	1988	Under Review 2002/03	Continuing review	Review beginning 2002/03 on schedule for completion of final 2004/05	Review complete. Draft plan complete July 2003 final plan for completion 2004/2005	On Schedule
Murray Subregional	1997	Under Review	To be reviewed 2002-03	Review completed, priority low	No action proposed	No action proposed

Plan	***Year***	***Last Report***	***Last action***	***December 2002 position***	***March 2003 position***	***May 2003 position***
Albany Local	1991	Under Review 2001/02	Strategy completed 2001/02	2nd Review by 2009/10	On schedule	On Schedule
Esperance Local Draft	1997	Under Review 2000/01	Completed 2001/02	2nd Review by 2009/10	On schedule	On Schedule
Bremer Bay Groundwater Protection	1995	Review 2001/02	Position assessed	Low priority	No action proposed	No action proposed
La Grange Subregional		Draft in Progress 2002/03	Position reviewed	To incorporate Kimberley Plan (2004/05)	On schedule	On Schedule
Pilbara Regional		In progress 2001/02	Strategy undertaken	Strategy to be completed 2004/05	On schedule	On Schedule
Kimberley Regional			See La Grange			
Carnarvon Local		In Progress 2001/02	In progress	To be completed 2002/03 on schedule	On schedule, will be completed December 2003	On Schedule
Gascoyne Junction Interim Local		In Progress 2001/02	Position reviewed	Low priority	No action proposed	No action proposed
Marbellup Interim Local		In Progress 2001/02	Completed 2001/02	2nd Review by 2009/10	On schedule	On Schedule
Kemerton Local		In Progress 2001/02	Completed 2001/02	2nd Review by 2009/10	On schedule	On Schedule
Cape to Cape (Vasse) Subregion		In Progress 2001/02	Position reviewed	To be completed 2003/04 Incorporated in Busselton Coast/Blackwood integrated SW/GW Plans	Blackwood now separate plan remains on schedule	On Schedule

Plan	***Year***	***Last Report***	***Last action***	***December 2002 position***	***March 2003 position***	***May 2003 position***
Blackwood	2002 /03			Incorporated in planning for 2002/2003	Draft will be complete December 2003 Final Scheduled for 2004/2005	On Schedule
Bremer Bay local		In Progress 2001/02	Position reviewed	No action proposed at this time	No action proposed	

SURFACE WATER ALLOCATION PLANS						
Harvey Basin Regional	1998	Completed 1999	Position reviewed	2nd Review 2005/06	On schedule	On Schedule
Perth-Bunbury Regional	1997		Position reviewed	Reviewed 2004/05	On schedule	On Schedule
Ord River	1997	Draft Interim	Draft plan completed 2001/02	Final plan 2003/04	On schedule	On Schedule
Busselton Coast – Lower Blackwood (Wicher Region)	2002 /03	New	Position reviewed Planning process began 2002-03	Draft 2004/05 Final Plan 2005-06	Planning complete 2002/2003 On schedule for Draft 2004/2005 and Final 2005/2006	On Schedule
Murray		In Progress 2001/02	Position reviewed	Reviewed 2005/06	On schedule	On Schedule

Source: Western Australian Government 2003 (unpublished)

5.1.7.3 Water Trading

Western Australia has in place a fully operational system for water trading through amendments to the *Rights in Water and Irrigation Act 1914* (the Act).

The Minister for Water Resources released Guidelines for water trading in 2001 and more recently, a sub-policy outlining a process for the facilitation of trade "*Preparing for Water Trading*" has been put in place to guide the operational management of trading in WA.

The Act sets out clear, appropriate and enforceable rights and responsibilities for all users of the resource. It separates the roles of government as sustainability manager from the roles of the rights holders and their commercial interests. It also allows local initiatives to achieve economic efficiency and resource access.

The Act gives secure title to water and manages the resource on the basis of sustainability to ensure that the water provided under the title is available. The title is exclusive in that the rights give entitlement to manage and use the water as the owner chooses. The exclusivity and use of the licence are both enforceable through the courts. Although the licence is granted for a period of about 10 years the title does not have such a limit although it is normally renewed as long as the conditions of the licence are met and the resource managed in a sustainable manner. The title is transferable to enhance economic efficiency.

5.1.7.4 Current levels of trade

Western Australia has recently rationalised its reporting of water trading and now reports trades in surface and groundwater, both on a temporary and permanent basis and with or without land sales.

The most significant area of water trading is the trading of surface water within the South West Irrigation Scheme where the licence take is 153.46 gigalitres, consisting of 68 gigalitres from the Harvey River and Logue Brook, 68 gigalitres from the Collie River and 17.46 gigalitres from the Drakes Brook and Samson Brook. Within the Scheme, there were 10.913 gigalitres in temporary transfers, 3.113 gigalitres were transferred with land sales, and the permanent transfers of water entitlements for 2002-03 were 0.194 gigalitres.

The trading in groundwater has consisted of 1.679 gigalitres temporarily transferred, 15.534 gigalitres were transferred with land sales and 0.058 gigalitres were transferred permanently (from July 1, 2002 to May 8, 2003).

5.1.7.5 Water Resource Management Committees

The amended Act provides for the establishment of Water Resource Management Committees (WRMCs) to provide local communities with the responsibility to manage the water resource.

The Water and Rivers Commission was tasked with developing the process for the establishment of the WRMC's which was initially intended to be implemented progressively over a three year period.

The establishment of Committees was commenced on an informal basis with the intention that they would be progressed to gazettal for formal establishment. Two Committees are proposed for the gazettal process within the very near future (one in the South West Region and one in the Mid-West Region). Other Committees have been formed as local advisory bodies to assist the Water and Rivers Commission in the decision making process for water resources management. These will progress through the formal process in the future.

5.1.7.6 Allocation of unused allocations

The practice in the past in WA has been to reclaim licences that are not used (sleepers) and reissue the allocation.

However, the introduction of water trading markets has required a reassessment of this policy. A revised policy statement "Management of Unused Allocations" is in final draft form and the Water and Rivers Commission is currently undertaking a public consultation process.

The Water and Rivers Commission is also investigating a more efficient use of its unused allocations. Currently the Commission may introduce a licence for a finite short/medium term to access resources that are reserved for future town supply. Discussion on the feasibility of this form of licence and demand for the licence is currently being held. A discussion paper titled "Reserving And Protecting Water Resources for Future Use in Western Australia" has been published as part of the consultation phase.

5.1.8 Environment and Water Quality

5.1.8.1 National Water Quality Management Strategy

Both consultative meetings that were agreed at the time of the 2002 assessment have been conducted. At the second meeting with the NCC on 31 March 2003, Western Australia reported the following progress and anticipated outcomes in relation to the implementation of the National Water Quality Management Strategy (NWQMS).

- Completion of a final draft of the State Water Quality Management Strategy implementation plan. It is expected that this document will be published before 30 June 2003;

- Further progress has been made with implementing the Australian Drinking Water Guidelines. In particular:

  – a Memorandum of Understanding between the Department of Health and the Water Corporation is in place and a media release announcing the adoption of the guidelines is with the Minister for Health;

  – a Statement of Planning Policy for Public Drinking Water Sources has been approved by Cabinet and is expected to be published by June 2003;

  – a recreation policy for Crown Land Priority 1 drinking water areas has been drafted and is ready for government endorsement and publication; and

  - a planner's manual on land use planning and drinking water protection has been released.

- Guidelines on freshwater and marine quality are still to be released because more time will be needed to ensure there is consistency between the approaches being taken by the Environmental Protection Authority and the Natural Resource Management Council, both of which have responsibilities in this area. At the time of the consultative meeting the State undertook to release the guidelines as soon as possible, although an estimate of when this would be done cannot yet be provided.

- The State has also provided an update on its progress on modules 8 and 11 to 15 of the NWQMS. The progress includes:

  - developing an implementation plan for the groundwater protection guideline (national guideline 8). A position paper has been prepared to guide work on this matter;

  - scheduling work on developing a module on effluent management (national guideline 11) for 2003-04.

  - finalisation and endorsement by the Water Corporation of guidelines now in place regarding the handling and disposal of trade and industrial waste (national guideline 12);

  - release of the Biosolids Guidelines in February 2002 which outline the State's current requirements (national guideline 13);

  - further progress on the issue of reclaimed water (national guideline 14) which is covered in the State Water Strategy released in February 2003. A State Water Strategy Working Group will also be established shortly to develop a guideline on reclaimed water and other matters raised in the strategy; and

  - the release of an implementation guide on sewerage overflows (national guideline 15) which was completed in November 2001.

More detailed information on progress towards the implementation of the State Water Quality Management Strategy is provided in Table 2 below.

5.1.8.2 Integrated Catchment Management

Western Australia has in place an Integrated Catchment Management–Natural Resource Management (NRM) policy with a peak body established by the Minister for Agriculture and the Minister for Environment to oversee the NRM processes.

A Senior Officers group on NRM has also been formed from The Department of Agriculture, Conservation and Land Management, Water and Rivers Commission, Department of Environmental Protection, Ministry for Planning and the Department of Land Administration.

In line with its adoption of efficient and effective NRM practices the Government has signed the bilateral agreement for the National Action Plan (NAP) and the

Intergovernmental Agreement. However, the Commonwealth has not yet accepted the NAP bilateral agreement.

As a result of the agreement not being signed as yet by the Commonwealth, the Regional NRM Strategies have not progressed in line with the NAP, nor have the State and Commonwealth accredited the four proposed regional NRM strategies. It is proposed that these strategies will progress to accreditation once the NAP is agreed.

Nevertheless, on January 17, 2003 both State and Commonwealth governments signed the National Heritage Trust II bilateral agreement, and where possible, all NRM developments continue to adopt the principles of NWQMS.

Table 2: Progress against the State Water Quality Management Strategy

State water quality management strategy	***2001/02 scheduled work***	***2002/03 scheduled work***	***Comment***
Outline of policies – 1 A reference document – 2 Implementation guidelines - 3	Yes	Yes	SWQ2 was presented to the NCC in draft form at the December consultative meeting and a commitment to publish was submitted at the March meeting, this is progressing to schedule and will be completed by June 30. The matters raised by the Secretariat for clarification at the march consultative meeting are being progressed. All of these components were considered in the preparation of the *State Water Quality Management Strategy (SWQ1, May 2001),* and incorporated within *SWQ2, March 2003*. NWQMS policies, guiding principles, strategies, references and implementation guidelines are considered in the development and implementation of the SWQMS and its related series of documents in 2003-04.
Fresh and marine water quality – 4	Yes	Yes	Presented to NCC in December consultative meeting and approved. The NCC comments on readability and the deletion of reference to the NCC is being considered in a professional edited, revised version of the document which is currently being undertaken. To be referred to Cabinet by the Minister for final sign off by WA once complete. Western Australia are also actively progressing to develop consistency in approaches with NRMC the and EPA determination of environmental values.
Drinking water summary - 5 Drinking water guidelines - 6	Yes	Yes	Presented to NCC in the December consultative meeting as draft and approved. The Department of Health WA (DoH) assessment of the Water Corporation (WC – the States largest water service provider) against the Australian Drinking Water Guidelines 1996 and the Memorandum Of Understanding between DOH and WC is to form the basis of a separate SWQ document. These were provided to the NCC at the meeting. The Advisory Committee for the Purity of Water recommended the adoption of ADWG 1996 to government late in 2002. The governments 2003, State Water strategy also supports the ADWG multiple barrier approach to drinking water (Section 8.6) The Minister has not progressed further with the press release at this time (March 4). The Governments 2003 State Water Strategy incorporates the ADWG multiple barrier approach.
Monitoring and reporting - 7	Yes	Yes	Please refer to comment in guideline 4 which include Guideline 7.
Groundwater Protection - 8	Yes	No	The background work including consultation undertaken to start the drafting an implementation plan were submitted to the Secretariat at the March consultative meeting. The draft is progressing and

State water quality management strategy	***2001/02 scheduled work***	***2002/03 scheduled work***	***Comment***
			scheduled for first draft release in September 2003. Other specific processes are in place to cover the Gnangara and Jandakot groundwater areas. A policy level document for the protection of future drinking water source areas is under development by the Water and Rivers Commission and will be in place December 2003.
Rural land uses - 9	Yes	No	An implementation plan may not be required. Rural land use issues addressed by this NWQMS guidelines are covered in existing government approval processes. A review is planned in 2003–04 subject to progress of agreements on the National Action Plan for Salinity and Water Quality, the Natural Heritage Trust, and other resourcing issues.
Urban stormwater - 10	Yes	Yes	The existing 1998 Western Australian storm-water management guideline is currently being reviewed. This review commenced May 2002. A draft position statement was presented to the Board of the WRC February 2003. An up to date manual/guideline will be complete December 2003.
Effluent management – 11	Yes	No	Effluent management issues are primarily dealt with under Environmental Protection Act license conditions. These conditions are developed after consideration of NWQMS. The updated manual or guideline is expected to be available December 31, 2003.
Trade/industrial waste acceptance – 12	Yes	No	http://www.watercorporation.com.au/publications/3/IWPUB01.pdf A trade waste document is already in place in WA for acceptance of waste by the Water Corporation of WA. It is unlikely that any additional work will be undertaken however, The need to consider other trade waste issues will be considered for the 2003/04 period.
Biosolids management - 13	No	No	A State guideline was prepared and released in February 2002 which also considered the draft national guideline currently out for public comment. The draft status of the document is being revised after comment from the Secretariat at the March consultative meeting. The working group that developed the draft has been reformed and will consider the finalisation of the document. http://www.environ.wa.gov.au/downloads/1630_Biosolids.pdf
Reclaimed water - 14	Yes	No	The Government's State Water Strategy 2003 (Section 5) has considered this issue. It deals with grey water recycling (a new greywater guideline was released in 2002) and scheme based water reclamation such as reclaim water for industry, parks, gardens and horticulture. Development of an implementation plan will be considered under this framework for 2003/2004.

State water quality management strategy	***2001/02 scheduled work***	***2002/03 scheduled work***	***Comment***
			The Secretariat will be advised when the working group is established as advised in the March consultative meeting. http://www.health.wa.gov.au/search/search.idq?CiMaxRecordsPerPage=5&CiScope=%2F&TemplateName=search&CiSort=write%5Bd%5D%2Crank%5Bd%5D&CiRestriction=greywater Open document 2 which is the guideline http://www.ourwaterfuture.com.au/community/statewaterstrategy.asp see section 5
Sewerage overflows - 15	No	No	An implementation document was completed in November 2001 by the Department of Environmental Protection "Guidelines for the referral and assessment of sewerage pumping stations". This document has considered the draft National guideline. In 1997 a sewerage overflow policy was prepared by Government for the Swan and Canning Rivers. As considered by the Secretariat in the March consultative meeting, it is not proposed to undertake any additional work on this matter.
Dairy sheds effluent - 16a	Yes	No	An implementation plan for this guideline was not started in 2001-02 because aa suitable dairy farm effluent guideline 1998 already exists. The guideline considered NWQMS outcomes. The need to review the existing State guideline will be considered in 2003–04.
Dairy processing plant effluent - 16b	Yes	No	Dairy processing sheds are subject to licensing under the Environmental Protection Act. The licenses use NWQMS outcomes in setting conditions to protect water quality. A plan will be considered in 2003–04.
Intensive piggeries - 17	Yes	No	An environmental guideline for piggeries 2000 already exists that has considered the National guideline.
Wool scouring and carbonising - 18	Yes	No	Comment made by the NCC in the 2002 assessment was incorrect, WA have only one wool related industry, the discharges are regulated by EPA licence. A plan is not proposed for this guideline given that WA has only one wool related industry subject to licensing under the Environmental Protection Act. This is a new facility with its own waste water treatment plant.
Tanning and related	Yes	No	A plan is not proposed for this guideline given that WA has a limited number of industries and

State water quality management strategy	***2001/02 scheduled work***	***2002/03 scheduled work***	***Comment***
industry – 19			significant premises are managed through the EPA licensing provisions. These licenses address NWQMS outcomes as part of their approval conditions.
Wineries and distilleries - 20	No	No	A water quality protection note and licensing guideline are available for wineries that address water quality issues These premises are managed through the Environmental Protection Act consistent with NWQMS outcomes through conditions to protect water quality.

Source: Western Australia 2003 (unpublished)

5.2 Gas

Western Australia has implemented a broad range of structural reform initiatives in the gas industry to ensure a competitive market conducive to private investment. These initiatives have included disaggregation of the major domestic gas supply contracts, separation and corporatisation of the former State-owned gas and electricity utilities, structural separation of the gas transmission and distribution functions, and privatisation of the separate State-owned transmission and distribution systems. These initiatives have been reported in section 3.2 dealing with Structural Reform of the Downstream Gas Industry.

Other major commitments in implementing free and fair trade in gas relate to the implementation of a nationally consistent regime for access to gas pipelines and the move towards full retail contestability. Progress in this regard is reported in section 6.1 on Access issues and the Downstream Gas Industry.

In relation to the regulation of prices, the *Energy Coordination (Gas Tariffs) Regulations 2000* provide for the regulation of gas retail tariffs. The Gas Retail Deregulation Project Steering Group (see section 6.1.2) is considering issues associated with the regulation of retail tariffs in the transition to full retail contestability. This includes considering the role of the proposed Economic Regulation Authority.

The Coordinator of Energy assists the Minister for Energy in planning and coordinating energy supply in Western Australia. Part 2A of the *Energy Coordination Act 1994* enables the Coordinator of Energy to issue gas distribution and retail trading licences, the Governor to exempt or cancel a licence, and the Minister for Energy to enforce compliance with a licence. The gas industry licensing function would be transferred to the Economic Regulation Authority upon a future date to be proclaimed by the responsible Minister. This date is expected to coincide with the commencement of full retail contestability.

In terms of safety regulation, the Director of Energy Safety is authorised to deal with safety and technical issues in relation to the supply and use of gas, including the licensing of gas fitters and the adoption of appropriate technical standards for installations, appliances and supply systems.

5.3 Electricity

Despite not being able to participate in the national electricity market, Western Australia continues to take very seriously its need to reform the electricity industry and to introduce competition. Impediments to competition are being removed in the wholesale and retail sectors of the industry, access to the transmission and distribution systems is provided for in legislation, the number of contestable customers is being increased, and private sector involvement in the industry is being promoted.

Under its legislation review program, Western Australia has reviewed a range of statutes and regulations pertaining to the electricity industry. Further reviews of the *Electricity Act 1945* and *Electricity Corporation Act 1994* are being conducted within the context of the Government's electricity industry reform agenda.

The Government is committed to major structural and market reform and associated review of how the Western Australian electricity industry is regulated. As reported in Section 3.1, the Government has endorsed the recommendations of the independent Electricity Reform Task Force, in particular the disaggregation of Western Power into four new entities, the introduction of a competitive wholesale market, and creation of a strong and independent regulatory system. The implementation of the Government's reform agenda is being progressed by the Electricity Reform Implementation Steering Committee, which is chaired by the Acting Coordinator of Energy and consisting of representatives of relevant government agencies. The proposed structural and regulatory reforms for introducing greater competition into the electricity industry accord with Western Australia's obligations under Clause 4 of the CPA.

The implementation of an effective third party access regime and the progressive expansion of retail contestability are reported in Section 6.2.

With the electricity industry becoming increasingly competitive, in December 2001 the Government established the *Electricity (Supply Standards and System Safety) Regulations 2001* under the *Electricity Act 1945*. The regulations set out technical and safety obligations for those operating electricity supply networks. The Director of Energy Safety is authorised to deal with safety and technical issues in relation to the supply and use of electricity, including the licensing of electricity operatives (electrical workers and electrical contractors), and the adoption of appropriate technical standards for installations, appliances and supply systems.

5.4 Road Transport

Western Australia is committed to the adoption of the package of road transport reforms agreed to by the Australian Transport Council as required under the Agreement to Implement National Competition Policy and Related Reforms.

The majority of the National Driver Licensing Scheme reforms were introduced in Western Australia in early 2001 following the passage of the *Road Traffic Amendment Act 2000*. The remaining reforms will be introduced via further amendments to the *Road Traffic Act 1974* and associated regulations contained in the Road Traffic Amendment Bill 2003. Following a delay in drafting of that Bill, to allow for the completion of a licensing functional review to determine, amongst other matters, where administrative responsibility for licensing functions should most appropriately reside, it is anticipated that the Bill will be ready for introduction into the Parliament during the 2003 Spring session.

Reforms to heavy vehicle operations and heavy vehicle standards commenced operation on 1 November 2002. These reforms were implemented via the *Road Traffic Amendment Act 2001,* which received assent on 21 December 2001.

Amendments to the *Road Traffic Act 1974* to introduce the National Heavy Vehicle Registration Scheme reform project were assented to on 21 December 2001. As part of the adoption of the reform's concept of a "registered operator", the amendments included provisions introducing the concept of a "responsible person" to Western Australian legislation. Significant changes are required to WA Police Service technology and administrative procedures before these provisions may

commence operation. However in the interim, Western Australia has been able to achieve outcomes, which are consistent for the most part with this reform via administrative means.

Attachment 2 entitled "Progress on National Road Transport Reforms" includes detail of the status of implementation for the road transport reforms.

6. ACCESS

The Western Australian Government remains committed to access to services provided through significant infrastructure facilities, where appropriate, because it enhances the competitiveness of Western Australian businesses and will generate savings to consumers and small businesses. Access on reasonable terms to the services of gas pipelines and transport facilities, for example, is important in development of the State's vast but isolated oil, gas and mineral reserves.

Access, at the correct price, permits competition to emerge in markets that rely on monopoly providers for key infrastructure-based services. The benefits of competition can include lower prices for business and household consumers, improved export competitiveness, and overall improvements in the allocation of scarce resources.

Access regulation should seek to balance investment incentives and reasonable returns to the provider against the broader social and economic benefits of reducing the scope for monopoly pricing and increasing competition. There is some scope to improve the framework under Part III of the *Trade Practice Act 1974* so as to provide greater certainty in its application and ensure that incentives to invest in key infrastructure industries are not distorted.

6.1 Gas

A legal right of access to gas transmission and distribution systems has been created by the *Gas Pipelines Access (Western Australia) Act 1998*, which implemented the National Third Party Access Code for Natural Gas Pipeline Systems in Western Australia. The covered pipelines include the major gas transmission pipelines and the gas distribution system in Western Australia. Having established an independent Gas Pipelines Access Regulator in 1999, and with the gas access regime certified as effective under the *Trade Practices Act 1974* in May 2000, Western Australia stands to benefit from the enhanced competition and efficiencies that effective access regulation will bring.

The *Gas Pipelines Access (Western Australia) Act* (excluding the Gas Pipelines Access Law), is scheduled for review by the Minister, to consider the effectiveness of the operations of the Western Australian Independent Gas Pipeline Access Regulator, the Western Australian Gas Review Board, and the Western Australian Gas Disputes Arbitrator. This review of the Act will commence after the Dampier to Bunbury Natural Gas Pipeline access arrangement has been finalised (anticipated in the first half of 2003). As a national regime any significant changes to the Code must be agreed unanimously with other jurisdictions.

6.1.1 Office of the Gas Access Regulator

The Office of Gas Access Regulation (OffGAR) supports the Independent Gas Pipelines Access Regulator and the Gas Disputes Arbitrator in Western Australia. A number of proposed Access Arrangements for pipelines covered by the Code have been lodged with the Gas Pipelines Access Regulator for approval. The Regulator in each case reviews the proposal and conducts a public submission process to make an informed decision whether to approve or request amendment to the Arrangement.

Significant decisions made by the Regulator thus far include approvals of Access Arrangements for the AlintaGas Mid-West and South-West Gas Distribution Systems, the Tubridgi Pipeline System and the Parmelia Pipeline.

Significant matters under consideration by OffGAR include the Access Arrangements for the Dampier to Bunbury Natural Gas Pipeline, and the Goldfields Gas Transmission Pipeline.

- A final decision from the Regulator on the Dampier to Bunbury Natural Gas Pipeline is expected in the week commencing 19 May 2002, since the Supreme Court action against the Regulator's Draft Decision for this pipeline has been finalised.

- The Regulator is currently amending the Draft Decision for the Goldfields Gas Transmission Pipeline, following this party's withdrawal from Supreme Court action. The NCC will be aware of the recent application for revocation of coverage of the Goldfields Gas Transmission Pipeline under the *Gas Pipelines Access (WA) Act 1998*.

The Regulator also enforces the ring-fencing arrangements of the Code. The Regulator has issued final decisions on the ring fencing arrangements for the Tubridgi Pipeline System, the Parmelia Pipeline (which is no longer covered) and the Associate Haulage Contract Between AlintaGas Networks Pty Ltd and AlintaGas Sales Pty Ltd.

Upon its establishment, the Economic Regulation Authority will subsume the functions of the independent Gas Pipelines Access Regulator. Subject to Parliamentary processes, the Authority is expected to be established on 1 July 2003. Further details on the Economic Regulation Authority are provided in Section 3.3.

6.1.2 Full Retail Contestability

The Government is committed to the establishment of a competitive gas market in Western Australia. Allowing customers to choose their preferred gas retailer is an outcome of the Government's energy industry reform process, and will meet Western Australia's obligations under the Competition Principles Agreement, and the recently agreed COAG National Energy Policy. The *Gas Pipelines Access (WA) Act 1998* sets out Western Australia's timetable for access to the AlintaGas distribution system.

The phased implementation of gas contestability is an ongoing process in the Western Australian gas market. Contestability is designed to bring about a lower cost and reliable energy supply. On 1 January 2002 the market became contestable for those customers consuming one or more terajoules (TJ) of natural gas per annum, such as hospitals, hotels, restaurants, laundries and bakeries.

The last stage of legal contestability occurred on 1 July 2002, when legal impediments to access for over 440,000 small business and household customers, consuming less than 1TJ per annum, are removed. However, contestability has now been delayed in practice until mid-2004. This reflects the longer than anticipated time required for putting in place the necessary rules, systems and regulatory framework to support a fully contestable gas market.

The Minister for Energy established in July 2001 the Gas Retail Deregulation Project Steering Group (GRDPSG) to consider issues necessary to facilitate full retail contestability.

The GRDPSG has been designed to involve all key stakeholders in an appropriate manner and to take advantage of the expertise and commitment of the gas industry, customer groups and other major stakeholders to achieve Full Retail Contestability. Membership of the GRDPSG comprises gas industry participants, government representatives and consumer interests, and is supported by a series of technical working parties.

The principle responsibility of the GRDPSG is to consider the transition of the Western Australian gas retail market from a regulated to an open market with due regard to inter-governmental agreements and with the objective of delivering net benefits to gas customers. The GRDPSG is also to agree on and endorse the systems, rules, codes and other specific arrangements necessary to support Full Retail Contestability and the processes and mechanisms by which they will be implemented.

In accordance with its Terms of Reference, the GRDPSG is to specifically address the following matters in relation to a fully contestable gas retail market:

- determination of a market operator to manage systems, rules and provide services in order for the retail market to operate;

- systems, rules, services and specific arrangements to manage customer transfers between retailers and for the determination and allocation to retailers of gas deliveries to consumers, balancing of gas supplies and deliveries and settlement of accounts;

- consumer protection and education, including the need for and establishment of an Energy Ombudsman;

- emergency gas supply management and procedures;

- back-up retailer arrangements (retailer of last resort) and marketing code of conduct;

- operational issues related to differing ownership of gas distribution systems; and

- pursuing consistency with other jurisdictions, where appropriate.

A number of key milestones have been achieved in the progress towards practical full retail contestability. These include:

- expanding the project to include South Australia. In recognition of the benefits of a coordinated approach to the introduction of full retail contestability, market participants and governments of South Australia and Western Australia have agreed to work together on a joint project;

- registering the Retail Energy Market Company (REMCo) with the Australian Securities and Investments Commission on 8 January 2003. REMCo will be

responsible for the administration of the Retail Market Rules that will support full retail contestability in the Western Australian and South Australian gas retail markets, and for contracting of IT systems and services required to implement these rules;

- the development of a constitution for REMCo and the selection of Directors and a Chief Executive Officer;
- development of the Retail Market Rules;
- finalisation of a consultant's report on load profiling solution. The key findings of this study include the following recommendations:
  - net system load profiling should be adopted at a network level;
  - forward reconciliations with payback of reconciliation amounts over a short period of time;
  - global settlements are to occur; and
  - interval meters are to be mandatory for all consumers using more than 10TJ of gas per year; and
- development of legislative provisions for the implementation of full retail contestability.

6.2 Electricity

Open, transparent and non-discriminatory access to network services is a prerequisite to a competitive electricity market. The Government of Western Australia has a third party access regime in place for Western Power's electricity transmission and distribution systems. The *Electricity Corporation Act 1994* provides for the Minister for Energy to issue Access Orders that prescribe the manner and timing for the granting of access. Schedules 5 and 6 of the Act, and the *Electricity Transmission Regulations 1996* and the *Electricity Distribution Regulations 1997* provide the framework for access.

6.2.1 Current Access Regime

Open access has been made available to Western Power's transmission network since January 1997 and to its distribution network in a series of steps since July 1997. This was consistent with the former Government's policy of introducing competition in a phased fashion, without undue risk to system stability. Lower contestability thresholds apply in respect of off-grid regional locations and for energy supplied from renewable sources.

In addition, in consultation with stakeholders the triennial review of the pricing methodology and economic principles underpinning the determination of pricing for access to Western Power's transmission and distribution networks has been completed for 2001-2004. Access pricing papers that contain the prices Western Power may charge third parties to transport electricity through Western Power's network to users have been published.

Impediments to access are continuing to be addressed through Ministerial consultative committees (that recommend changes to the access regime). For example, the balancing regime has been relaxed for smaller loads and renewable energy and the charge for stand-by capacity has been reduced.

The implementation of the Government's electricity reform agenda will see significant changes to the existing access regime, in particular the development of an Electricity Access Code and the independent regulation of the electricity industry through the Economic Regulation Authority. During the transition, it is envisaged that the Economic Regulation Authority will administer the existing access regime applying to Western Power's transmission and distribution systems in anticipation of the commencement of the Electricity Access Code.

6.2.2 Electricity Access Code and Independent Regulation

An Electricity Access Code providing for open access to network assets is currently being developed to suit conditions prevailing in Western Australia, and to complement the current structural and market design reforms. The electricity network facilities to be covered by the Electricity Access Code will be those that currently form part of Western Power's Networks business, and any other transmission and/or distribution facilities that meet specified criteria. The Electricity Access Code will incorporate the use of incentive regulation, including the use of price and/or revenue caps and, where efficient and practicable, cost reflective network pricing. Where appropriate, it will also be consistent with the National Electricity Code and National Gas Code, ultimately meeting the requirements for certification under the Part IIIA of the *Trade Practices Act 1974*.

Access arrangements will set out the terms and conditions for standard access services and will be approved and monitored by the Economic Regulation Authority. Administration of the Electricity Access Code by the Economic Regulation Authority will for the first time see network access terms and conditions independently assessed, consistent with the obligations under Clause 4 of the Competition Principles Agreement. In addition, the Economic Regulation Authority will assume various functions under the Electricity Licensing Regime, wholesale market arrangements and some consumer protection measures.

6.2.3 Full Retail Contestability

Contestability thresholds are being progressively lowered. In July 2001 the threshold was lowered from an average load of at least 1,000 kilowatts (or 8,760 megawatt hours per annum) to an average load of 230 kilowatts (or 2,000 megawatt hours per annum) at a single site. On 1 January 2003, contestability was extended to customers using an average load of at least 34 kilowatts (or 300 megawatt hours per annum). This represented an increase in the number of contestable customers from 450 to around 2,500, meaning that contestability extended to approximately 50 per cent of Western Power's total sales.

As indicated in Section 3.1.2, noting that full retail contestability (FRC) requires effective competition at all levels of the industry and at the generation and wholesale market levels in particular, the Task Force recommended the delay of FRC because these prerequisites would not all be in place by the target date of 1 January 2005.

However, to maintain the momentum of reform, the Government endorsed the Task Force's recommendation to further reduce the threshold for contestability to 5.7 kilowatts average load (50 MWh per annum) on 1 January 2005. This level of consumption is typical of small businesses, for example, small corner shops.

The cost of processes and systems necessary to accommodate this interim step will be lower than the costs of FRC because of the smaller number of contestable customers. This extension of open access to Western Power's electricity networks will, however, increase the number of contestable customers to around 12,500, representing approximately 60 per cent of Western Power's current load in the SWIS being contestable and therefore open to competition from other generators and retailers.

Following the successful implementation of structural, market and regulatory reform in the Western Australian electricity industry, the need will arise for a detailed analysis of the costs of processes and systems necessary to accommodate full retail contestability versus the benefits of securing upstream efficiency gains for end consumers, prior to any move to extend contestability to 100 per cent of Western Power's total sales.

6.3 Rail

Western Australia has established a rail access regime designed to provide a framework for the negotiation of access to rail services provided by the State's public rail network.

The Rail Access Regime, which comprises the *Railways (Access) Act 1998* (the Act) and the *Railways (Access) Code 2000* (the Code), became fully operative with the proclamation of the Act on 1 September 2001. As part of the State's application to the NCC to certify the Western Australian Rail Access Regime for rail services, the Code was developed through two national public consultation processes as part of the NCC's assessment. These national and State consultation processes raised many issues concerning the detailed content of the Code, and the Code underwent significant amendments to address the concerns raised, including the establishment of the Office of the Rail Access Regulator. There is now broad agreement among the parties within Western Australia on the Code.

The appointment of the acting Rail Access Regulator coincided with the proclamation of the Act. The acting nature of the position is for the period leading up to the creation and appointment of the Economic Regulation Authority (see Section 3.3). The acting Rail Access Regulator has all of the functions and powers of a permanent Rail Access Regulator.

The rail freight network subject to the regime was owned by the government agency, Westrail, until its lease to the Australian Railroad Group in late 2000. The urban passenger rail network, which is also subject to the regime, continues to be owned and operated by the government. The access regime does not cover other privately owned railways such as the iron ore railways in the Pilbara.

In recent months the Regulator has issued final determinations on segregation arrangements (including ring-fencing) for the Western Australian Government Railways Commission (WAGR) and WestNet Rail, costing principles and over-

payment rules; train management guidelines; train path policy, and final determinations for the rail freight network and the urban passenger rail network.

At the national level, the NCC has agreed that the Western Australian regime meets the requirements for an effective access regime under Part IIIA of the *Trade Practices Act 1974*. However, there is a remaining issue, which from the NCC's perspective is a barrier to certification, regarding nationally consistent access arrangements for interstate operators. The State withdrew its application for certification in October 2000.

7. INSURANCE

Attachment 3 provides an outline of the State's NCP obligations for insurance matters.

7.1 Compulsory Third Party (CTP) and Workers Compensation Insurance

7.1.1 Economies of scale

The Insurance Commission of Western Australia (ICWA) is the sole insurer for CTP purposes in Western Australia. A major benefit to the State is that it owns all the data on the Western Australian CTP scheme and is therefore able to closely monitor trends in claims experience and provide a consistent approach to claims management.

Western Australia has the lowest premiums for CTP in Australia, provides claimants with benefits equal to or better than other jurisdictions and remains fully funded after allowing for a prudential margin in line with Australian Prudential Regulation Authority's (APRA) general insurance requirements.

Other jurisdictions such as Queensland have multiple insurers licensed to provide CTP, but in reality there are only two or three insurers with any significant market share. Similarly two or three insurers dominate the New South Wales CTP market. All other States and Territories have monopoly CTP arrangements.

The evidence from Queensland and New South Wales would therefore suggest that economies of scale are not being achieved at quite low output sizes, and that it is not viable for several companies to offer CTP insurance in small markets.

The Western Australian workers' compensation scheme is based on a multi-insurer model and there are currently ten insurers approved to underwrite workers' compensation insurance. The two smallest insurers are niche insurers, who do not impact significantly on the scheme. Through amalgamations and takeovers there has been a rationalisation of approved insurers, which over the last five years has resulted in the number of insurers falling from 21 to the current level of 10.

7.1.2 Economies of scope and outsourcing

ICWA is not only the monopoly provider of CTP insurance in Western Australia, it also manages the RiskCover Managed Fund, which is a self-insurance fund for the Western Australian Government. The five main areas of cover provided under the fund are:

- workers' compensation;
- property and business interruption;
- liability – including public, professional, medical treatment and employment practices;
- motor vehicle property damage; and

- miscellaneous – including travel, personal accident and special covers

The RiskCover Division of the ICWA also manages a number of other smaller funds, including:

- Compensation (Industrial Diseases) Fund – where industrial disease insurance and claims management services are provided;

- Insurance Commission General Fund – which relates to liabilities of the former State Government Insurance Office;

- Employers' Indemnity Supplementation Fund – which was activated by the HIH collapse and is managing the claims of workers' compensation claimants injured prior to 15 March 2001.

These other classes of insurance managed on behalf of the Government help ensure that ICWA is able to benefit from economies of scope.

Outsourcing has been implemented with respect to information technology facilities management and some applications development, internal audit, investment funds management, legal, actuarial, investigation (claims surveillance) and motor vehicle damage assessment.

7.1.3 Systems improvements, safety and rehabilitation, and high risk customers

In Western Australia the ICWA has funded fraud prevention and detection programs. This included advertising requesting the general public to provide information on anyone they had good reason to believe may be rorting the insurance system.

Fraud prevention and detection is considered to be an integral part of every insurance company's risk management operation and should not require the introduction of a levy on the policy holder.

A centralised Office of Road Safety under the control of the Road Safety Council manages road safety and crash prevention initiatives. This allows for a cohesive and non-fragmented approach to minimising the cost and frequency of road crashes in terms of both personal injury and property damage.

Presently the Insurance Commission, via its CTP operations, contributes around $3.5 million per year to the cost of running the Office of Road Safety programs.

High risk drivers are charged the same CTP premium as low risk drivers under the Western Australian CTP scheme. The risk of loading the premium for high risk owner/drivers is that their true cost of CTP insurance would become 'unaffordable' and this group of motorists is likely to allow the policy of insurance to lapse and then continue to drive their unregistered and uninsured vehicles. Any claims for personal injury resulting from the negligent driving of an unregistered/uninsured vehicle are funded by the ICWA. The ICWA has a right of recovery against the uninsured driver/owner of the vehicle at fault.

Given that the reason for motorists opting to drive uninsured is due to them being unable to afford the premium, it is highly unlikely that ICWA will be successful in pursuing full recovery of all claims costs involved. As CTP is compulsory insurance, the emphasis should be on ensuring that all vehicles used on the road are registered and insured. The larger the pool of insured vehicles the lower the unit cost.

The *Workers' Compensation and Rehabilitation Act 1981* essentially prevents an insurer from refusing to indemnify an employer for a workers' compensation policy. Contrary to the view that insurers do not invest in systems to control litigation costs and fraud, or in safety and risk management initiatives, the current indication is that most, if not all approved insurers, do this as a matter of course.

The Government is currently progressing a workers' compensation package, which aims to refine the current injury management process through formalising aspects of the existing injury management framework in legislation and regulations. Insurers will be required to formalise injury management policies and procedures to assist businesses that do not have the resources to undertake an injury management program in accordance with the regulated guidelines. Assistance to employers through improved injury management will result in shorter duration of cases and better management of claims.

With regard to the option of allowing the risk-related higher premiums for employers with a poor history in safety and risk management, it should be reiterated, that under the Western Australian scheme, insurers have the ability to load premiums by as much as 100 per cent or more (subject to the approval of the Workers' Compensation and Rehabilitation Commission).

Provided employers are able to satisfy the requirements under the *Workers' Compensation and Rehabilitation Act 1981* and the Guidelines for the Approval and Review of Self-Insurers, there is also the option to seek self-insurance status. There are currently 28 self-insurers in Western Australia.

7.1.4 'Long tail' liabilities

With the notable exception of HIH, there is no evidence indicating that competing insurers are less motivated than monopoly providers to make careful actuarial assessments of the likelihood of serious accidents with long tail impact. Under the APRA guidelines the actuarial assessment of outstanding claims provisions for long tail business requires that a prudential margin be incorporated increasing the likelihood of sufficiency to a minimum of 75%.

There is no evidence to suggest private insurers operating in the Western Australian workers' compensation scheme are less inclined to make investments in accident reduction and rehabilitation because of fear that competitors would share the benefits. Many insurers employ staff with occupational health and safety and rehabilitation backgrounds and invest considerable time with their clients (employers) to ensure they are aware of their obligations.

The *Workers' Compensation and Rehabilitation Act 1981* places a clear obligation on approved insurers to provide vocational rehabilitation to assist injured workers returning to productive employment. It should be noted that insurers regularly pay

more than the prescribed amount for vocational rehabilitation to hasten an employee's return to work.

As mentioned previously, under the workers' compensation reform package, insurers will be required to develop injury management policies and procedures to assist businesses that don't have the resources to undertake an injury management program, in accordance with regulated guidelines.

7.1.5 Prudential supervision

Due to the long tail nature of CTP insurance it is preferable to have an insurer in place that will be underwriting this class of insurance on an ongoing basis. The Western Australian experience has been such that private insurers progressively withdrew from the market place as they realised that they could not make profits in line with shareholder expectations.

A monopoly insurer, whether it be government or privately owned, has a distinct advantage as it has in its possession all the relevant data on which to base its ongoing underwriting strategies. For the same reasons, actuarial assessments are likely to be more reliable and claims management outcomes are also more likely to be consistent. This is an important factor, as ideally all claimants should be treated equally and by having more than one insurer in place the opportunity for differing outcomes increases.

By ultimately being government backed, the Western Australian CTP scheme does have greater certainty about its financial position than a private insurer. The HIH collapse bears testimony to this statement.

The recent enhancement to prudential standards and re-licensing activity by APRA should reduce the chances of further insurance company failure. But the extent of this reduction is difficult to quantify.

Further it should be noted that APRA is responsible for the "prudential oversight" of insurance companies. APRA does not currently provide and has not in the past provided any guarantees on the financial performance of financial institutions. The following extract from an APRA brochure on its role and responsibilities states:

> *We have powers to require financial institutions to observe prudential standards such as appropriate capitalisation, liquidity and governance – and to intercede if we believe that the interests of depositors, policyholders or members are at risk. We also have extensive powers of investigation, intervention and administration. But we provide no absolute guarantee.*

7.2 Professional Indemnity Insurance for the Legal Profession

The review of the *Legal Practitioners Act 1893* found that the benefits of the Law Society coordinating professional indemnity insurance cover through the mutual scheme outweighed the costs associated with these restrictions. It found that net benefits were unlikely to increase by prescribing the terms and conditions and minimum level of cover by regulation and having legal practitioners negotiating individually with insurers. This allows a legal practice or a class of practitioners to opt out of the scheme. They must give adequate notice of their intention to do so and

provide evidence that they have made suitable alternative arrangements for professional indemnity insurance cover.

As indicated in section 2.3.5.1, a number of the recommendations from the review of the *Legal Practitioners Act 1893* and related legislation have been implemented in the Legal Practice Bill 2002. The Bill had its second reading speech in the Legislative Assembly in February 2003.

Clause 60 of the Legal Practice Bill sets out requirements relating to professional indemnity insurance. Both incorporated legal practices and individual legal practitioners are required to comply with professional indemnity insurance obligations. If an incorporated legal practice fails to comply with this clause the Legal Practice Board can refer the matter to the Disciplinary Tribunal. An individual practitioner would not be eligible to practice without professional indemnity insurance.

Since professional indemnity insurance is a requirement for all practitioners certificated in Western Australia, interstate practitioners are required to take out professional indemnity insurance to cover their Western Australian practice (clause 92(2) and (3)). Foreign lawyers in Western Australia must also have appropriate professional indemnity insurance to the satisfaction of the Legal Practice Board (clause 120).

If, under clause 189, the Disciplinary Tribunal finds that an incorporated legal practice has indeed failed to comply with clause 60, it can suspend the operations of a Director of a legal practice.

7.2.1 Coverage of all registered practitioners

Legal practitioners advise that they are already experiencing difficulty in finding cover under the existing compulsory scheme. Currently, there are only two companies that have been willing to provide quotes in Western Australia. Anecdotal evidence provided by barristers indicates that in some cases, only one company is willing to provide cover. Hence a non-compulsory scheme risks reducing the spread of cover and the pool of funds, providing a greater disincentive to the remaining insurers. Larger firms also say that they can only obtain 'top-up' insurance (the non-compulsory layers of PII) outside Australia. This is further evidence of a lack of depth and competition in the Australian market.

7.2.2 Cost-effective coverage

Law Mutual is not an insurer itself but an industry retention fund, co-ordinating insurance for participants. The Law Society's submission to the NCP review reflects the view that if the 650 legal firms were required to deal directly with the insurance market then two costs would result. Firstly there is no guarantee that all would be insured (thereby making them ineligible to practice law). Secondly, many firms would not have the administrative capacity or time to manage their relationship with the market. This may lead to a steep rise in brokerage costs that would be ultimately represented as increased costs in the legal services market.

It is a legislative requirement that legal practitioners (unless exempt under regulation 11 of the Legal Practitioners (Professional Indemnity Insurance) Regulations 1995)

have professional indemnity insurance otherwise they cannot get a practising certificate. A legal practitioner's capacity to bargain is limited by this as insurance companies are likely to be aware of the restriction. By acting collectively the legal profession may have greater capacity to overcome this imbalance in bargaining power.

The insurance is purchased from the most competitive quote in the market and Law Mutual collects the premium from the insureds to pay for the quotation. It is usually the case that from year to year insurance has been placed with difference insurers, which may indicate that Law Mutual actively pursues the most competitive arrangement in the market.

Although most legal practitioners are insured through Law Mutual, it is not a monopoly insurer and practitioners are free to leave the scheme. The Law Society's submission to the NCP review pointed out that a range of exemptions apply to barristers, Legal Aid lawyers, community law centre lawyers and lawyers employed by the Crown, who make their own insurance arrangements. National firms are exempted to allow them to make consolidated arrangements in another approved arrangement.

Any practitioner or firm can apply to be exempted from Law Mutual provided it has in place appropriate professional indemnity insurance. At the time the Law Society made its submission, only three (large) firms had applied to be exempted on the basis of making their own insurance arrangements. That the vast majority of legal practitioners and practices have not done so indicates that as consumers they are satisfied with the insurance arrangements provided by Law Mutual. Those firms which do insure through Law Mutual are also free to go to the market place for top up insurance.

Additionally, the Law Society has a competitive tendering process for the provision of insurance underwriting. The Law Society, in its NCP submission, stated that it had recently successfully negotiated with an international insurer who was not previously present in the Australian market place, thus adding to the competitive pool of insurers. The Law Society also renegotiates its contract for brokerage on a 3 yearly basis.

One of the cost savings identified by the Law Society is that Law Mutual deals with claims up to $100,000 without having to go to the underwriters. Firms also save by not having to bear the direct costs of negotiation which could be quite onerous for small firms. Premiums payable to Law Mutual are also differentiated on the basis of the risk profile of the type of practitioner, so that small firms again benefit.

The number of insurance companies willing to provide this type of insurance is decreasing. By entering into what is essentially a collective bargaining model, legal profession professional indemnity insurance has been organised so as to redress this imbalance of a decreasing number of suppliers and the same (or increasing) number of consumers, thus allowing the consumer to exert more (downward) pressure on the price of insurance.

7.2.3 Delivery of run-off cover

As stated above, even the larger firms are having difficulty in obtaining 'top-up' cover so there is no basis for assuming that 'run-off' cover is readily available in the market. The evidence is to the contrary. In relation to smaller firms that do not have the sophistication of risk management that is held by larger firms it is even less likely that this cover is readily available in a competitive market.

7.2.4 Prudential supervision

Intuitively, spreading insurance across multiple firms rather than concentrating in one mutual should help spread the risk in the event of failure. However, the HIH collapse is not a strong justification for a competitive system. While HIH underwrote the monopoly provider in New South Wales, it also held 30 per cent of the public liability market in Australia and had a large share of the professional indemnity market, not all by virtue of monopoly arrangements. Despite the prudential regulation in place, HIH collapsed with disruption to both monopoly and competitive insurance providers. The HIH collapse does not demonstrate that either a monopoly or a competitive market system will be more or less effective to improve prudential certainty.

7.2.5 Risk management

Having a monopoly provider allows for the insurance industry to work by the sharing of risk amongst many in order to smooth out the cost for all. Sharing the insurance pool amongst multiple providers (in a small market) may lead to losses having a greater impact due to reduced numbers in the pool thereby forcing prices up. If all the data is available for a particular scheme then it is easy to identify the problem areas and introduce risk management initiatives and/or sanctions designed to improve the overall performance of the pool and individual policyholders.

8. CONDUCT CODE AGREEMENT

Western Australia has met its core obligation under the Conduct Code Agreement (CCA) by implementing the schedule version of Part IV of the *Trade Practices Act 1974* (TPA) through its enactment of the *Competition Policy Reform (Western Australia) Act 1996*.

Since that time, Western Australia has continued to comply with the CCA by notifying the ACCC of any statutory exceptions occurring in Western Australian legislation to the application of Part IV of the TPA. The exceptions have effect under Commonwealth law due to the operation of section 51(1) of the TPA.

Western Australia has notified the ACCC, in accord with clause 2(3) of the CCA, that Western Australia had one law which existed as of 11 April 1995 and continued to provide exemption from the application of the *Trade Practices Act 1974* beyond 20 July 1998. The statutory exception is contained in clause 42 of the Agreement set out in the Schedules to the *North West Development (Woodside) Agreement Act 1979* and was introduced by the *North West Gas Development (Woodside) Amendment Act 1994*.

Western Australia subsequently notified the ACCC, in accordance with clause 2(1) of the CCA, of a further statutory exception introduced into the *North West Development (Woodside) Agreement Act 1979* as clause 41A of the Agreement by the *North West Gas Development (Woodside) Agreement Amendment Act 1996*.

Western Australia continues to be an interested participant in the consultative mechanisms set out in clauses 4 and 6 of the CCA, relating respectively to appointments to the ACCC and to amendments affecting the operation of Part IV of the TPA.

ATTACHMENT 1: SUMMARY OF PRIORITIES (EXCLUDING WATER) FOR THE 2003 ASSESSMENT: WESTERN AUSTRALIA

Electricity and gas

Matter	*Issues and information sought*
Electricity: structural reform of Western Power	Please advise Western Power reform program agreed by the Government by 31 December 2002. Provide a report on implementation for the 2003 assessment.
Implementation of gas full retail contestability (FRC) for consumers of less than 1 terajoules per year.	Confirm that FRC has been implemented (it was expected to have occurred by mid-2003).
Implementation of the new AS 4564/AG864 quality standard for general purpose natural gas.	Has Western Australia implemented this standard, which the Natural Gas Quality Specification Committee was expected to endorse in 2002?
Petroleum (Submerged Lands) Act	Please report on reform implementation (amendments to the legislation) following the national NCP review.
Requirement for Western Power to internally fund a subsidy to residential and small to medium business electricity consumers in remote areas (at an annual cost of around $38 million).	Internal funding of CSOs is not consistent with CoAG's November 2000 agreement that governments should fund CSOs directly. Advise how Western Australia intends to ensure CSO funding arrangements are consistent with CoAG agreement.

Road transport (CoAG reforms)

Matter	*Issues and information sought*
Heavy vehicle registration scheme (national consistency) Driver licensing reforms Vehicle operations reforms, including uniform mass and load registration and consistent regulations Uniform heavy vehicle standards (combined vehicle standards) One driver/one licence Safe carriage and restraint of loads	Please report on reform implementation.

Primary industries

Matter	*Issues and information sought*
Agricultural & Veterinary Chemicals (Western Australia) Act 1995 *Agricultural Produce (Chemical Residues) Act 1983* *Aerial Spraying Control Act 1966* *Veterinary Preparations and Animal Feeding Stuffs Act 1976*	How has Western Australia addressed the outstanding issues from the review of the national agvet chemical registration scheme: • licensing of agricultural chemical manufacturers; • regulation of low risk chemicals; • contestability of chemical assessment services; and • compensation for third party access to chemical assessment data? What is the public interest case for WA's decision to retain, as part of the registration process, an assessment of whether the efficacy claimed by a supplier is appropriate? Further, please report on implementation of the recommended reforms to 'control of use' legislation.
Bulk Handling Act 1967	Please report on completion of the review of this Act and reform implementation, including the public interest case supporting any remaining restrictions on competition.
Grain Marketing Act 1975	The broad principles governing NCP compliance were agreed following the meeting between the Council and the WA Minister for Agriculture on 8 August 2002. WA Agriculture subsequently advised that the new grain marketing legislation would be in place before the 2002 harvest, with the licensing scheme to operate for the 2003 harvest. The Minister has undertaken to work with the Council on the regulations and Ministerial guidelines which will govern the interpretation and operation of the legislation. For the 2003 assessment, the Council will look for the arrangements that govern the issue of special licences to conform with the agreements arising from the meeting on 8 August, in particular that the Grain Licensing Authority will operate to ensure that special licences are granted except where the authority is satisfied that this would undermine a price premium that would otherwise be achieved by a single exporter. Please report on progress towards the agreements arising from the 8 August meeting.
Marketing of Eggs Act 1945	Please report on the review of this Act and reform

	implementation, including the public interest case supporting any remaining restrictions on competition.
Marketing of Potatoes Act 1946	This legislation was the subject of discussions between the Council and the WA Government during the 2002 assessment. Restrictions in the legislation do not comply with NCP obligations. The current status is that WA Agriculture and Treasury and Finance are seeking to determine a course of action to satisfactorily address competition questions, after which the Council will conclude on compliance for the 2002 assessment (during November 2002). The Council will reassess NCP compliance in the 2003 assessment.
Chicken Meat Industry Act 1976	The Government was expected to introduce an amendment Bill in the spring 2002 session of Parliament. Please advise on implementation of this legislation. If WA retains industry-wide bargaining, please provide robust public interest evidence to support this restriction of competition.
Health Act 1911 Food regulations under the Health Act	The Council will need: • a report on the introduction of the proposed new Food Bill; • a report on the review and reform of the food hygiene regulations, including the public interest case for any remaining restrictions; and • further evidence on the public interest case supporting the remaining restrictions in the meat hygiene regulations.
Veterinary Surgeons Act 1960	Please report on the review of this Act and reform implementation, including the public interest case supporting any remaining restrictions on competition.
Fish Resources Management Act 1994 *Pearling Act 1990*	Please report on: • progress with implementation of the recommendations of the Fish Resource Management Act review and the Pearling Act review; • how the Government has progressed the recommendation to commission an independent update of work on restructuring the rock lobster fishery management regime; and • developments regarding the pearl hatchery quota, including the Government's intention

	as to the future of the quota, and supporting public interest evidence if the quota is to be retained.
Conservation and Land Management Act 1984 *Sandalwood Act 1929*	The Government expected to implement amendments arising from reviews of these Acts in omnibus Bill(s) during 2002. Please report on this implementation.
Implementation of competitive neutrality for the Forest Products Commission	The Council will consider WA's application of effective performance monitoring arrangements to the government's forest enterprises, and related elements of competitive neutrality (including the identification, costing and funding of community service obligations) in the 2003 assessment. Has the Government considered the competitive neutrality review of forest operations referred to in WA's 2002 annual report? Please report on the implementation of its recommendations.

Transport

Matter	*Issues and information sought*
Taxi Act 1994	The Council will base its assessment of compliance on the following considerations where plate numbers are increased gradually (rather than restrictions removed immediately): • At least annual release of new licences, with at least the first release before 30 June 2003; • Whether the (gradual) increase in licence numbers will be likely to substantially improve the supply / demand imbalance against the longer term objective of removing supply restrictions; • Whether there is a commitment to ongoing monitoring of the effects of reform and to additional licence releases if the current program is not improving the supply / demand imbalance sufficiently; • Whether there is confidence that the reforms will proceed over time (for example legislation); • Whether restrictions on hire cars and other taxi alternatives such as multi-hire mini-buses are removed so allowing such operators to compete more effectively in the chauffeured passenger vehicle services market. Please report on progress with reform

	implementation against these principles.
Explosives and Dangerous Goods Act 1961	The final implementation of reforms is awaiting passage of Bill. Please confirm that this has occurred.
Jetties Act 1926 and Regulations *Lights (Navigation) Protection Act 1938* *Marine and Harbours Act 1981* and Regulations *Shipping and Pilotage Act 1967* and Regulations *Marine Act 1982* *Shipping and Pilotage Act 1967* and Regulations	The Government announced these Acts are to be repealed. Please confirm that this has occurred.

Health and pharmaceutical services

Matter	*Issues and information sought*
Health practitioner legislation	Please report on implementation of the reforms announced in the 2001 Key Directions paper. The replacement legislation will retain practice restrictions until mid-2004 to allow for a core practice review. Please confirm that the core practice review is on track to see the current practice restrictions reformed by mid-2004.
Medical Act 1893	Please report on the completion of the review and reform of this Act, including the public interest case supporting any remaining restrictions.
Drugs, poisons and controlled substances legislation	Please report on the reform response to the Galbally review recommendations, including on any transition arrangements beyond the June 2003 assessment.
Pharmacy Act 1964	Please report progress in completing the review and reform of the Pharmacy Act, and provide the public interest case for any restrictions on competition that the government has decided to retain in the legislation (including any restrictions on who may own pharmacies and the number of pharmacies that they may own, restrictions on entry to the profession of pharmacy and restrictions on the practice of pharmacy).
Application of competitive neutrality (CN) principles to public hospitals	The NCC wrote to Department of Treasury (DTF) on 16 July 2002 for an explanation of how the exclusion of the hospital sector from CN requirements is consistent with the State's

	obligations under clause 3 of the CPA. The NCC also sought an update on actions by the Department of Health in progressing the CN complaint by PROC/Minter Ellison on radiation oncology. On 9 October 2002, DTF informed the Council that the Minister for Health will consider the case for a CN review of radiation oncology following receipt of the findings of the Radiation Oncology Inquiry. Please report on how the non-application of CN principles to the hospital sector is consistent with CPA clause 3. Please also report on the Minister's decision and the outcome of the CN review of radiation oncology if it proceeds.

Legal and other professions and occupations

Matter	*Issues and information sought*
Legal Practitioners Act 1893	Legislation was being drafted to implement initial reforms (incorporation, foreign lawyers, and national practising certificates) in advance of the completion of the NCP review. Please report on: • Implementation of the initial tranche of reforms, and • The final review recommendations and the reform implementation. Public liability insurance reforms introduced in August 2002 restrict advertising by personal injury lawyers. Please show that this complies with CPA principles by providing evidence that it is necessary and effective. That is, please report on the public interest case for this restriction. The Act requires legal practitioners to insure through the Law Society. The Council is considering the NCP implications of this proposal, and is seeking further information in the insurance attachment to assist its consideration.
Motor Vehicle Driving Instructors Act 1963	The Government committed to scheduling a review before June 2002. Please report on the review and reform implementation. Please provide the public interest case for any remaining restrictions.
Auction Sales Act 1973	The NCP review proposed a general review (now under way). Please report on the review and reform implementation. Please provide the public interest case for any remaining restrictions.

Settlement Acts Act 1976 *Employment Agents Act 1976* *Hairdressers Registration Act 1946* *Debt Collectors Licensing Act 1964* *Real Estate & Business Agents Act 1978*	Please report on the completion of the reviews of these Acts and reform implementation, and provide the public interest case supporting any remaining restrictions on competition.

Finance, insurance and superannuation services

Matter	*Issues and information sought*
Motor Vehicle (Third Party Insurance) Act 1943	The 1999-2000 review recommended amending the Act to allow the Minister to approve persons other than the Insurance Commission of Western Australia to issue compulsory third party insurance. Please report on the Government's response and reform implementation. The Council is considering the NCP implications of monopoly insurance provision, and is seeking further information in the insurance attachment to assist its consideration.
State Superannuation Act 2000	GESB is the monopoly provider of superannuation for public servants. Please report on the public interest argument that supports the decision not to allow choice of provider to public servants.
Workers Compensation and Rehabilitation Act 1981	Review completed and recommendations endorsed. Package of legislative amendments expected to be introduced in Autumn 2003 session of parliament. The Council awaits the amendments.

Retail trading arrangements

Matter	*Issues and information sought*
Retail Trading Hours Act 1987	Discrimination between sellers as to opening hours. In his letter of 1 August, the Premier advised the Council that a Ministerial Task Force will be established to review the issue. Please report on review and reform implementation and provide the public interest case for any remaining restrictions.
Liquor Licensing Act 1988	Major restrictions are needs test and different trading hours. In his letter of 1 August, the Premier advised the Council that liquor licensing

	regulations would be reviewed in 2002-03. Please report on review and reform implementation and provide the public interest case for any remaining restrictions.
Petroleum Products Pricing Amendment Act 2000	WA reported that an internal review found a public interest justification for government regulation of fuel prices. ACCC monitoring of petrol prices found that the legislation had no consistent impact on prices and was not supported by industry participants and consumers. Please provide details of the public interest justification for the restrictions.
Petroleum Legislation Amendment Bill 2001	What is the current status of this Bill? Please report on gatekeeper assessment if relevant. Provide the public interest case for any remaining restrictions.
Environmental Protection (Diesel and petrol) Regulations 1999	Please comment on the extent to which the establishment of fuel standards restricts competition for local refineries and the public benefit case for any restriction on competition identified.

Fair trading and consumer protection legislation

Matter	*Issues and information sought*
Fair Trading Act 1987	Review expected to be completed in December 2002. Please report on the review recommendations, the underlying analysis/evidence, the government response and reform implementation.
Retirement Villages Act 1992	Review completed, amendments being drafted. Please report on reform implementation.
Credit (Administration) Act 1984	Review completed, amendments being drafted. Please report on reform implementation.
Hire Purchase Act 1959	Amending legislation introduced – please confirm that the Bill has passed.
Weights and Measures Act 1915	New legislation being drafted. Please report whether the Bill has been introduced and passed by Parliament, and the public interest case for any remaining restrictions.

Social regulation: education, child care and gambling

Matter	*Issues and information sought*
Competitive neutrality reviews of universities and TAFE colleges.	The Council is seeking information about the expected timing of the Government's consideration of these reviews.
Education Service Providers (Full Fee Overseas Students) Registration Act 1992	Review under way – please report on the review recommendations, the underlying evidence/analysis, and reform implementation.
Universities legislation	Reviews complete. Please report progress on completing the implementation of the review recommendations.
Community Services Act 1972 and the Community Services (Child Care) Regulations 1988	New Bill likely to be finalised during the second half of 2002. Please report on whether the Bill has been introduced and passed by Parliament, and provide the public interest case for any remaining restrictions.
Instant lottery and lotto rules *Lotteries Commission Act 1990*	Please report on the Government response to the review report and on reform implementation. Provide the public interest case for any remaining restrictions.
Betting Control Act 1954 *Totalisator Agency Board Betting Act 1960*	Changes were incorporated in two Bills, not passed at the time of the 2002 assessment. Please report on the progress of the Bills.
Racing Restrictions Act 1917 *Racing Restrictions Act 1927* *Western Australian Greyhound Racing Association Act 1981*	The Acts Amendment and Repeal (Competition Policy) Bill amends the Racing Restrictions Act 1917 and the Western Australian Greyhound Racing Association Act 1981 and repeals the Racing Restrictions Act 1927. Please advise of the progress of this Bill.
Casino (Burswood Island) Agreement Act 1985 Casino Control (Burswood Island)(Licensing of Employees) Regulations 1985 *Casino Control Act 1984*	Exclusive licence expired. Government negotiating with Casino on removing other exclusive provisions. Please report on progress with the negotiations and reform implementation.
Gaming Commission Act 1987	Please report on the Government's response to the review report and reform implementation.
Betting Control Act 1954	The Government did not implement the review recommendation to remove the $200 on telephone wagering with bookmakers. WA committed to sending the Council a new public benefit argument in June/July 2002, explaining why it had not implemented this recommendation. Please provide the public benefit case.

Planning, construction and development services

Matter	*Issues and information sought*
Town Planning and Development Act 1928 *Western Australian Planning Commission Act 1985* *Metropolitan Region Town Planning Scheme Act 1959*	Legislation was consolidated into the Urban and Regional Planning Bill 2000. A review of the Bill has been drafted for consideration by the Minister for Planning. Please report on the review recommendations, the underlying evidence/analysis, the Government response, reform implementation and the public interest case for any remaining restrictions on competition.
Local Government (Miscellaneous Provisions) Act 1960 and Building Regulations 1989	Not for review. Replacement Bill to be examined under gatekeeper provisions. Please confirm that the Bill has been introduced and passed, and provide the public interest case supporting any remaining restrictions on competition.
Architects Act 1921	Need to amend legislation in line with Working Group recommendations — please report on reform implementation. Provide the public interest case for any remaining restrictions on competition.
Licensed Surveyors Act 1909	Amending legislation being drafted. Please confirm that the Bill has been introduced and passed. Provide the public interest case for any remaining restrictions on competition.
Land Valuers Licensing Act 1978 and Regulations	Review expected to be completed in 2002. Please report on the review recommendations, the underlying evidence/analysis, the Government response, reform implementation and the public interest case for any remaining restrictions on competition.
Valuation of Land Act 1987	Amending legislation to be introduced in 2002. Please confirm that the Bill has been introduced and passed. Provide the public interest case for any remaining restrictions on competition.
Painters Registration Act 1961	Review completed and endorsed by Government. Please confirm that the recommended reforms have been implemented. Provide the public interest case for any remaining restrictions on competition.
Gas Standards Act 1972 and Gas Standards (Gasfitting and Consumer Gas Installations) Regulations 1999	Review under way. Please report on the review recommendations, the underlying evidence/analysis, the Government response, reform implementation and the public interest case for any remaining restrictions on competition.

Electricity Act 1945 and Electricity (Licensing) Regulations 1991	Review under way. Please report on the review recommendations, the underlying evidence/analysis, the Government response, reform implementation and the public interest case for any remaining restrictions on competition.

Competitive neutrality

Outstanding matter	*Status/Issue*
Competitive neutrality complaints	Please provide the Council with a list of: • complaints received during 2002; and • complaints resolved during 2002.
Commitment to introduce full cost pricing for the Prisons Industries Programme	Has full cost pricing for this programme been introduced?
Application of CN to the hospital sector	Refer to comments in the Health section of this paper.
Implementation of competitive neutrality principles	Please comment on the reasons for rates of return on capital in 2000-01 being below the 10 year Commonwealth bond rate of 5.8 per cent for some GBEs as identified by the Productivity Commission report *Financial Performance of Government Trading Enterprises 1996-97 to 2000-01*.

ATTACHMENT 2: PROGRESS ON NATIONAL ROAD TRANSPORT REFORMS

Second Tranche Assessment Framework

Reform Project	Legislation/action required	Current implementation status and change since last report to the NCC
National Heavy Vehicle Registration Scheme National Reform Project 2	To be introduced via amendments to the *Road Traffic Act 1974* and Regulations.	The amending Act was assented to on 21 December 2001. As part of the adoption of the reform's concept of a "registered operator", the Act contains provisions which will introduce the concept of a "responsible person". Significant changes are required to WA Police Service technology and administrative procedures are necessary in respect of speed camera operations before these provisions may commence operation, however in the interim, Western Australia has been able to achieve outcomes which are consistent for the most part with this reform via administrative means.
National Driver Licensing Scheme National Reform Project 3	Introduction of the National Drivers' Licence Classifications and compulsory photographic licences is to be achieved via passage of a Bill to amend the *Road Traffic Act 1974*. The remainder of the Scheme to be introduced via additional amendments to the *Road Traffic Act 1974* and Regulations.	An amending Act was assented to in 2000. Its provisions and supporting regulations commenced operation on 7 May 2001. Drafting of the amendment Bill was suspended pending completion of a licensing functional review to determine, amongst other matters, where administrative responsibility for licensing functions should most appropriately reside. As the determination of these issues would affect the content of the Bill, drafting of the Bill did not resume until completion of the review in March 2003. Drafting of the Bill has since recommenced and is expected to be completed in time for the Bill's introduction into the Parliament during the 2003 Spring session.

Reform Project	Legislation/action required	Current implementation status and change since last report to the NCC
Vehicle Operations National Reform Project 4 **Heavy Vehicle Standards** National Reform Project 5	Introduction of the following national models: • Australian Vehicle Standards Rules; • Mass and Loading; • Oversize and Overmass Vehicles; and • Restricted Access Vehicles; is to be achieved via amendments to the *Road Traffic Act 1974* and Regulations.	The *Road Traffic Amendment Act 2001* was assented to on 22 December 2001. The supporting amendment regulations commenced operation on 1 November 2002.
One Driver / One Licence National Reform Project 9	To be introduced via amendments to the *Road Traffic Act 1974* and Regulations.	As for "National Driver Licensing Scheme, National Reform Project 3".
Enhanced Safe Carriage and Restraint of Loads National Reform Project 13	Regulations to adopt the national model were disallowed by the West Australian Parliament in 1998. The amending regulations will be reintroduced when amendments to the regulation-making powers contained in the *Road Traffic Act 1974* are in place.	As for "Vehicle Operations, National Reform Project 4" and "Heavy Vehicle Standards, National Reform Project 5".

Third Tranche Assessment Framework

Reform Project	Implementation target	Comments
Combined Vehicle Standards	Already implemented in WA	The *Road Traffic Amendment Act 2001* was assented to on 22 December 2001. The supporting amendment regulations commenced operation on 1 November 2002.
Australian Road Rules	Already implemented in WA	
Combined Bus and Truck Driving Hours	Not required	ATC Ministers have agreed this reform will not be applied in WA.
Second Charges Determination	Already implemented in WA	
Axle Mass Increases for Ultra-low Floor Buses	Already implemented in WA	

ATTACHMENT 3: INSURANCE ARRANGEMENTS: COMPLIANCE WITH NATIONAL COMPETITION POLICY

Legislation in Australia governing the provision of compulsory third party (CTP), workers compensation and legal professional indemnity insurance restricts competition. The most significant restriction is the requirement in some jurisdictions that these forms of insurance be provided by statutory monopolies. In 2002, the Council deferred consideration of the NCP compliance of these arrangements until 2003 given the considerable changes occurring in wider insurance markets and possible ramifications for compulsory insurance.

The Federal Minister for Employment and Workplace Relations and the Parliamentary Secretary to the Treasurer announced on 24 July 2002 that the Commonwealth Government will ask the Productivity Commission (PC) to inquire into streamlining Australia's various workers' compensation and occupational health and safety (OH&S) schemes. This announcement indicated that there might be benefits in establishing nationally consistent arrangements for workers compensation and OH&S. While the terms of reference for the Productivity Commission inquiry have not yet been finalised, it is likely that the inquiry report will have ramifications for the design of Commonwealth, State and Territory workers compensation schemes, and also CTP schemes because of the similarities in these two areas of insurance (in particular, both forms of insurance are concerned with personal injury and are mandatory). The PC inquiry report and recommendations are therefore likely to be relevant to the assessment of NCP compliance.

The timing of the Productivity Commission's report will not be clear until the terms of reference are released, but it is possible that the report will be finalised and released after the 2003 assessment is prepared. In such circumstances, the Council would not be able to complete its assessment of the NCP issue of monopoly or multiple provisions in time for inclusion in the 2003 assessment. However, the Council will progress its consideration of the issue in the 2003 assessment.

Chapter 9 of the 2002 assessment report discusses the issues against which the Council will consider the NCP implications of monopoly provision. Chapter 9 foreshadowed that the Council will need further information on various issues and arguments related to monopoly provision of CTP, workers compensation and legal professional indemnity insurance. This attachment outlines the information that the Council is seeking. The information requirements are described in two parts: first, information relating to issues raised in the 2002 assessment and, second, specific information sought from individual jurisdictions.

CTP and workers compensation insurance

Most jurisdictions have legislated for monopoly provision of one or both of CTP and workers compensation insurance. In several cases, jurisdictions allow multiple provision of one of these forms of insurance, but not the other, despite the broad similarities in the insurance types. The arguments that have been used in favour of monopoly provision are summarised in the following paragraphs.

Economies of scale

Governments have argued that the size of their markets for these insurance products calls for monopoly provision to maximise the prospects of reaping economies of scale. The existence of multiple providers in some jurisdictions suggests, however, that these economies are largely achieved at quite low output sizes, so reducing the case for a monopoly. For example, there are seven licensed providers of CTP insurance in Queensland and eleven and nine licensed providers of workers compensation insurance in Western Australia and Tasmania respectively. This evidence suggests it is viable for several companies to offer these products, even in small markets.

The Council would appreciate jurisdictions' comments on the implications for economies of scale of the existence of several competing insurers, even in smaller State markets. The Council requests that jurisdictions provide any data that indicates the insurance enterprise size that enables the achievement of economies of scale.

Economies of scope and outsourcing

Companies that offer a range of products often enjoy economies of scope because they can apply their resources (for example, personnel, capital and buildings) and expertise across the range. Competing private providers of CTP and workers compensation insurance usually sell other insurance products, and thus can reap economies of scope by spreading their overhead and other costs, and by bringing their expertise garnered from various insurance markets to the provision of CTP or workers compensation insurance. The focus of monopoly insurance providers on one insurance product may prevent their realisation of economies of scope. Some governments have argued that economies of scope can be at least partly achieved by monopoly insurance providers by outsourcing certain functions to private companies, following a competitive bidding process.

The Council would appreciate information from jurisdictions on the extent of outsourcing by their monopoly providers, and any expected widening of this outsourcing. It would be helpful if governments would estimate the benefits from such outsourcing and compare these with the benefits likely to be achieved through multiple provision. Monopoly providers should be able to provide information on cost savings that can be achieved through outsourcing, and those jurisdictions with multiple providers may have an insight into the economies of scope that are achieved by private insurers.

Systems improvements, safety and rehabilitation, and high risk customers

Insurance companies generally have a financial incentive to restrict litigation and fraud and encourage safe practices. Some jurisdictions have argued, however, that private insurers under multiple provision arrangements would not invest in systems improvements to control litigation costs and fraud, or in safety and risk management initiatives, because they are concerned that their competitors would reap many of the benefits. It has been claimed that, in the regulated CTP and workers compensation markets, the desire of private insurers to minimise their exposure to high risk customers has been manifested in departures from the market. There are concerns that, in a deregulated market, competing insurance companies would tend not to offer insurance to high risk drivers and employers.

The Council requests that jurisdictions provide any evidence of such behaviour by private insurers – this should be particularly possible for those jurisdictions that have multiple provision of either CTP or workers compensation insurance. The views of jurisdictions on possible alternative approaches to litigation and fraud reduction, safety, rehabilitation and high risk customers, would also be welcome. These alternative approaches may include the establishment of a levy to cover the cost of fraud reduction, safety and rehabilitation measures and high risk drivers and employers. Another option would be to allow risk-related higher premiums for drivers and employers with a poor history in safety and risk management.

'Long tail' liabilities

Some accident victims are so severely injured that they require income and rehabilitation support over a long period. Sometimes, claims for funding do not surface for some years after the event. Some jurisdictions with monopoly providers have expressed concern that this long tail nature of accident insurance increases its complexity and necessitates its provision by government-owned monopolies that, it is claimed, take an interest in setting aside funds for such accident victims and contributing to their rehabilitation. On the other hand, it could be argued that private insurers operating in a competitive market would have a strong financial incentive to make good actuarial assessments of the likelihood of traumatic accidents and set aside appropriate funds, to contribute to programs that reduce accidents and to develop a reputation for supporting the needs of those facing long rehabilitation. Jurisdictions have argued, however, that competing companies would not be prepared to make investments in accident reduction and rehabilitation because their competitors would share the benefits.

The Council is seeking any information that indicates whether competing insurers generally are less motivated than monopoly providers to make careful actuarial assessments of the likelihood of serious accidents with long tail impacts. The Council is also seeking evidence indicating whether private insurers contribute less to accident reduction and rehabilitation. The Council would especially appreciate a comparison of the performance and behaviour of monopoly and private insurers in this regard by those jurisdictions that have both forms of insurance provision (that is, monopoly and multiple) across the CTP and workers compensation areas.

Prudential supervision

Some jurisdictions with government-owned monopoly insurance providers contend that they have greater certainty about the financial position of the insurer.

The Council requests these jurisdictions to provide the reasons for this view. In what ways does government ownership of a monopoly provider allow greater certainty about its financial position than the licensing of private insurers that are subject to the oversight of the Australian Prudential Regulatory Authority (APRA)? The Council requests jurisdictions with monopoly and multiple providers to compare their experience in being able to monitor the financial position of insurance companies providing CTP and workers compensation insurance. The Council would also appreciate governments' views on whether the recent enhancement of prudential standards and re-licensing activity by APRA would alter their perception of the importance of their own oversight of insurers' financial positions.

Legal professional indemnity insurance

All States and Territories, with the exception of the ACT, require solicitors to take out professional indemnity insurance through a monopoly provider. The arguments that have been used by jurisdictions to justify the monopoly provision are summarised below.

Coverage of all registered practitioners

Some jurisdictions have argued that monopoly provision is necessary to ensure that all legal practitioners receive insurance cover. It is argued that private insurers would not cover those lawyers most likely to experience a number of claims. There are some evidence and arguments to the contrary, however. First, the level of claims against legal practitioners is not great, suggesting that insurance companies would be attracted to participating in this market under competitive arrangements. Second, the New Zealand experience suggests that all or most lawyers would be covered under competitive arrangements. Third, it could also be argued that those lawyers most likely to experience several claims should be faced with appropriately higher premiums, which would be the likely result under competitive arrangements. Fourth, multiple provision may result in more certainty about coverage than monopoly provision, because the failure of a monopoly provider would affect the insurance coverage of all solicitors in the jurisdiction.

The Council would appreciate jurisdictions' comments on these matters.

Cost-effective coverage

Some jurisdictions have argued that monopoly mutual funds have been able to bargain with insurers and to keep costs down by avoiding advertising, brokerage and commissions.

The Council requests jurisdictions to provide data which supports claims that monopoly providers are more cost-effective (Victoria has already presented such data), and to indicate why they believe competition amongst private insurers would not drive premium costs down.

Delivery of run-off cover

Some jurisdictions have expressed a concern that smaller law firms may not be able to purchase 'run-off' cover (relating to claims made, after a lawyer retires, for a past event) from private insurance companies.

The Council requests jurisdictions to provide information on why run-off cover would not be available under competitive arrangements. Why, for example, would private insurers not set appropriate premiums using actuarial evidence, and thus offer run-off cover?

Prudential supervision

Some reviews have contended that monopoly insurance provision fosters greater certainty on the part of States and solicitors about the financial position of the insurer. On the other hand, HIH underwrote the monopoly arrangement in New South Wales, and yet this gave no warning of the HIH collapse. The failure of a

monopoly provider would arguably be more disruptive than the failure of one of several competing providers.

The Council requests those jurisdictions that believe that statutory monopoly schemes provide greater prudential certainty to explain why this is the case and indicate the extent to which they believe certainty is enhanced.

Risk management

Some jurisdictions have argued that monopoly providers learn more about risks in legal practice and are more motivated to assist legal practitioners to reduce their risks. However, under competitive arrangements, individual practitioners would receive price signals (through premiums) that would encourage them to improve their risk management practices, and insurers would have an incentive (minimising claims) to help practitioners improve their risk management. In this regard, insurance companies may be able to introduce knowledge and ideas from other areas of their insurance work.

The Council requests the views of jurisdictions on this issue, and any evidence that they may have (perhaps from other insurance areas where there is competitive provision) about the provision of risk management services by competing insurance companies.

Further specific information sought from Western Australia

In addition to the information requested above, the Council would be grateful if Western Australia would provide the following information:

- *Please report on the Government's proposed reforms, if any, of CTP insurance arrangements in response to the national competition policy review that was completed in 2000. (This review recommended multiple provision.)*

- *Please report on reform intentions or implementation with regard to legal professional indemnity insurance following the completion of the review on the Legal Practitioners Act 1983.*

- *What impact, if any, does Western Australia believe that its recent civil liability reforms will have on CTP, workers compensation and legal professional liability insurance? Will there be a flow-on to the number and size of claims in these insurance areas? If so, would this alter Western Australia's views about multiple provision of CTP and legal professional indemnity insurance?*

6 Western Australia

Agency abbreviations

The following abbreviations are used in the 'Agency' column of the Western Australian legislation review timetable.

A	Department of Agriculture
BAG	Board of the Art Gallery of Western Australia
CALM	Department of Conservation and Land Management
CD	Department for Community Development
CEP	Department of Consumer and Employment Protection
CHA	Country Housing Authority
CSB	Coal Industry Superannuation Board
DET	Department of Education and Training
DH	Department of Health
DOIR	Department of Industry and Resources
DRGL	Department of Racing, Gaming and Liquor
DT	Department of Training
EP	Department of Environmental Protection
EPRA	East Perth Redevelopment Authority
ES	Department of Education Services
F	Department of Fisheries
FESA	Fire and Emergency Services Authority
GC	Gold Corporation
GESB	Government Employee Superannuation Board

HW	Department of Housing and Works
IA	Department of Indigenous Affairs
IC	Insurance Commission
J	Department of Justice
LGRD	Department of Local Government and Regional Development
LI	Department of Land Information
OE	Office of Energy
OWP	Office of Water Policy
P	Police Service
PC	Department of the Premier and Cabinet
PI	Department of Planning and Infrastructure
PTT	Perth Theatre Trust
RGL	Office of Racing, Gaming and Liquor
RIA	Rottnest Island Authority
SBDC	Small Business Development Corporation
SR	Department of Sport and Recreation
SRT	Swan River Trust
TF	Department of Treasury and Finance
WALA	Western Australian Land Authority
WCRC	Workers Compensation and Rehabilitation Commission

Legislation review: Western Australia

Updated to February 2004

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Aboriginal Affairs Planning Authority Act 1972 and Regulations	IA	Access to Aboriginal lands is restricted. Provision of finance for Aboriginal enterprises which enables finance to be provided to Aboriginal enterprises through the Aboriginal trading fund, which may have competitive advantages over private sector lenders.	Review completed in 1997. Review concluded that both restrictions protect the residents of Aboriginal Lands and enable support for Aboriginal enterprises that could reduce reliance on welfare and other transfer payments. The costs are estimated to be minimal, but achieve significant public benefits. Recommended retaining the restrictions.	The Government endorsed the review recommendations. Act retained without reform.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Aboriginal Communities Act 1979 and By-laws	IA	Section 7(1) empowers a community to which the act applies to make by-laws relating to the community lands of that community for or with respect to: • the prohibition or regulation of the admission of persons, vehicles and animals to the community lands or a part of the community lands; and • the prohibition, restriction or regulation of the possession, use or supply of alcoholic liquor or deleterious substances.	Review completed in 1997. Review concluded that effects on the general economy are not significant. Nonlegislative alternatives were considered, but it is considered that the provision of powers to Aboriginal communities to regulate access to community lands is necessary and that no less restrictive means are available to fulfil the purpose of the Act and maintain the level of public benefit. Recommended retaining the powers of the communities to regulate access and the availability of deleterious substances on the grounds of public health and cultural preservation.	The Government endorsed the review recommendations. Act retained without reform.
Aboriginal Heritage Act and Regulations 1974	IA	Access to Aboriginal lands containing protected sites is restricted.	Review completed in 1997. Review concluded the restriction protects the cultural heritage of the State and ensures that sites of historical and cultural significance are not damaged or destroyed. Noted the restrictions on competition contained in the legislation are in the public interest and should be retained.	The Government endorsed the review recommendations. Act retained without reform.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Administration Act 1903 and Regulations	J	The Act treats natural persons differently from other classes of administrators of intestate estates as regards a requirement to obtain surety.	Review completed in 1997. The restriction has no costs, but provides benefits by placing natural person administrators on a level playing field with other classes of administrators. It does so because other administrators are already subject to similar safeguards to protect deceased estates, by other means. Recommended retaining the restriction as it was found to be in the public interest. Review also recommended: broadening the range of financial institutions covered by a provision that grants them protection to pay funds from a deceased estate, up to a maximum amount, for funeral or other authorised purposes prior to administration of the estate; and making this maximum amount consistent with corresponding provisions of the Financial Institutions Code (WA).	Amendments made under the Acts Amendment and Repeal (Financial Sector Reform) Act 1999 removed the restrictions that were to be addressed through the recommendations of the National Competition Policy (NCP) review of this Act.
Aerial Spraying Control Act 1966	A	Licenses aerial spray contractors.	National review completed in 1999. See the Agriculture and Veterinary Chemicals (Control of Use) Act 1992 (Victoria).	See the Agriculture and Veterinary Chemicals (Control of Use) Act 1992 (Victoria). The Government will replace the Act with regulations under the Agriculture Management Bill, currently being drafted.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Agricultural Produce (Chemical Residues) Act 1983 and Regulations	A	Restricts sale, movement and destruction of chemically affected produce. Requires analysts to have minimum qualifications.	Not on WA's legislation review program (LRP) but reviewed as part of the national review of agvet chemicals. See the Agriculture and Veterinary Chemicals (Control of Use) Act 1992 (Victoria).	See the Agriculture and Veterinary Chemicals (Control of Use) Act 1992 (Victoria). Act is to be replaced by the Agricultural Management Bill being drafted. Reform complete. However, the Government will replace the Act with regulations under the Agriculture Management Bill, currently being drafted.
Agricultural Products Act 1929 and Regulations	A	Regulates the packing and sale of agricultural products.	Review by officials completed. Review recommended repealing all codes and replacing these with regulations on labelling.	Codes have been repealed. The legislation will be superseded by the Agriculture Management Bill, scheduled for introduction in 2004.
Agricultural Protection Board Act 1950	A		Review by officials, in conjunction with review of other agricultural protection Acts, completed. Review found the Act did not restrict competition.	Act retained without reform.
Agriculture Act 1988	A		Review by officials, in conjunction with review of other agricultural protection Acts, completed. Review found the Act did not restrict competition.	Act retained without reform.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Agriculture and Related Resources Protection Act 1976 and Regulations	A	Restricts importation of some plants or animals. Requires landholders to control pests and diseases. Spraying regulations. Raises rates on pastoral land. Restricts the storage of agricultural chemicals.	Review by officials, in conjunction with review of other agricultural protection Acts, completed. Review found the Act did not restrict competition, but nevertheless recommended: • repealing the spraying regulations (as when amendments are made to Health (Pesticides) Regulations 1956) and rewriting so that aerial operators are subject to the same licensing regimes as other pesticide operators; but • retaining powers to control use and other restrictions.	Review recommendations are being implemented through the Agricultural Management Bill, which is currently being drafted.
Agriculture and Veterinary Chemicals (Western Australia) Act 1995 and Regulations	A	Imports the Agricultural and Veterinary Chemicals Code (national registration scheme) into State jurisdiction (see the Australian Government Agricultural and Veterinary Chemicals Code Act 1994).	National review completed in 1999 (see the Australian Government Agricultural and Veterinary Chemicals Code Act 1994).	Reform incomplete, due to national processes. The State's Act imports Federal legislation, so any changes must first be made at the national level. (See the Australian Government Agricultural and Veterinary Chemicals Code Act 1994.)
Albany Port Authority Act 1926 and Regulations	PI	Restrictions on market entry and conduct.		Act repealed and replaced by the generic Port Authorities Act 1998.
Albany Woollen Mills Agreement Act 1976	PI	Differential treatment.	Review not required.	Act repealed.
Anatomy Act 1930	DH	Licensing.	Review completed in 2000. Review found that the Act contained no restrictions that had any effect on competition so as to warrant assessment.	Act retained without reform.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Anglo-Persian Oil Company Limited (Private) Act 1919	HW	The Acts define the relationships, rights and duties of oil companies, local government authorities and the Minister for Works in relation to the construction, operation and maintenance of pipelines on public lands. These duties and powers of the State and local governments constitute restrictions on the commercial activities of the oil companies.	Review completed in 1998. Review identifies public benefits of restrictions identified as: minor cost savings in management of municipal infrastructure arising from coordination in planning, construction and maintenance of municipal infrastructure and oil facilities; minimisation of public inconvenience during construction and maintenance activities on public land; and ensuring proper restoration of municipal infrastructure where this has been disturbed as a result of construction or maintenance activities by the oil companies. Review concluded that the restrictions arising from the legislation are either in the public interest due to current or potential future benefits, or have no current or potential future impact.	The Government endorsed the review recommendations. Act retained without reform.
Animal Resources Authority Act 1981	DH		Review by officials completed. Review found the Act contains no restrictions on competition.	Act retained without reform.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Architects Act 1921 and Regulations	HW	Restrictions on registration, entry requirements, reservation of title, disciplinary processes, business conduct (including require Architects Board approval for advertising), and business licensing.	National review conducted by the Productivity Commission (PC) completed in August 2000 (publicly released November 2000). PC review involved public consultation via public release of issues paper, draft report, consultation, public hearings and receiving submissions. Review recommended repeal of Act. The State review and its recommendations were endorsed by Cabinet on 17 December 2001. The State review found the Act should be amended as follows: • composition of the Architects Board will be broadened with consumer and educational representatives; • removal of the restrictions on ownership or control of corporations or firms; and • removal of restrictions on age, advertising, and use of derivatives of the word architect where such use is not false or misleading. A States and Territories working group developed a national response to the PC review.	WA endorsed the review of the Act in December 2001. Cabinet approved the drafting of amendments to the Act in March 2002 in response to the review. The public consultation period for the Architects Bill 2003 closed on 4 April 2003. The major change arising from the public consultation period is the composition of the Architect's Board will half consist of registered architects to provide the necessary architectural understanding for the board to carry out its functions. The Government introduced the Bill into Parliament on 26 November 2003.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Art Gallery Act 1959	BAG	The Act provides that works of art shall not be sold or exposed for sale in the Art Gallery or in any other places under the sole management and control of the Board. This imposes a discriminatory restriction on competition by not allowing private owners to sell works of art from the Gallery whilst allowing the Board to exempt governments or other art galleries from this provision. Regulations specifying the conditions and restrictions under which the public may be allowed to examine works of art in the Art Gallery and other places under the management and control of the Board.	Review completed. Review concluded that the intended effect of the restriction on the sale of artworks is to maintain the Gallery's status as the premier visual art collection and display institution and ensure that the Gallery is not diverted to overtly commercial operations. Review recommended amending the Act to give the Board discretionary powers in the sale of artworks in the Art Gallery or in any other place under the management and control of the Board. The proposed amendment would allow the Gallery some flexibility to sell artworks from its premises should the need or desire arise. Restrictions on the sale of art works have minimal impact on those wishing to sell their artwork as the Art Gallery typically refers queries regarding the purchase of art works to the relevant owner.	Act retained without reform. In May 2002, the Government endorsed the Minister's decision not to support the review's recommendation to amend the Act to give the Board of the Art Gallery discretionary powers in the sale of art works in the Art Gallery or in any other place under the management and control of the Board.
Artificial Breeding of Stock Act 1965	A	Restricts premises for supplying semen and other reproductive material. Licenses artificial breeders. Restricts importation of reproductive material.	Review by officials, in conjunction with review of a range of other agricultural protection Acts, completed. Review recommended: • repealing all restrictions; • introducing new less restrictive regulations on control of diseases; and • voluntary licensing of artificial breeders.	This legislation will be superseded by the Agriculture Management Bill, scheduled for introduction in 2004.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Auction Sales Act 1973 and Regulations	CEP	Licensing of auctioneers, entry requirements (fit and proper person, requires two years experience on restricted licence before general licence), the reservation of practice, and business conduct (maintenance of records in relation to livestock and vendor accounts).	Review completed. Discussion paper released in September 2000 inviting submissions. The review has now been endorsed by the Government. It recommended that: the licensing system be retained until a full legislative review of the Act is completed within the next 12 months; unless justified by new reasons arising from that review, the licensing system be repealed; and if licensing, or some other form of occupational regulation, is justified after completion of a full legislative review, then the administration of such a system be the responsibility of a single Government organisation. A general review of the Act is presently being conducted by the Department of Consumer and Employment Protection following completion of the NCP review. I	
Australian Soccer Pools Bloc: Rules for Subscriber Participation	DRGL	Licensing.		Act repealed and replaced by the Lotteries Commission (Soccer Pools) Rules 1996.
Beekeepers Act 1963	A	Requires registration of all beekeepers and branding of hives. Restricts importation, antibiotic use and testing. Imposes standards on honey.	Review by officials, in conjunction with review of a range of other agricultural protection Acts, completed. Review recommended retaining all restrictions except to reconsider those relating to honey standards and nuisance provisions.	This legislation will be superseded by the Agriculture Management Bill, scheduled for introduction in 2004.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Betting Control Act 1954 and Regulations	DRGL	Licensing.	Review in conjunction with the Totalisator Agency Board Betting Act 1960, completed in 1998. Of the 42 restrictions analysed in the review, the legislative provisions pertaining to 20 restrictions were recommended for repeal or amendment including: • relaxing restrictions on the operation of totalisators other than by the Totalisator Agency Board; • relaxing restrictions on bookmakers and their operations; • removing limits on bets in the regulations, leaving the racing clubs to set limits as they see fit; and • relaxing some restrictions on the operations of the Totalisator Agency Board. The legislative provisions giving rise to the remaining restrictions were assessed as being in the public interest and recommended for retention.	The Government endorsed some of the review recommendations. The Betting Legislation Amendment Act 2002 implemented some of the review recommendations. The Act provided for the establishment of corporate licensing structures and the removal of the restriction on bookmakers fielding only during race meetings. The Act also amended the Totalisator Agency Board Betting Act 1960 to ensure that no claim may be made against the TAB in relation to a bet that has been made with, or accepted by, the TAB. Recommendations not endorsed include the removal of bookmakers' betting limits and the removal of the prohibition on the licensing of additional off course totalisators. The Government has not provided a public benefit argument for their retention.
Biological Control Act 1986	A	Makes provision for the biological control of pests in WA. Complementary to Australian Government legislation. Act does not restrict competition. Act requires a transparent public inquiry process and review to determine the net public benefit of a biological control release.	Deleted from the LRP as the Council of Australian Governments (CoAG) Committee on Regulatory Reform (CRR) determined that the legislation has no anticompetitive impacts.	Reform complete.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Boxing Control Act 1987 and Regulations	SR	Registration (boxers, trainers, promoters and judges).	Departmental review completed in 1997. Consultation involved submissions. Review found that the restrictions were in the public interest.	The Government endorsed the review recommendations. Legislation retained without reform.
Bread Act 1982	CEP	Restrictions on market entry. Restrictions on delivery time for bread. Requirements for marking vehicles delivering bread.	Review by officials completed. Review recommended repeal of the Act.	Repeal of this Act was incorporated into the Acts Amendment and Repeal (Competition Policy) Bill 2002. The Upper House passed the Bill on 14 November 2003 and it was passed to the Legislative Assembly with amendments. The Bill was given royal assent on 15 December 2003.
British Imperial Oil Company (Private) Act 1925	DOIR	Licensing.		Act retained without reform.
Builders Registration Act 1939 and Regulations	CEP	Licensing, registration, entry requirements (training and seven years practical experience, age, good character, 'sufficient material and financial resources'), the reservation of practice, business licensing.	Review, in conjunction with the Home Building Contracts Act 1991, completed in 2002. Proposed recommendations included reducing restrictions on owner builders, expanding the scope of conditional licences, and expanding the coverage of the Act to the whole State.	In May 2002, the Government endorsed the review recommendations that the following restrictions on competition in the Act be amended: • prohibition of unregistered builders to be amended to allow a limited number of builder categories consistent with the Building Code of Australia; • conditional licence: will be amended to allow all potential builders rather than just those who have practised in non-covered regional areas to obtain conditional registration; and • journeyman builders: will be removed as a special case of conditional licences because it is redundant.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Bulk Handling Act 1967 and Regulations	A	Co-operative Bulk Handling Limited (CBHL) granted sole right to receive and deliver grain until 31 December 2000 subject to obligation to charge uniform prices and to receive all grain tendered.	Departmental review completed in 2002. Review recommended repeal of all remaining restrictions on competition except the requirement that CBHL accept all grain tendered to it. It also recommended retention of the requirement that CBHL allow anyone to use its port facilities on payment of prescribed charges, and that the Government continue to monitor the need to establish an access regime for these facilities.	The Bulk Handling Amendment Act 2002 repealed the major remaining restrictions on competition. Reform complete.
Bunbury Port Authority Act 1909 and Regulations	PI	Restrictions on market entry and conduct.	Review not required.	Act repealed and replaced by the generic Port Authorities Act 1998.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Bush Fires Act 1954 and Regulations	FESA	Restriction on the lighting of fires and the requirement to maintain fire breaks. This restriction regulates the lighting of fires and requires the maintenance of fire breaks. Requirement on local governments to provide firefighting equipment and insure voluntary firefighters.	Review completed in 1997. Review concluded the restriction on the lighting of fires and the requirement to maintain fire breaks is a very minor restriction on competition. This restriction is clearly in the public interest as it reduces the likelihood of fires. Recommended retaining the restriction. Review also noted that firefighting equipment is essential in combating bush fires and protecting the community. The extremely high potential cost of fire damage means local governments must be prepared. Volunteer firefighters are also essential in protecting communities from bush fires and therefore it is in the public interest for government to provide insurance to those who voluntarily risk their lives to protect the community. Recommended retaining the restriction. Review also recommended that Government businesses be subject to the same fire control requirements as other businesses.	The Government endorsed the review recommendations. Amendments to this Act have been incorporated into the Acts Amendment and Repeal (Competition Policy) Act 2003, which gained assent on 15 December 2003.
Business Franchise (Tobacco) Act 1975	DH	A licence is required by any person wholesaling tobacco or purchasing tobacco for retailing from someone who is not a licensed wholesaler, unless purchase is exempt.	Review completed in 1997. Review concluded that although this licensing regime restricts competition in the tobacco wholesaling industry and by doing so keeps prices artificially inflated, it thereby reduces consumption, and was found to be in the public interest on public health grounds. Recommended retaining the restriction.	The Government endorsed the review recommendations. Act retained without reform.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Camballin Farms (AIL Holdings Pty Ltd) Agreement Act 1985	PI	Differential treatment	Review not required.	The Act has been repealed by the Statutes (Repeals and Minor Amendments) Bill 2001, which was assented on 15 December 2003.
Caravan Parks and Camping Grounds Act 1995	LGRD	Competitive neutrality, and licensing.	The Caravan Parks and Camping Grounds Advisory Committee, a committee comprising government and industry representatives, considered matters to do with restrictions in both the Act and associated regulations. Review is to be considered by the Government in early 2004.	
Carnarvon Banana Industry (Compensation Trust Fund) Act 1961	A	Trust fund provides compensation for storm damage that restricts the entry of potential insurers to this market. Subsidised compensation is available only to Carnarvon growers.	Review by officials completed. Review recommended that the Act be repealed.	Act repealed on 28 June 2000.
Casino (Burswood Island) Agreement Act 1985 and Regulations	DRGL	Licences, restrictions on games, regulation of operations.	Review completed in 1998. The following restrictions found to be in the public interest: • limits on prizes and play amounts for amusement games with prizes; • limits on the number of bingo permits; • payout ratios and minimum and maximum wagers for minor lotteries; • the ability to set licence fees and taxes should remain, measures taken to ensure that in future, competing casino operators are treated equally and that licence fees are limited to	The Government endorsed the review recommendations. Main restrictions on conduct of casinos and casino games retained. The exclusive casino licence has expired and has not been renewed. Other entry barriers not in the public interest were removed and the government is negotiating the remaining entry restrictions with the casino operator.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
			cost recovery; • the licensing of casinos, games and the rules of games, and employees; • the approval needed for Casino supply contracts; • the ability of the Minister to approve certain ownership transactions and certain operating decisions; • the restriction of the use of credit wagering at the Casino; • the period of exclusivity for the Casino; • the conditions imposed on new casinos beyond the period of exclusivity; and • the monopoly over Casino style games and variants restricted to Burswood and any new casino beyond the period of exclusivity.	
Casino Control Act 1984	DRGL	Licensing, market conduct, and operations.	Review completed in 1998.	Exclusive licence expired and was not renewed. Other barriers to entry that are not in the public interest were removed. The Government is negotiating remaining entry restrictions with the casino operator.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Cattle Industry Compensation Act 1965	A	Powers to nominated persons to inspect and destroy cattle for the purposes of disease control. Provision to raise a levy on the sale of cattle.	Review by officials completed in 1998. Review recommended: • retaining the restrictions; and • amending the Act to ensure that compensation is only paid for animals destroyed as a result of a control program which is of a 'sufficiently public good nature'.	To be repealed when planned legislation for grazing industry health protection funding is drafted during 2003-04.
Censorship Act 1996	J	Restrictions on the publication and possession of a range of media.	Review not required. Removed from LRP.	Act replaced the Censorship and Films Act 1947, the Video Tape Classification and Control Act 1987 and the Indecent Publication and Articles Act 1902.
Censorship and Films Act 1947	J	Licensing.	Review not required. Removed from LRP.	Act repealed.
Charitable Collections Act 1946 and Regulations	J	Licensing.	Review not required.	These Acts will be repealed upon enactment of the Public Collections Bill. This Bill is expected to be introduced into Parliament during 2004.
Chicken Meat Industry Act 1977 and Regulations	A	Prohibits supply of chickens unless under an agreement approved by the Industry Committee. Processing plants and growing facilities must be approved.	Review completed in 1997. Review recommended that the Government should: • retain the industry committee's power to set industry-wide supply fees, subject to allowing growers to opt-out of collective negotiations; and • remove restrictions on processor and grower entry. Review also recommended that the collective bargaining arrangements be reviewed again after five years.	Review recommendations being implemented through the Acts Amendment and Repeal (Competition Policy) Bill 2002. The Upper House passed the Bill on 14 November 2003, and it was returned to the Legislative Assembly with amendments. It gained assent on 15 December 2003.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Chiropractors Act 1964	DH	Restrictions on entry, registration, title, practice, and disciplinary provisions.	Review of health practitioner legislation completed. Issues paper released October 1998, and Key Directions paper released June 2001. It proposed removing prescriptive advertising restrictions; requiring practitioners to hold professional indemnity insurance; removing restrictions on business ownership; and retaining broad practice restrictions for three years pending the outcome of the core practices review (which is under way). A core practices discussion paper was released in March 2003.	In April 2001, the Government approved the drafting of new template health practitioner Acts to replace the health professions legislation. The Government will introduce the legislation into Parliament as soon as possible.
City of Perth Parking Facilities Act 1956 and Regulations	PI	Licensing.	Review not required.	Act repealed.
Coal Industry Superannuation Act 1989	CSB	Competitive neutrality.	Review completed. Review found that clause 22, providing the Government assistance for the Coal Industry Superannuation Fund, should be removed as it restricts competition by conferring a competitive advantage on the fund. Review also considered clauses 14 and 15, setting out mandatory contributions to the Fund from members and employers. The review concluded that these restrictions were in the public interest due to economies of scale and reduced administration costs, and should be retained.	Review endorsed by the Government in February 2003.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Commonwealth Oil Refineries Limited (Private) Act 1940	DOIR	Licensing	Review completed. Review concluded that the restrictions arising from the legislation are either in the public interest due to current or potential future benefits, or have no current or potential future impact (see the Anglo-Persian Oil Company Limited (Private) Act 1919).	Act retained without reform.
Community Services Act 1972 Community Services (Child Care) Regulations 1988	CD	Licensing, standards, operating procedures	NCP review completed in June 2002. Review recommended retaining the restrictions because they are in the public interest, and expanding the current three-yearly review process of the Regulations to encompass day care outside of school hours. Another recommendation was to consider, via the three-yearly review process, changing prescriptive regulations to a more outcome-based system within the regulatory framework.	The Children and Community Development Bill 2003 repeals these two Acts and the Child Welfare Act 1947. The Bill had its second reading following introduction to the Legislative Assembly on 4 December 2003. The new Act, among other things, makes provisions for the licensing of child care services.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Conservation and Land Management Act 1984	CALM	Licensing of timber collection and of taking of other resources. Administrative discretion over how licences and produce are allocated and priced. Permits to occupy and use State forest. Registration of timber worker.	In 1999 a review by an independent economic adviser recommended the repeal of: • various limits on beekeeping in State forests; and • the exemption of State forest tree values from local body rating. In May 2002, the Government endorsed the review recommendations. Separately, in 2000, the Act was amended by: • the Conservation and Land Management Amendment Act 2000; and • the Forest Products Act 2000. These Acts vested State forests and other lands in the Conservation Commission and established the Forest Products Commission to undertake commercial forestry functions on State forests and private land. A review of this amending legislation found all identified restrictions to be in the public interest, and is to be considered by the Government in early 2004.	Rating exemptions have been removed via the Acts Amendment and Repeal (Competition Policy) Bill 2002, which gained assent on 15 December 2003. Regulations 73(2) and 73(3) have been repealed from the Forest Management Regulations 1993 under the Forest Management Amendment Regulations 2003, published in the Government Gazette of 12 August 2003.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Consumer Affairs Act 1971	CEP		Review completed. Review recommended that certain restrictions be maintained and that the product safety provisions of this Act and the Fair Trading Act 1987 be combined in a single Act to remove unnecessary duplication. The Review was endorsed by Cabinet on 4 August 2003. The Act is currently the subject of a general legislative review concurrently with the review of the Fair Trading Act.	
Consumer Credit (Western Australia) Act 1996	CEP	Regulates the provision of consumer credit.	National review completed. Review recommended maintaining the current provisions of the code, reviewing its definitions to bring term sales of land, conditional sales agreements, tiny term contracts and solicitor lending within the scope of the code. The review also recommended enhancing the code's disclosure requirements. The Ministerial Council on Consumer Affairs endorsed the final report in 2002 and referred it to the Uniform Credit Code Management Committee which is facilitating the resolution of some issues.	Amendments currently are being progressed under a template legislation model to ensure national consistency.
Cooperative and Provident Societies Act 1903	CEP	Licensing.	Act recommended for repeal.	This Act will be repealed upon the enactment of the proposed Co-operatives Bill. This Bill is subject to current national consideration in respect to an agreement for template legislation. The Co-operatives Bill has an AO4 priority for introduction into Parliament in the Autumn Session 2004.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Country Slaughterhouse Regulations 1969	DH		Review by Health Department officials completed.	Regulations repealed by Regulation 28 of the Health (Meat Hygiene) Regulations 2001.
Credit (Administration) Act 1984 and Regulations	CEP	Restrictions on licensing, and disciplinary provisions.	Review by the Ministry of Fair Trading completed with public consultation. Review recommended that the licensing requirements be repealed and that many of the powers of the Tribunal and Commission be removed, but that the disciplinary provisions are retained on public interest grounds.	The Government endorsed the review recommendations. A public benefit argument for retaining the licensing requirement for payday lenders made it necessary to reassess the NCP review recommendations, to determine whether the amendments needed minor modifications. The original NCP report was re-examined to account for the relevant market changes. Amended report endorsed by Cabinet on 4 August 2003. The report recommended that the Act be amended to replace the licensing requirement for credit providers with a system of registration coupled with negative licensing; and replace the prohibition against persons having a business as a credit provider when in partnership with an unlicensed person. WA is still to implement the endorsed recommendations through amendment of the Act.
Credit Act 1984 and Regulations	CEP	Differential treatment.	Review completed in 2000. Review recommended repeal subject to further consideration of impact on contracts entered into prior to 1 November 1996.	Amendments to this Act incorporated into the Acts Amendment and Repeal (Competition Policy) Bill 2002. The Upper House passed the Bill on 14 November 2003.
Cremation Act 1929	DH	Licensing.	Review completed in 2002. Review found that the licensing requirements provide a net benefit to the public and recommended that they be retained.	The Government endorsed the review recommendations.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Curtin University of Technology Act 1996	ES	Competitive neutrality, and market power.	Review, by the Office of Higher Education, completed in 1998. Review recommended that investment provisions be consistent between universities.	The Government endorsed the review recommendations. Amendments required.
Dairy Industry Act 1973 and Regulations	A	Vesting of milk in the Dairy Industry Authority. Farmgate price-setting for market milk. Market milk quotas. Licensing of farmers and processors.	Review by Agriculture WA officials, assisted by an industry working party, completed in 1998. Review recommended: • the retention of farm-gate pricing for market milk; • the continued vesting of all milk in the Dairy Industry Authority; and • the continuation of the licensing powers of the Authority. Review also found that quotas as a mechanism for ensuring year round supply were unnecessary, but recommended that quotas be retained for as long as farm-gate pricing continues.	In line with the March 2000 communiqué signed by all Australian Agriculture and Primary Industries Ministers committing to a national approach to dairy reform, WA passed the Dairy Industry and Herd Improvement Legislation Repeal Act 2000 on 27 June 2000, deregulating the industry from 1 July 2000.
Dampier Port Authority Act 1985 and Regulations	PI	Restricts market entry and conduct.		Act repealed and replaced by the generic Port Authorities Act 1998.
Dampier to Bunbury Pipeline Regulations 1998	OE			Regulations repealed on 1 January 2000.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Debt Collectors Licensing Act 1964 and Regulations	CEP	Licensing, entry requirements (age, good name and character, fit and proper person), the reservation of practice, and business conduct (trust accounts, fidelity bonds).	Departmental review completed in 2003. Review found many of the restrictions in the licensing system to be in the public interest, but recommended that limits on fees charged to creditors by debt collectors and the requirements for written contracts between creditors and debtors be removed. It also recommended that licensing be extended to cover debt collectors' employees.	The Government endorsed the review recommendations, but has not yet implemented any reforms.
Dental Act 1939	DH	Restrictions on entry, registration, title, practice, and disciplinary provisions.	Review of health practitioner legislation completed. Issues paper released October 1998 and the 'Key Directions' paper was released in June 2001. The latter proposed removing prescriptive ownership restrictions; requiring practitioners to hold professional indemnity insurance; removing restrictions on business ownership; and retaining broad practice restrictions for three years pending the outcome of the core practices review (which is under way). The core practices discussion paper was released in March 2003.	In April 2001, the Government instructed Parliamentary counsel to draft new template health practitioner legislation to replace the health professions legislation. The Government will introduce the legislation into Parliament as soon as possible.
Dental Amendment Act 1996	DH	Licensing.	Review completed. Issues paper released October 1998. Key Directions paper released June 2001.	This Act has been incorporated into the Dental Act.
Dental Prosthetics Act 1985	DH	Restrictions on entry, registration, title, practice, and disciplinary provisions.	Review completed. Key Directions paper released in June 2001, stating that ownership restrictions should be removed, but current practice restrictions would be retained for three years to allow the identification of core practices.	New health practitioner legislation being drafted. This Act will be repealed.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Dried Fruits Act 1947	A	Grading of fruit. Registration of dealers and packing sheds. Maintenance of health standards.	Review by officials completed in 1997. Review recommended the Act be repealed.	Act repealed on 15 December 1998.
East Perth Redevelopment Act 1991 and Regulations	EPRA	Redevelopment control of the area, the compulsory taking of land, subdivision approval from Minister rather than the State Planning Commission, Treasurer's guarantee of loans, and Ministerial controls.	Review completed in 1997. Review found that effects of the restrictions on competition are relatively minor. The report concludes that there are no acceptable alternatives to achieving the objectives of the three restrictions relating to the powers of the Authority. The powers are necessary to clean up the existing environmental problems and achieve redevelopment in line with the vision for the area. At this stage of the Authority's activities, it would not be feasible to modify the regulatory framework. The restrictions relating to the internal running of the Authority stem from the Authority's status as a government agency and therefore cannot be removed. Recommended retaining restrictions.	The Government endorsed the review recommendations. Act retained without reform.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Eastern Goldfields Transport Board Act 1984 and Regulations	PI	Restrictions that gave the Board advantages arising from public ownership included: • nominating the Board as an agent of the Crown; • implying a Government Guarantee on borrowings; • exempting the Board from payment of local government rates; and • allowing the Board to make by-laws and regulations governing the behaviour of patrons and other matters.	Review completed in 1997. Review concluded the Board needs to retain the powers to enable monies to be borrowed to continue to perform its role as a provider of public bus services in Kalgoorlie/Boulder. Recommended repealing restrictions on nominating the Board as an agent of the Crown and exempting the Board from paying local rates. Nonlegislative alternatives were considered (and rejected) relating to the Board's current power to regulate patrons' behaviour through by-laws and regulations. The Board's powers in this respect are comparable to those of the Department of Transport in the Transperth system, and they do not confer any significant advantage over potential competitors. Recommended retaining above restriction.	Amendments to this Act were incorporated into the Acts Amendment and Repeal (Competition Policy) Bill 2002. On 10 April 2003 the Bill was referred to the Standing Committee on Uniform Legislation and General Purposes for scrutiny. The Committee reported on the Bill on 10 June 2003. The report recommended the Bill be passed without amendment. The Upper House passed the Bill on 14 November 2003. The legislation gained assent on 15 December 2003.
Edith Cowan University Act 1984	ES	Competitive neutrality, market power.	Review, by the Office of Higher Education, completed 1998. Review recommended that investment provisions be consistent between universities.	The Government endorsed the review recommendations. Amendments being progressed via the Acts Amendment and Repeal (Competition Policy) Act 2003, which gained assent on 15 December 2003.
Education Service Providers (Full Fee Overseas Students) Registration Act 1992	ES	Licensing of providers of education to overseas students.	Review under way.	

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Electricity Act 1945 - Part 1 of 2	OE	Regulations concerning mandated supply; coordinator determines interconnection prices; restriction on sale/hire of non-approved electrical appliances; and uniform pricing.	Initial review completed in 1998. Review recommendations have been superseded by wider reform of the electricity industry.	The Government is proposing new legislation based on the recommendations of the Electricity Reform Taskforce.
Electricity Act 1945 - Part 2 of 2 (Electricity (Licensing) Regulations 1991)	OE	Regulations - licensing, entry requirements (apprenticeship/training and experience/exam, fit and proper), reservation of practice, and disciplinary processes.	A review of the legislation was endorsed by the Expenditure Review Committee of Cabinet. The WA Government indicated that the review concluded that licensing of electricians is in the public interest, but further examination of some provisions is warranted.	
Electricity Corporation Act 1994	OE	Exclusive franchise of Western Power; barrier to entry to generate electricity; vertical integration; and competitive neutrality restrictions.	Initial review completed. Further review being conducted as part of wider electricity sector reform.	The Government endorsed the recommendations of the Electricity Reform Task Force. Some minor competitive neutrality advantages have been removed by the Statutes (Repeals and Minor Amendments) Act 1998. Any remaining restrictions will be removed within the context of electricity reform implementation.
Employment Agents Act 1976 and Regulations	CEP	Licensing, entry requirements (fit and proper person), the reservation of practice, and business conduct (scale of fees, maintenance of records, no misleading advertising).	Departmental review completed and expected to be submitted to the Minister by spring 2003.	

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Energy Coordination Act 1994	OE	Amended to introduce a gas licensing system that provides for regulation of companies operating distribution systems and supplying gas to consumers using less than 1 Terajoule per year.	Review of new provisions found restrictions were minimal and were the most cost-effective means of protecting small customers.	Act retained without reform.
Energy Operators (Powers) Act 1995 (formerly known as the Energy Corporations (Powers) Act 1979)	OE	Provided monopoly rights over sale of liquid petroleum gas (LPG) and provides energy corporations with powers of compulsory land acquisition and disposal, powers of entry, certain planning approval and water rights, and indemnity against compensation claims.	Review completed in 1998. Review recommended removal of monopoly over sale of LPG, and retention of land use powers of energy corporations. Land use powers necessary to facilitate energy supply.	Restrictions on LPG trading lifted with enactment of the Energy Coordination Amendment Act 1999 and the Gas Corporation (Business Disposal) Act 1999.
Environmental Protection (Diesel and Petrol) Regulations 1999	EP	Setting of fuel standards above national standards, thus protecting the local refinery.	New legislation.	
Environmental Protection Act 1986	EP	The ability to require an environmental impact assessment; licensing of occupiers of prescribed premises; exempting certain firms from EPA licensing; the requirement for firms to comply with the environmental standards set; and the power to prepare and publish environmental protection policies.	Review by independent consultants completed. Review found that restrictions should be retained.	The Government endorsed the review recommendations in 1997. Act retained without reform.
Esperance Lands Agreement Act 1960	PI		Review not required. Act to be repealed.	Act repealed in the Statutes (Repeals and Minor Amendments) Bill 2001, which gained assent on 15 December 2003.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Esperance Port Authority Act 1968 and Regulations	PI	Restrictions on market entry and conduct.		Act repealed and replaced by the generic Port Authorities Act 1998.
Exotic Diseases of Animals Act 1993	A	Powers to inspect, demand assistance and issue local quarantine orders. Powers to seize and destroy infected stock. Powers to control the movement of stock.	Review completed in 1998. Review recommended retaining the restrictions in the public interest.	The Government endorsed the review recommendation in March 1999. Act retained without reform.
Explosives and Dangerous Goods Act 1961	DOIR	The Act requires licences, permits, authorisations or approvals to be obtained as a means of regulating the various activities involving explosives and dangerous goods. The effects of the restrictions are generally to impose compliance costs on business and to protect the community from the activities involving explosives and dangerous goods.	Review completed in 1998. Review found that generally there are more efficient and effective ways of achieving the objectives of the legislation. The review considered more flexible approaches to controlling activities involving dangerous goods and found that these alternatives can also achieve the required safety and community protection objectives.	The Government endorsed the review recommendations. The Dangerous Goods (Transport) Act 1998 implemented a revised framework for classifying explosives and dangerous goods and transport-related matters. This ensures international consistency in systems of classification and authorisation criteria for dangerous goods and explosives. In addition, regulation of the transportation of explosives is now consistent with that of other dangerous goods under the new national transport framework. The Government introduced the Dangerous Goods Safety Bill 2002 in December 2002. This legislation will repeal the Explosives and Dangerous Goods Act and the Dangerous Goods (Transport) Act. The Bill has passed the Legislative Assembly and received its second reading in the Upper House on 24 June 2003.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Fair Trading Act 1987	CEP	Regulates the supply, advertising and description of goods and services and, in certain respects, the disposal of interests in land, and to make provision with respect to certain unfair or undesirable trade practices, as to the conditions and warranties to be applicable in consumer transactions, and as to the conditions and warranties to be applicable in consumer transactions, and as to the establishment of Codes of Practice as between certain classes of suppliers and consumers.	NCP review completed and considered by the Government in July 2003. the review recommended the retention of: • product safety regulations and product safety recall orders; • product information standards; • product quality standards; • packaging standards; and • product safety orders or regulations. The report recommended the product safety provisions of this Act and the Consumer Affairs Act 1971 be combined into a single Act to remove unnecessary duplication.	
Fertilisers Act 1977	A	Requires retailers to clearly label fertilisers and to handle them in such a way as to avoid contamination.	Review completed in 1997. Review recommended: • amending the Act to apply only to those fertilisers that pose a risk to agriculture; and • using less restrictive means to achieve the same objectives for other fertilisers.	The Government endorsed the review recommendations in 1997. This legislation will be superseded by the Agriculture Management Bill, scheduled for introduction in 2004.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Finance Brokers Control Act 1975	CEP	Registration, business licensing (with exceptions), advertising, limits on remuneration, conditions on how monies are kept on behalf of clients, auditing requirements and other conduct restrictions.	Review completed in 1999. Review concluded that the significant cost of complying with the Act did not warrant the benefits (if any) that it obtained and that these could be achieved with a less restrictive model. There was no evidence that the current system reduced the risk of defalcation or fraudulent behaviour of finance brokers. The review identified a class of persons known as private lenders who require some form of regulation to ensure a high quality service is maintained. This group includes superannuants who see mortgage backed loans as being an alternative to bank deposits. The review recommended repealing the Act and introducing Code of Practice under section 42 of the Fair Trading Act 1987, to provide regulation of financial intermediaries who deal as private lenders, for 3 years while the industry develops a self regulatory mechanism.	Review held in abeyance pending the decision of the Temby Royal Commission to the Finance Broking Industry. The report of the Royal Commission was tabled in Parliament in February 2002. The Australian Securities and Investments Commission has not assumed responsibility for regulating the whole finance broking industry as had been anticipated at the time of the Temby Royal Commission. Problems in mortgage broking have come to light at the national level. WA is retaining the Act with an amendment Bill currently before Parliament.
Firearms Act 1973 and Regulations	P	Registration (firearm repairers).	Review not required. Act removed from the LRP in view of a national approach to firearms policy.	No further action required.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Fish Resources Management Act 1994	F	Licensing of fishers. Prohibitions on market outlets. Input controls on boat, gear and fishing methods. Output controls such total allowable catches, quota, bag and size limits.	First review completed in 1999. Review recommended that the Government: • retain most of the existing restrictions; • in the rock lobster fishery: - commission an independent update on the net benefits of moving to output-based management; and - in the interim, remove the 150 pot maximum holding, and separate pot licences from boat licences; • amend the Act to clarify its objectives; and • integrate NCP principles into the ongoing fisheries management review cycle. The second review, of the rock lobster processing sector, recommended that the State Government remove limits on the number of domestic processing licences and provide licence holders the right to establish at multiple locations.	In relation to fisheries generally, the Government decided to: • include a clear statement of objectives in all fisheries management plans over the next 2-3 years; • schedule by June 2003 reviews of specific fisheries management plans against NCP; and • introduce by December 2004 a new framework consistent with NCP for individual holdings of access entitlements and licence transfers. In the rock lobster fishery, it has decided to retain input-based management until at least December 2006 pending review of the efficiency gains of moving to output-based management. It has also removed the 150 pot minimum holding restriction. In relation to rock lobster processing, it has established a new domestic processing licence from July 2003 that allows holders to establish processing facilities at multiple locations and to hold and grow lobsters for domestic sale, while retaining limits on the number of export processing licences.
Fisheries Adjustment Schemes Act 1987	F	Ministerial discretion as to eligibility for compensation upon cancellation of fishing property rights.	Review by independent consultant recommended no change to the Act. No NCP implications identified.	Act retained without reform.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Fishing Industry Promotion Training and Management Levy Act 1994	F	Potential for levies to be imposed with differential impact on fishers.	Review by independent consultant completed. Review recommended no change to the Act. No NCP implications identified.	Act retained without reform.
Fremantle Port Authority Act 1902 Act and Regulations	PI	Restricts market entry and conduct.		Act repealed and replaced by the generic Port Authorities Act 1998.
Friendly Societies Act 1894	J	Licensing.		Act repealed.
Fruit Growing Industry Trust Fund Act 1941	A		Review not required.	Act repealed.
Gaming Commission Act 1987 and Regulations	DRGL	Licensing for the conduct of games such as bingo, two-up and so on.	Review completed in 1998. Review recommended : • removal of restrictions on casino games for community gaming, two-up and bingo prize pools, subject to appropriate changes being negotiated in the Casino (Burswood Island) Agreement Act; • removal of lotteries restrictions to be removed or reduced, including: to allow for the licensing of suppliers of State lottery products by State Agreement; • amending the legislation so that lotteries conducted by organisations the subject of such an agreement are lawful lotteries; • allowing for licensing professional fundraisers; and • removing the definition of 'foreign lottery' from the legislation; and related amendments.	Amendments are yet to be made. The Government is considering its response to the review recommendations.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Gas Corporation Act 1994	OE	Creates Gas Corporation to run certain publicly owned gas assets.		Act repealed in December 2000.
Gas Standards Act 1972 and Regulations	OE	Gas Standards (Gasfitting and Consumer Gas Installations) Regulations 1999 - gasfitters licensing, registration, entry requirements (knowledge and skills, fit and proper), reservation of practice.	Review completed. Review concluded that licensing of gas fitters is in the public interest, but further examination of some provisions is warranted.	Review was endorsed by the Expenditure Review Committee of Cabinet.
Gas Transmission Regulations 1994	OE	Access provisions.		Regulations repealed. Access and related matters now regulated under the Gas Pipelines Access (WA) Act 1998.
Geraldton Port Authority Act 1968 and Regulations	PI	Restricts market entry and conduct.		Act repealed and replaced by the generic Port Authorities Act 1998.
Gold Corporation Act 1987 and Regulations	GC	Deals with competitive advantages and disadvantages arising from government ownership.	Review completed in 1999-2000. Review recommended removal of advantages enjoyed by the Gold Corporation and subsidiaries over other businesses operating in precious metals markets.	The Government endorsed the review recommendations. Review recommendations are being implemented through the Acts Amendment and Repeal (Competition Policy) Bill 2002. The Upper House passed the Bill on 14 November 2003, and the legislation gained assent on 15 December 2003.
Government Employees Superannuation Act 1987	GESB	Limits on choice of funds.		Act repealed.
Government Railways Act 1904 and By-laws: Nos. 1 to 53, 59, 62, 63, 64, 68, 74. No 55 (rates) No 60 (passenger fares) No 75 (Auction Sales) No 76 (Licensed Porters)	PI	Access, market power, and competitive neutrality.	Review completed in 1998.	The Government Railways (Access) Act 1998 and the Rail Safety Act 1998 have addressed amendments removing various advantages and disadvantages conferred on the Commission.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Grain Marketing Act 1975 and Regulations	A	Prohibits export marketing of barley, canola and lupins other than by the Grain Pool of Western Australia (GPWA).	Act reviewed by the Department of Agriculture in 2002. This recommended retaining the export monopoly in respect of barley, canola and lupins subject to: • allowing free export of grain in bags and containers; and • establishing a Grain Licensing Authority to license value-added grain exports and non-competitive bulk grain exports.	A Grain Marketing Act 2002 was passed in November 2002 to provide for the deregulation of grain marketing upon similar moves by the Australian Government and, in the interim, to issue an export licence to CBHL/GPWA and to establish a Grain Licensing Authority to licence bulk exports by others except where this would have a significant impact on market power-related price premiums. Appointments to the Authority were announced in May 2003, and the Authority began issuing licences in October 2003. The Ministerial Policy Guidelines and the Regulations have resulted in the GLA granting numerous licences for bulk exports of prescribed grains.
Hairdressers Registration Act 1946 and Regulations	DT	Licensing, registration, entry requirements (good character, training and exam), reservation of practice and title, and disciplinary processes.	Review by independent consultants completed. Review recommended the hairdressers' registration scheme be retained and the provisions be extended to apply to the whole State and the Hairdressing Registration Board be given discretionary power to create different classes of registration.	In February 2003, the Government endorsed the recommendation to retain the hairdressers' registration scheme. It has not yet implemented any reforms.
Health (Adoption of Food Standards Code) Regulations 1992	DH	As per the Food Standards Code (Australian Government).	Subject to the CoAG Food Regulation Agreement 2000.	Repealed and replaced by the Health (ANZ Food Standards Code Adoption) Regulations 2001.
Health (Asbestos) Regulations 1992	DH	Licensing.	Review under way, as part of the review of the Health Act 1911.	
Health (Cloth Materials) Regulations 1973	DH	Licensing.	Review under way, as part of the review of the Health Act 1911.	

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Health (Construction Work) Regulations 1973	DH	Licensing.	Review under way, as part of the review of the Health Act 1911.	
Health (Drugs and Allied Substances) Regulations 1961	DH	Licensing.	Part of Galbally Review. Draft review report completed on 11 September 2000. Final review report given to the Australian Health Ministers Conference (AHMC) in early 2001. Galbally Review concluded that most of the current controls provide a net benefit to the community as a whole in relation to the use of substances that have the potential to cause harm. The Review's final report presented to Health Ministers in January 2001. A Working Party of the Australian Health Ministers Advisory Council (AHMAC) was established to assist in the preparation of comments on the Review Report. AHMAC released the draft Response to the PIMC for comments on the draft AHMAC Working Party Response to the Review and the response takes account of the comments. The AHMC and CoAG are to endorse the response.	The Department of Health is preparing a review of the Health Regulations. WA has already implemented some recommendations.
Health (Food Hygiene) Regulations 1993	DH	Licenses food processors. Requires premises to be registered. Sets standards for safe food practices.	Review under way. Review near completion, and report being drafted.	
Health (Game Meat) Regulations 1992	DH	Requires slaughterers to hold minimum qualifications. Requires registration of field depots and processing facilities.	Review completed.	Regulations repealed and replaced by the Health (Meat Hygiene) Regulations 2001.
Health (Meat Inspection and Branding) Regulations 1950	DH		Review completed.	These regulations have been repealed. Reform complete.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Health (Pesticides) Regulations 1956	DH	Licensing.	Review under way, as part of the review of the Health Act 1911.	
Health (Pet Meat) Regulations 1990	DH		Review under way, as part of the review of the Health Act 1911.	
Health (Public Buildings) Regulations 1992	DH	Licensing.	Review under way, as part of the review of the Health Act 1911.	
Health (School Dental Therapists) Regulations 1974	DH	Licensing.	Review under way, as part of the review of the Health Act 1911.	
Health Act (Swimming Pools) Regulations 1964	DH	Licensing.	Review under way, as part of the review of the Health Act 1911.	
Health Act 1911	DH	Licensing.	Review under way.	WA is preparing legislation that will replace the Health Act 1911 which will include a Food Bill to adopt the Food Standards Code. Cabinet has approved phased replacement of the Act. Cabinet has approved drafting of the Food Bill, which will replace Part 8 of the Act.
Health Laboratory Services (Fees) Regulations	DH	Licensing.	Review completed.	Act repealed.
Health Services (Conciliation and Review) Act 1995	DH		Removed from the LRP.	

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Hire Purchase Act 1959 and Regulations	CEP	Credit providers are required to refund any surplus amount following repossession of goods under hire-purchase transactions; the Court has power to reopen hire-purchase transactions which it considers to be "harsh or unconscionable"; and the ability of credit providers to repossess farming goods is regulated.	Review, by the Ministry of Fair Trading completed, with public consultation. Review found that most of the provisions of the Act are no longer needed to achieve consumer protection for new hire-purchase transactions, since the enactment in 1996 of the national uniform Consumer Credit Code. However, the review found that three provisions (relating to surplus from sale of goods, equitable relief and farm goods purchases) are not adequately reproduced in the new Code and are justified for retention in the public interest. The Government endorsed the review recommendations.	The Government endorsed the review recommendations. Act to be amended via the Acts Amendment and Repeal (Competition Policy) Bill 2002. The Upper House passed the Bill on 14 November 2003, and the legislation gained assent on 15 December 2003.
Home Building Contracts Amendments Act 1996 and Regulations	CEP	Home building work contracts, dispute resolution procedures, and home building insurance arrangements.	Review, in conjunction with the Builders Registration Act 1939, completed in 2002.	In May 2002, Government endorsed the review recommendations to amend the following: • directions from Water Corporation to be amended to include all relevant licensed water service providers or the Office of Water Regulation where no licensed water service provider exists; an • consumers may terminate contract when they are at fault: will be amended to allow termination only if both parties agree. Amendments implemented by the Building Legislation Amendment Act 2000.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Horticultural and Produce Commission Act 1988	A	The Horticultural Produce Commission is empowered to raise compulsory levies from growers.	Review completed in 1997. Review recommended amending the Act to ensure that levies are used only to fund services that are of a sufficiently public good nature and have had a benefit-cost assessment.	Act amended. Now called the Agricultural Produce Commission Act 1988.
Hospitals (Licensing and Conduct of Private Psychiatric Hostels) Regulations 1997	DH	Licensing.	The NCP review of the Hospitals and Health Services Act 1927 included these regulations.	
Hospitals (Licensing and Conduct of Private Hospitals) Regulations 1987	DH	Licensing.	Review completed.	Hospital Regulations were dealt with in the Hospitals and Health Services Amendment Bill 2002. The Bill was assented to on 8 July 2002. This addressed an uncertainty in the operation of the Hospitals and Health Services Act 1927 by clarifying that agencies established under the Hospitals Act may be created to carry out a power, as well as a duty or function. This amendment alleviates the uncertainty that potentially impacted on the operation of PathCentre.
Hospitals (Service Charges) Regulations 1984	DH	Licensing.	The NCP review of the Hospitals and Health Services Act 1927 included these regulations.	

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Hospitals and Health Services Act 1927	DH	• Regulatory system controls entry of firms or individuals into or out of the market for private sector health services (e.g. number of private hospital bed numbers at a facility and specifications of buildings); and • Fees charged for private patients treated in public hospitals are determined by the Governor.	NCP review completed in May 2001 and endorsed by the Expenditure Review Committee and Cabinet in December 2001. It was noted that the review largely met the Competition Principles Agreement and that the proposed repeal and replacement of the legislation would fully meet the State's obligations under the Agreement.	The Department of Health intends to progress the development of new structural health services legislation to replace those parts of the Hospitals and Health Services Act 1927 that deal with public health system governance.
Hospitals and Health Services Amendment Act 1996	DH	Licensing.	The provisions of this Act have been incorporated into the Hospitals and Health Services Act 1927. An NCP review of this latter Act was completed in May 2001 and endorsed by the Expenditure Review Committee and Cabinet in December 2001.	
Human Reproductive Technology Act 1991	DH	Licensing.	Review completed. Review found that the Act contained no restrictions that had any effect on competition so as to warrant assessment.	Act retained without reform.
Human Reproductive Technology Amendment Act 1996	DH	Licensing.	Review completed. Review recommended no change.	Act retained without reform.
Human Tissue and Transplant Act 1982	DH	Licensing.	Review completed in 2000. Review found that the Act contained no restrictions that had any effect on competition so as to warrant assessment.	Act retained without reform.
Indecent Publications and Articles Act 1902 and Regulations	J	Licensing.	Review not required.	Legislation repealed and replaced by the Censorship Act 1996.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Industrial Relations Act 1979	CEP	Qualification requirements of office bearers of the Western Australian Industrial Relations Commission (WAIRC). Persons who have reached 65 years of age are ineligible for appointment to the Commission. Restricted access for public servants to the WAIRC. Restrictions on individual access to the WAIRC. Restricted representation of parties by legal practitioners. Restrictions on individual employees entering into industrial agreements. Registration requirements for employer and employee organizations. Restricted access to Public Sector Appeal Board and Railway Classification Board (to public service officers or Government officers or organisations).	In July 2003, the Government endorsed a Department of Consumer and Employment Protection (DOCEP) review of the Act, which was a revision of an earlier draft endorsed by the Government in 1998 The review recommended that the restrictions on access to the WAIRC and the composition of the WAIRC be retained, and that restrictions on individuals entering into employment contracts were also in the public interest and be retained.	
Industrial Training Act 1975 and Regulations	DET	Licensing.	Removed from the LRP.	Regulations repealed and replaced by the Vocational Education and Training Act.
Infectious Diseases (Inspection of Persons) Regulations	DH	Licensing.	Review completed.	Regulations have been repealed.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Inquiry Agents Licensing Act 1954 and Regulations	P	Licensing.		Act repealed and replaced by the Security and Related Activities (Control) Act 1996.
Insurance Commission of Western Australia Act 1986	IC	Limits on investment and borrowing powers, Treasurer's guarantee, and competitive neutrality.	Review completed in 1998. Review concluded that the restrictions provide net public benefit primarily because they improve accountability and oversight controls that are consistent with the approach to other public sector bodies, and legislation other than this Act gives the Insurance Commission exclusive functions so that it has no competitors. The review recommended retaining the restrictions as they provide a net public benefit and are necessary to achieve the objectives of the Act.	Act retained without reform.
Jetties Act 1926 and Regulations	PI	Licensing, and competitive neutrality.		Legislation to be repealed by the Maritime Bill and the Maritime and Transport Legislation Amendment and Repeal Bill (to be drafted).

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Land Valuers Licensing Act 1978 Regulations	CEP	Licensing, entry requirements (member of Institute of Valuers or education and four years experience, and possibly exams), the reservation of title and practice, and business conduct (including board setting maximum fees, code of conduct).	The 1999 departmental review of the Act was not finalised pending the findings of the Gunning Inquiry and the Temby Royal Commission into the finance broking industry. The review recommended the discontinuation of licensing and the Land Valuers Licensing Board. The Temby Royal Commission recommended that valuers be licensed. The Government endorsed the findings of the Royal Commission. The Government is examining review recommendations in light of the Gunning Inquiry. (Gunning Inquiry recommended replacing seven licensing boards including the Land Valuers Licensing Board, with a single authority to license finance brokers, builders, car dealers, land valuers, and real estate and settlement agents.) The NCP review was updated and endorsed by Cabinet on 4 August 2003. The review found that the following restrictions were in the public interest and should be retained: • the requirement for land valuers to be licensed; • the criteria for licensing; • the power to discipline land valuers; and the power to set maximum remuneration received by valuers.	No implementation is required.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Law Reporting Act 1981	J	The requirement to obtain prior written consent of the Attorney General before publishing judicial decisions of State courts. The practice of selective invitation and awarding of a single contract for a ten year period for the publication of the Authorised Reports. An arrangement between the Supreme Court Library and the Attorney General which establishes the Library as a monopoly service provider for the supply of unreported judgments and which is not subject to any form of market testing.	Review completed in 1998. Review found the benefits of the restriction (through maintaining the integrity of judicial processes utilising published judgments) outweigh the costs associated with potentially reduced innovation and availability of law reports. Review concluded the net public benefit could be achieved by a less restrictive alternative, involving a negative licensing system giving blanket authorisation to anyone to publish law reports while preserving the Attorney General's right to revoke, vary or withdraw authorisation, and the practice of selective invitation and awarding of a 10 year contract for publication of the Authorised Reports be replaced with a widened tender process and reducing contract periods to 5 years. Also recommended retaining the arrangement between the Supreme Court Library and the Attorney General, as there were benefits from greater accessibility to unreported judgments for the judiciary and the community at large through an efficient distribution service at minimal cost.	The Government endorsed the review recommendations. The recommendations are likely to be effected through administrative rather than legislative means.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Legal Aid Commission Act 1976 and Regulations	J	The review identified four restrictions in the Act as it will be amended by the Bill, all classified as minor: • prescribed composition of the Legal Aid Commission; • power and recognition given to the Law Society of WA (Inc); • prescribed qualifications of public assessor; and • prescribed rate of interest payable on money owed to Legal Aid Commission.	Review completed. Review found that each of the restrictions is in the public interest and should be retained.	Act retained without reform. The Government endorsed the review conclusion that the restrictions in the Act, as it will be amended by the Bill, should be retained as being in the public interest.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Legal Practitioners Act 1893 and Rules	J	Licensing, registration, entry requirements, reservation of title, reservation of practice, disciplinary processes, and business conduct (including monopoly professional indemnity insurance, trust accounts, fees, advertising).	Review completed in June 2002. Issues paper released in June 2000. Review recommended reserving sore areas of legal work; allowing practitioners who have made suitable alternative arrangements to opt out of the Law Society's professional indemnity insurance scheme; and removing restrictions on incorporated practices and multidisciplinary practices.	The Government introduced advertising restrictions similar to those in Queensland through the Civil Liability Act 2002. The Legal Practice Bill 2002 (introduced in October 2002) was passed in the Legislative Assembly on 24 June 2003 and in the Legislative Council on 14 November 2003. It was assented to on 4 December 2003. The Bill clarifies the standards required of, and regulation of, legal practitioners; modernises the structure and function of the Legal Practice Board, the complaints committee and disciplinary tribunal; enables the creation of incorporated legal practices and multidisciplinary partnerships; and introduces national practising certificates into WA. Further reforms may be introduced following the outcome of the national model laws project.
Licensed Surveyors Act 1909 and Regulations	PI	Licensing, entry requirements (competency - education and experience, age, good fame and character, continuing professional development), the reservation of title and practice, disciplinary processes, and business conduct (including professional indemnity insurance).	Review, in conjunction with the Strata Titles Act 1985, completed in November 1998. Review recommendations included re-composing the board, clarifying entry standards, and retaining restrictions on professional indemnity insurance.	The Government endorsed the review recommendations. Amendments to the Act were progressed via the Acts Amendment and Repeal (Competition Policy) Bill 2002 which gained assent on 15 December 2003.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Lights (Navigation Protection) Act 1938	PI	Licensing.		Act to be repealed by the Maritime Bill and the Maritime and Transport Legislation Amendment and Repeal Bill. The earliest time for the redrafting of Maritime Bill is the second half of 2003 (to be drafted).
Liquor Licensing Act 1988 and Regulations	DRGL	Contains a public needs test. (s 38 requires the licensing authorities to have regard to the number and condition and distribution and services provided by existing licensed premises in the affected area.) Also, differential hours for hotels and liquor stores with the latter prohibited from opening on Sundays.	Draft review completed in March 2001. Review recommended that the public needs test should be replaced by a public interest test. This public interest criteria should include reference to the likely effect on competition in the liquor market but not on individual competitors to enable identification of important but otherwise undisclosed public interest matters, i.e. outlet density and propensity for harm and ill health. Review also recommended that trading hours for liquor stores and hotels be similar including on Sundays.	WA introduced a package of measures (to take effect from 1 July 2005) that will implement the major review recommendations. The public needs test will be replaced with a public interest test and the same opening hours for outlets engaged in similar activities will be allowed. The Government has approved the drafting of the Liquor Licensing Amendment Bill 2003.
Local Government (Miscellaneous Provisions) Act 1960 Building Regulations 1989	LGRD		Review completed in mid 2002.	New legislation is being drafted to replace the Local Government (Miscellaneous Provisions) Act 1960 and the Building Regulations 1989. The new legislation will establish building regulations and specify building approval procedures. The drafting of the Building Act is delayed until the Productivity Commission reports on the effectiveness of the Building Code of Australia.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Local Government Act 1995	LGRD	Competitive neutrality, differential treatment, and single industry superannuation scheme for employees.	Review completed. Review concluded that requirement for local governments to participate in a single industry superannuation scheme is inappropriate. Exemption of Cooperative Bulk Handling from rates found to be potentially anti-competitive. Matter to be considered in conjunction with the review of the Bulk Handling Act 1967.	The Government is currently developing a Bill to implement the review recommendations.
Local Government Draft Model By-Laws	LGRD		Removed from the LRP.	No further action required.
Lotteries Commission Act 1990	DRGL	Allowing the Lotteries Commission (the Commission) to enter into agreements with other State lotteries agencies for the purposes of jointly conducting Lotto and Soccer Pools. Allowing the Commission to use trading names and symbols. Allowing the Commission to obtain permits directly from the Minister. Making it an offence for a person, without the approval of the Commission, to derive a fee or reward for promoting or forming a syndicate to purchase a ticket in a game conducted by the Commission. Allowing the Commission to enjoy the status, immunities and privileges of the Crown.	Review completed in 1997. Review recommended retention of restrictions.	The Government is considering its response to the review recommendations.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Marine (Hire and Drive Vessels) Regulations 1983	PI			Repeal pending enactment of the Maritime Bill and the Maritime and Transport Legislation Amendment and Repeal Bill (to be drafted).
Marine Act 1982	PI			Repeal pending enactment of the Maritime Bill and the Maritime and Transport Legislation Amendment and Repeal Bill (to be drafted).
Marine and Harbours Act 1981 and Regulations	PI	Competitive neutrality.	Review completed in 1999.	Act to be repealed by the Maritime Bill and the Maritime and Transport Legislation Amendment and Repeal Bill (to be drafted).
Marketing of Eggs Act 1945	A	Licenses producers. Limits production via quotas. Vests ownership of eggs in the egg marketing board.	Departmental review completed.	In August 2003, the Government endorsed the removal of competitive restrictions on the supply and marketing of eggs by July 2007. A Transitional Advisory Committee has been established and is preparing a plan to deregulate the industry by 2007.
Marketing of Meat Act 1946 and Regulations	A		Review not required.	Act repealed in mid-1999.
Marketing of Potatoes Act 1946 and Regulations	A	Prohibits sale for domestic consumption of potatoes to persons other than the WA Potato Marketing Corporation unless under certain exemptions. Producers must hold growing area licences allocated by the corporation.	Reviewed by the Department of Agriculture. The review recommended the Government maintain the current regulated supply system given the lack of evidence that any major changes would result in improvement in the public interest.	On 5 August 2003, the Minister for Agriculture announced that the State Government would retain the marketing powers of the Potato Marketing Corporation. An implementation advisory group has been formed to investigate possible improvements to the operation of the Act.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Meat Transport Regulations 1969	DH		Review completed.	Regulations repealed by Regulation 28 of the Health (Meat Hygiene) Regulations 2001.
Medical Act 1894	DH	Restrictions on entry, registration, title, practice, advertising, and disciplinary provisions.	A Ministerial working party released a draft report October 1999. Final report released in 2001 and recommended: retaining registration and title protection; changing the disciplinary system; removing prescriptive controls on advertising; further considering issues relating to the regulation of bodies corporate; and linking registration with a requirement for ongoing professional development. Cabinet accepted the review recommendations.	Cabinet accepted the review recommendations and approved drafting of a Medical Practitioners Registration Bill, which will replace the current Act.
Mental Health (Administration) Regulations 1965	DH	Licensing.		Regulations repealed and replaced. Replacement legislation to be reviewed.
Mental Health (Consequential) Provisions Act 1996	DH	Licensing.	Review concluded that restrictions are in the public interest and should be retained.	The Government endorsed the review recommendations.
Mental Health (Transitional) Regulations 1997	DH		Review concluded that restrictions contained in the replacement legislation were in the public interest.	The Government endorsed the review recommendations.
Mental Health (Treatment Fees) Regulations 1992	DH	Licensing.	Review completed.	Repealed.
Mental Health Act 1962	DH	Licensing, and differential treatment.	Review concluded that restrictions contained in the replacement legislation were in the public interest.	Act repealed and replaced by the Mental Health Act 1996.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Mental Health Act 1996	DH	Licensing, and differential treatment.	Review completed in December 2000. Review found that the restrictions safeguard the welfare of patients with mental illnesses, comply with international obligations and promote high and consistent standards in mental health care, leading to increased public confidence in the system. The review concludes that the restrictions are in the public interest and should be retained.	The Government endorsed the review recommendations.
Mental Health Regulations 1997	DH	Licensing.	Review concluded restrictions are in the public interest.	The Government endorsed the review recommendations.
Metropolitan (Perth) Passenger Transport Trust Act 1957 and Regulations	PI		The Trust is to be abolished and replaced by the new WA Transit Authority.	The Metropolitan (Perth) Passenger Transport Trust Act 1957 and Regulations were repealed on 1 July 2003. The Public Transport Authority Act gained assent on 26 May 2003.
Metropolitan Region Town Planning Scheme Act 1959	PI	Controls on land use, via town planning schemes.	The current Government re-activated the consolidation of the planning legislation with the release of a position paper in April 2002.	The Government received submissions on the position paper and is developing the Planning and Development Bill 2004.
Mining Act 1978 and Mining Regulations 1981	DOIR	Prohibits mineral exploration or extraction without a licence. Term of exploration licences - 5 years. Term of extraction (mining) licences - 21 years (renewable). Minimum expenditure conditions.	Departmental review completed. Review recommended retention of all restrictions.	The Government endorsed the recommendations in December 2000. Act retained without reform.
Morley Shopping Centre Redevelopment Agreement Act 1992	DOIR	Government assistance for retail development.	Review completed. Review found that the agreement was in the public interest.	The Government accepted review findings. Act retained without reform.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Motor Vehicle (Third Party Insurance) Act 1943	IC	Mandatory insurance, monopoly insurer, and centralised premium setting.	Review completed in 2000. Review found mandatory insurance and price restrictions give rise to net public benefits (ensuring injured parties are compensated, reducing costly private legal action, lowering transactions costs, lowering costs of insurance, increasing the proportion of claims' payments retained by claimants). No less restrictive means of achieving the objectives were found. The review found that monopoly provisions do not offer sufficient public benefit to justify their retention, and recommended the restrictions should be removed.	Amending legislation was withdrawn in 2001 and the Government has since taken no further action. It is still considering the 2000 review.
Motor Vehicle Dealers Act 1973 and Regulations	CEP	Licensing (motor vehicle dealers, yard managers, car market operators and sales persons), entry requirements (dealers must be solvent and understand their obligations under the Act, yard managers must complete a four-day course), business conduct (statutory warranties on used vehicles), and power to the Motor Vehicle Licensing Board to set standards for premises.	Review completed in 1997. Review recommended: retaining restrictions on licensing for motor vehicle dealers and yard managers; retaining statutory warranties for used vehicles; repealing restrictions on licensing for car market operators and salespersons; and repealing the power of the Motor Vehicle Licensing Board to set standards for premises.	The Government endorsed the review recommendations. Amending legislation passed in May 2002.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Motor Vehicle Drivers Instructors Act 1963	PI	Licensing, entry requirements (competency, aged at least 21 years, good character, fit and proper person, may require test or course), the reservation of practice (teach for reward), and business conduct (dual control vehicle, regulations may make provisions for displaying identification).	The review recommended: • alterations to the definition of driving instructor; • police clearance for applicants for driving instructors' licences; • that it be compulsory for instructors to attain a relevant qualification; and • that licensed instructors maintain records. Cabinet accepted the recommendations.	Amendments will be included in the Road Traffic Amendment Bill (No. 2) 2003, which is being drafted.
Murdoch University Act 1973	ES	Competitive neutrality, and market power.	Review by officials completed in 1998. Review recommended that investment provisions be consistent between universities. Government endorsed review recommendations.	Amendments required.
Mutual Recognition (Western Australia) Act 1995	PC		National review completed in July 1998.	
North West Gas Development (Woodside) Agreement Act 1979	DOIR		Review not required.	Act repealed and replaced by the North West Gas Development (Woodside) Agreement Amendment Act 1994.
North West Gas Development (Woodside) Agreement Amendment Act 1994	DOIR	Differential treatment.	Review completed in 1998.	Act retained without reform in view of sovereign risk implications of unilateral amendment or repeal.
Northern Developments (Ord River) Pty Ltd Agreement Act 1960	PI	Differential treatment.	Review not required.	Legislation has been repealed in the Statutes (Repeals and Minor Amendments) Bill 2001, which gained assent on 15 December 2003.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Northern Developments Pty Ltd Agreement Act 1957	PI	Differential treatment.	Review not required.	Legislation has been repealed in the Statutes (Repeals and Minor Amendments) Bill 2001, which gained assent on 15 December 2003.
Northern Developments Pty Ltd Agreement Act 1969	PI	Differential treatment.	Review not required.	Legislation has been repealed in the Statutes (Repeals and Minor Amendments) Bill 2001, which gained assent on 15 December 2003..
Nurses Act 1992	DH	Restrictions on entry, registration, title, practice, and disciplinary provisions.	Review of health practitioner legislation completed. Issues paper released October 1998 and the 'Key Directions' paper was released in June 2001. The latter proposed removing prescriptive ownership restrictions; requiring practitioners to hold professional indemnity insurance; removing restrictions on business ownership; and retaining broad practice restrictions for three years pending the outcome of the core practices review (which is under way). The core practices discussion paper was released in March 2003.	The Nurses Amendment Act 2003, which deems Australian and New Zealand nurses to be registered in WA in certain emergency situations, received the Governor's assent in April 2003.
Occupational Therapists Registration Act 1980	DH	Restrictions on entry, registration, title, practice, and disciplinary provisions.	Review of health practitioner legislation completed. Issues paper released in October 1998, and Key Directions paper released in June 2001. The latter paper indicated that the Government would maintain title protection for occupational therapists. The Government is reconsidering this issue in the core practices review.	In April 2001, the Government approved the drafting of new template health practitioner Acts to replace the health professions legislation. The legislation will be introduced into Parliament as soon as possible.
Offensive Trades (Fees) Regulations 1976	DH	Licensing.	Review under way, as part of the review of the Health Act 1911.	

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Optical Dispensers Act 1966	DH	Licensing.	Review of health practitioner legislation completed. Issues paper released in October 1998, and Key Directions paper released in June 2001. That review recommended a separate review of optical dispensers, which was chaired Professor Bryant Stokes and provided to the Government in April 2003.	In April 2001, the Government approved the drafting of new template health practitioner Acts to replace the health professions legislation. The legislation will be introduced into Parliament as soon as possible.
Optometrists Act 1940	DH	Restrictions on entry, registration, title, practice, advertising, and disciplinary provisions.	Review of health practitioner legislation completed. Issues paper released in October 1998, and Key Directions paper released in June 2001. It proposed removing prescriptive advertising restrictions; requiring practitioners to hold professional indemnity insurance; removing restrictions on business ownership; and retaining broad practice restrictions for three years pending the outcome of the core practices review (which is completed).A core practices discussion paper was released in March 2003.	In April 2001, the Government approved the drafting of template health practitioner Acts to replace the health professions legislation. The proposed reforms retain restrictions on optical dispensing. The legislation will be introduced into Parliament as soon as possible.
Osteopaths Act 1997	DH	Restrictions on entry, registration, title, and disciplinary provisions.	Review of health practitioner legislation completed. Issues paper released in October 1998, and Key Directions paper released in June 2001. It proposed removing prescriptive advertising restrictions; requiring practitioners to hold professional indemnity insurance; removing restrictions on business ownership; and retaining broad practice restrictions for three years pending the outcome of the core practices review (which is under way). A core practices discussion paper was released in March 2003.	In April 2001, the Government approved the drafting of template health practitioner Acts to replace the health professions legislation. The legislation will be introduced into Parliament as soon as possible.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Painters Registration Act 1961	CEP	Licensing and registration (for persons carrying on a painting business in their own right and not as employees and for painting valued greater than $200), entry requirements (degree/apprenticeship/ experience and exams, age, good character), the reservation of title and practice, disciplinary processes, and business licensing.	Review completed in 1998. Review concluded that the current system of mandatory licensing is too restrictive and should be removed. The review recommended a certification scheme be developed to allow consumers to readily identify painters who possess particular skills. It also recommended negative licensing to support a certification system, allowing for the removal from the industry of persons who do not adhere to basic standards of commercial conduct. The Government endorsed the original review recommendations. The original review was, however, overtaken by the Gunning Inquiry. This inquiry was commissioned on 3 April 2000 to conduct a Special Inquiry under the Public Sector Management Act 1994 into the operations of the Boards and Committees in the Fair Trading portfolio.	The Government endorsed the review recommendations on 30 October 2003.
Pathology Centre Notice and Directions 1995	DH	Market power: the PathCentre Directions 1995 restricts Sir Charles Gairdner Hospital from conducting a pathology service.	Review of the Agencies (PathCentre) Notice 1995 completed. Review found that the Notice does not restrict competition.	

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Pawnbrokers and Second-hand Dealers Act 1994 and Regulations	P	Licensing (pawnbrokers, second-hand dealers for not exempt goods), registration, entry requirements (good character, fit and proper person - that is, adequate management, supervision and control of business operations, and no conviction of dishonesty, fraud, or stealing offence in past five years), the reservation of practice, disciplinary processes, and business conduct (pawnbrokers: prescribed records, computer records, notification of pawner of surplus of proceeds of sale; second-hand dealers: prescribed records, holding of goods for prescribed period, requirement that seller provide identification, cooperation with police).	Review by WA Police Service completed in 1999. Consultation involved when developing legislation. No public consultation during review. Review recommended: retaining the current licensing provisions on the understanding that they may be modified following future review; conducting a further review after the current legislation had been in operation for an additional three years; and examining alternative approaches, including those likely to be introduced in other States. Second review undertaken.	The Government endorsed both reviews' recommendations. An amendment Bill has been prepared.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Pearling Act 1990 and Regulations	F	Licensing of pearling and hatcheries. Minimum quota holding for pearling licences. Requirement that hatchery licensees must also hold pearling licence. Wildstock quota. Hatchery quota. Hatchery sales to other than Australian industry prohibited.	Review by the Centre for International Economics (CIE) completed in 1999. Review recommended: • removing minimum pearling quota holdings; • decoupling pearl farming licences from pearl fishing licences; • auctioning temporary increases in wildstock quotas; • removing hatchery quotas without delay; • codifying in regulation criteria for fishery management decisions; and • establishing an independent review tribunal. The Government announced that it has accepted all recommendations but the auctioning of temporary increases in wildstock quota and the removal of hatchery quota. The latter is in place until at least December 2005 pending a further review.	A new Pearling Act is being developed for introduction in the Autumn 2005 Parliamentary sitting. It will incorporate many recommendations from the NCP Review of the Pearling Act and related legislation. A new hatchery quota will be developed over the next 1-2 years, noting the current policy expires in December 2005.
Perth Market Act 1926 and Regulations	A	Licensing, and differential treatment.	Review completed in 2002. Consultation involved public advertisement and calling for submissions in June 2000. In May 2002, the Government endorsed the review recommendations to remove the wholesale market monopoly and remove restrictive trading conditions.	Amended by the Acts Amendment and Repeal (Competition Policy) Bill 2003. The Upper House passed this Bill on 14 November 2003, and it gained assent on 15 December 2003.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Perth Parking Management Act 1999	PI	Licensing, and differential treatment.	Reviewed as new legislation. New Act removes discriminatory treatment of Council and private parking providers, licenses and limits parking places in Perth Central Business District. Public benefits are reduced Central Business District congestion and improved air quality. Government approved on 18 May 1998.	Assented to on 19 May 1999.
Perth Theatre Trust Act 1979	PTT	Competitive neutrality.	Review completed in 2002. Inter-agency consultation.	In May 2002, the Government endorsed the review recommendation that the State tax and stamp duty exemptions provided to the Perth Theatre Trust are in the public interest and should be retained. The exemption from rates and taxes is considered to have a minimal impact on competition. For many of the performing art forms, which the Trust venues host, there is no competition between venues because of the technical requirements of the performance space.
Petroleum (Submerged Lands) Act 1982 and Regulations	DOIR	Regulates exploration for and development of undersea petroleum resources. This legislation forms part of a national scheme.	National review completed in 1999/2000. Endorsed by the Australian and New Zealand Minerals and Energy Council (ANZMEC) Ministers.	The Government is awaiting the introduction of amendments by the Australian Government before amending its own legislation.
Petroleum Act 1967	DOIR	Regulates onshore exploration for and development of petroleum reserves.	Review to be conducted after outcome of Petroleum and Submerged Land Act legislation is finalised.	The Government is awaiting the introduction of amendments by the Australian Government before amending its own legislation.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Petroleum Legislation Amendment Act 2001	DOIR	Requirement that retailers fix their prices for at least 24 hours and notify these prices for publication on its FuelWatch web site; maximum wholesale price arrangements; the right of a retailer to purchase 50 per cent of petroleum products from a supplier other than the primary supplier; mandatory price boards to be displayed in all regional centres	Review of this Act and the Petroleum Legislation Amendment Act 2001 completed in 2001. Restrictions were found to be in the public interest. The Australian Competition and Consumer Commission (ACCC) reports found, however, that the restrictions might have reduced competition, increased the rural/urban price differential and raised prices.	
Petroleum Pipelines Act 1969 and Regulations	DOIR	Regulates construction and operation of petroleum pipelines in WA.	Review completed. Common carrier provisions to be considered following PSLA review.	Minor amendments to follow.
Petroleum Products Pricing Amendment Act 2000	CEP	Requirement that retailers fix their prices for at least 24 hours and notify these prices for publication on its FuelWatch web site; maximum wholesale price arrangements; the right of a retailer to purchase 50 per cent of petroleum products from a supplier other than the primary supplier; mandatory price boards to be displayed in all regional centres.	Review, in conjunction with the Petroleum Legislation Amendment Act 2001, completed in 2001. Restrictions were found to be in the public interest. The ACCC reports found, however, that the restrictions might have reduced competition, increased the rural/urban price differential and raised prices.	
Petroleum Products Subsidy Act 1965 and Regulations	DOIR	Market power.	Review under way.	

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Pharmacy Act 1964	DH	Restrictions on entry, registration, title, practice, advertising, business, ownership, licensing, residence, and disciplinary provisions.	National Review of Pharmacy Regulation (Wilkinson Review) completed in February 2000. The review recommended retaining registration, the protection of title, practice restrictions and disciplinary systems (although with minor changes to the registration systems recommended for individual jurisdictions). Further, the review recommended maintaining existing ownership restrictions, and removing business licensing restrictions. CoAG referred the national review to a senior officials working group, which recommended that CoAG accept most of the national review recommendations (except the recommendation on nonpharmacy ownership of pharmacies by friendly societies and other nonpharmacists that currently own pharmacies).	WA is consulting with stakeholders on the recommendations from the national review. The review will then be considered by Cabinet.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Physiotherapists Act 1950	DH	Restrictions on entry, registration, title, practice, and disciplinary provisions.	Review of health practitioner legislation completed. Issues paper released in October 1998, and Key Directions paper released in June 2001. This paper sets out the policy framework that is the basis for proposed new template health practitioner Acts. The Key Directions paper proposed removing prescriptive advertising restrictions; requiring practitioners to hold professional indemnity insurance; removing restrictions on business ownership; and retaining broad practice restrictions for three years pending the outcome of the core practices review (which is under way). A core practices discussion paper was released in March 2003.	In April 2001, the Government approved the drafting of new template health practitioner Acts to replace the health professionals legislation. The legislation will be introduced into Parliament as soon as possible.
Pig Industry Compensation Act 1942	A	Ministerial discretion over allocation of funds raised compulsorily for scientific research. Minister may levy growers to fund services to the pig industry including compensation and disease control programs.	Review by Department of Agriculture completed in 1997. Review recommended: • changes to ensure that funds from compulsory levies are used only for services of a public good nature; and • retaining the power of the Minister to levy growers.	The Pig, Potato and Poultry Industries (Compensation Legislation Repeal Bill 2003 had its second reading in the Legislative Assembly on 20 November 2003.
Piggeries Regulations 1952	DH		Review under way, as part of the review of the Health Act 1911.	

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Planning legislation Town Planning and Development Act 1928 Western Australian Planning Commission Act 1985 Metropolitan Region Town Planning Scheme Act 1959	PI	Controls land use via town planning schemes.	Review under way. Legislation (Town Planning and Development Act 1928, WA Planning Commission Act 1985, Metropolitan Region Town Planning Scheme Act 1959) was consolidated into Urban and Regional Planning Bill under the previous Government. The current Government reactivated the consideration of the planning legislation with the release of a position paper in April 2002.	
Plant Pests and Diseases (Eradication) Fund Act 1996 [previously the Skeleton Weed and Resistant Grain Insects (Eradication Funds) Act 1974]	A	Power of Minister to impose levies and Ministerial discretion over application of funds.	Review by officials completed in 1997. Review recommended amending the Act to ensure that levies fund only services that are of a sufficiently public good nature and that have been assessed as in accordance with a benefit cost methodology.	The existing legislation will be repealed and replaced by the Grain and Seed Crops (pest Control Funding) Bill, currently being drafted.
Podiatrists Registration Act 1984	DH	Restrictions on entry, registration, title, practice, and disciplinary provisions.	Review of health practitioner legislation completed. Issues paper released in October 1998, and Key Directions paper released in June 2001. This paper sets out the policy framework that is the basis for proposed new template health practitioner Acts. The Key Directions paper proposed removing prescriptive advertising restrictions; requiring practitioners to hold professional indemnity insurance; removing restrictions on business ownership; and retaining broad practice restrictions for three years pending the outcome of the core practices review (which is under way).	In April 2001, the Government approved the drafting of new template health practitioner Acts to replace the health professionals legislation.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Poisons Act 1964	DH	Licensing.	Part of Galbally Review. Draft review report released on 11 September 2000. Final review report given to the AHMC in early 2001. It found a net benefit from regulating drugs, poisons and controlled substances, but also found that controls could be reduced in some areas, efficiency improved, and nonlegislative policy responses used in some areas. The AHMC referred the review report to the AHMAC to develop a draft response, in consultation with the Primary Industries Ministerial Council. AHMAC established a Working Party to develop a draft response for CoAG consideration. The working party's draft response, which has been endorsed by AHMAC, was considered by the Primary Industries Ministerial Council before being forwarded to CoAG. The response is expected to be sent to CoAG in spring 2003.	WA amended its regulations to remove or alter some unnecessarily restrictive provisions and to implement the review recommendations on record keeping requirements. A Discussion Paper outlining amendments to the Poisons Act required to implement the Galbally review was circulated in January 2001. A further Discussion Paper is to be circulated in early 2004.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Police Force Canteen Regulations 1988	P	The Regulations enable a Canteen to sell liquor under terms and conditions that are not subject to the requirements of the Liquor Licensing Act 1988, and therefore discriminate in favour of the Canteen over competing businesses in the private sector.	Review completed in 1998. Review concluded the effect of the restriction is to enable the Canteen more flexibility in its operations than would be afforded to a private sector operator. Recommended that as the restrictions have a minimal impact and cannot be justified in the public interest, and thus the report concluded that the advantages should be removed. As there is no canteen operating at the moment, the report recommends that the removal of the restriction be addressed following the review of the Liquor Licensing Act. If a canteen is established before the review is completed, the review recommends that the canteen voluntarily comply with the Act.	The Government endorsed the review recommendations. Minor amendments to the Act are necessary. Regulations were repealed on 3 July 2001.
Port Authorities Act 1998	PI	Imposes accountability and ownership requirements, together with safety and public interest controls. Restrictions include exemptions from planning and building requirements; public sector management provisions; accountability provisions; requirements for Ministerial approval; consultation and borrowing limits provisions; pilotage provisions; licensing provisions.	Review completed in 1997. Review concluded that the objectives of the legislation could not be achieved by means other than through the licensing restrictions. Act repeals individual port Acts.	New Act following review of ports instruments assented to on 29 June 1999.
Port Hedland Port Authority Act 1970 and Regulations	PI	Restrictions on market entry and conduct.		Act repealed and replaced by the generic Port Authorities Act 1998.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Port Kennedy Development Agreement Act 1992	PI	Competitive neutrality.	Review completed. Review recommended retention of the Act without change	The Government approved the review recommendations in August 2000.
Ports (Model Pilotage) Regulations 1994	PI	Restrictions on market entry and conduct.		Act repealed and replaced by the generic Port Authorities Act 1998.
Ports Functions Act 1993	PI	Restrictions on market conduct.	Review not required.	Act repealed and replaced by the generic Port Authorities Act 1998.
Potato Growing Industry Trust Fund Act 1947	A	Power to raise a compulsory levy on the sale of potatoes for the purposes of disease control and providing compensation to growers in the event of a disease outbreak.	Review by officials completed. Review recommended retaining the restriction. The Government approved the review recommendations.	The Act will be repealed via the Pig, Potato and Poultry Industries (Compensation Legislation) Repeal Bill 2003, which was second read in the Upper House on 20 November 2003.
Poultry Industry (Trust Fund) Act 1948	A	Power of the Poultry Industry Trust Fund Committee to impose levies. Financial assistance from the Trust Fund to the Poultry Farmers Association.	Review by officials completed in 1997. Review recommended: • amending the legislation to ensure that levies fund only services that are of a sufficiently public good nature and that have been subject to a benefit cost analysis; • replacing the compulsory levy to fund the Poultry Farmers Association with a voluntary levy; and • retaining the levy raising power.	The Pig, Potato and Poultry Industries (Compensation Legislation) Repeal Bill 2003 was second read in the Upper House on 20 November 2003.
Poultry Processing Establishments Regulations 1973	DH			Regulations repealed by Regulation 28 of the Health (Meat Hygiene) Regulations 2001.
Professional Standards Act 1997	J	Provides for limiting liability for persons who are members of prescribed associations.	Departmental review completed in 1998. No public consultation. Review recommended retaining restriction on competition.	The Government endorsed the review recommendations in July 1999. Act retained without reform.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Psychologists Registration Act 1976	DH	Restrictions on entry, registration, title, practice, and disciplinary provisions.	Review of health practitioner legislation completed. Issues paper released in October 1998, and Key Directions paper released in June 2001. This paper sets out the policy framework that is the basis for proposed new template health practitioner Acts. The Key Directions paper proposed removing prescriptive advertising restrictions; requiring practitioners to hold professional indemnity insurance; removing restrictions on business ownership; and retaining broad practice restrictions for three years pending the outcome of the core practices review (which is under way). Core practices discussion paper was released on March 2003.	In April 2001, the Government approved the drafting of new template health practitioner Acts to replace the health professionals legislation. Legislation will be introduced into Parliament as soon as possible.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Public Works Act 1902	HW	Four restrictions all of which are related to competitive neutrality: • financial provisions and powers which potentially allow the WA Building Management Authority to access avenues of credit unavailable to private firms in competing commercial activities; • powers of entry on to land for the purposes of public works which may lead to cost savings deriving from not having to secure rights of access from landowners - such savings are not available to private firms; • powers to close roads or streets which may reduce the cost of works through not having to provide for access or protect the safety of road users in the vicinity of works - a right not available to private firms; and • exemptions from local building regulations (except public health regulations) which may provide cost advantages over firms which have to comply with local regulations.	Review completed. The review classified restrictions as minor, as their economic effects are insignificant and they are used to facilitate public works, the wider public benefit of which have already been assessed. The costs and loss of flexibility associated with more stringent definition of the projects to which the provisions may apply were found to outweigh the minimal benefit that might accrue. The extension of relevant powers to the private sector, in certain cases, was considered. However, given the negligible current involvement of the private sector in providing public infrastructure in WA, such reform is not considered justified. Recommended retaining the restrictions.	The Government endorsed the review recommendations. Act retained without reform.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Queen Elizabeth II Medical Centre (Delegated Site) By-laws 1986	DH	No restrictions identified.	Review completed.	The Government endorse the review recommendations. Act retained without reform.
Racing Restrictions Act 1917	DRGL	Licensing, and differential treatment.	Review completed in 1998. Review recommended limiting the authority of the WA Turf Club to thoroughbred racing and providing for licensing of other forms of horse racing where in the public interest. It recommended retaining the centralised control of horse racing and trotting with the industry bodies.	The Racing Restriction Acts 1917 and 1927 will be repealed and replaced by the Racing and Gambling Legislation Amendment and Repeal Bill 2003. In addition, three other reform Bills have been prepared: • the Racing and Wagering Western Australia Bill 2003; • the Racing Restriction Bill 2003; and • the Racing and Wagering Western Australia Tax Bill 2003. The Bills were enacted on 26 June 2003. They implement a number of NCP reforms from reviews of the Racing Restriction Acts and the review of the Western Australian Greyhound Racing Authority Act 1981. The Acts establish Racing and Wagering WA as the new governing body for all Western Australian racing. This body has an exclusive licence to conduct off course totalisator betting.
Racing Restrictions Act 1927	DRGL	Prevents the use of 'mechanical devices' in races for other than horses.	Review complete in 1999. Review recommended repeal of the Act.	Act repealed by the Racing and Gambling Legislation Amendment and Repeal Act 2003, which was assented on 26 June 2003.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Radiation Safety Act 1975 Radiation Safety (General) Regulations 1983-1999 Radiation Safety (Transport of Radioactive Substances) Regulations 1980-1999 Radiation Safety (Qualifications) Regulations 1980-1999	DH	Licensing.	National review completed and the national implementation plan is currently being developed.	Recommendation to amend the regulations is being progressed.
Rates and Charges (Rebates and Deferments) Act 1992	TF	The restrictions identified refer to the differential treatment afforded pensioners and other eligible persons with respect to certain amounts payable by way of rates and charges. The legislation, in effect, discriminates in favour of pensioners and other eligible persons.	Review completed in 1998. Review concluded that the effects of the restrictions on competition are minimal. Only a very small group of eligible persons could potentially obtain a competitive advantage from the differential treatment received, and where such advantage occurred it would be minor. On the other hand, the removal of pensioner rebates and deferments in respect of rates and charges would have a significant impact on the standard of living of pensioners and other eligible persons. An alternative to the way in which the State Revenue Department administered rebates and deferments to eligible persons was considered. However, it was concluded that this alternative would result in greater administrative cost than the present scheme and therefore would not be in the public interest. Recommended that all of the restrictive elements of the legislation should be retained on public interest grounds.	The Government endorsed the review recommendations. Act retained without reform.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Real Estate and Business Agents Act 1978 and Regulations	CEP	Licensing (agent's licence, sales representative's certificate), registration, entry requirements (aged over 18 years, good character, fit and proper person (including having done prescribed courses, understands duties and obligations under Act), for agent, sufficient material and financial resources), the reservation of practice, disciplinary processes, business conduct (branch office/s require separate manager/s, supervision and control, records, trust accounts, audit, code of conduct, advertising, fidelity fund), and business licensing.	Departmental review completed. Review recommended licensing be retained; the board be allowed to recognise qualifications other than those prescribed; legislation include explicit criteria for determining conflict of interest and for deeming who has sufficient material and financial resources; restrictions on who may audit trust accounts be removed; the requirement for board approval of franchise agreements be removed and only one director/partner need be licensed.	Maximum fees removed in 1998. The Government endorsed the review recommendations in February 2003. The required amendments to the Act are being progressed together with amendments to the Settlements Agents Act 1981.
Regional Development Commissions Act 1993	LGRD		Act removed from the LRP in July 2003, because it does not contain restrictions on competition.	No further action required.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Retail Trading Hours Act 1987 and Regulations	CEP	Monday to Saturday trading hours regulated. Sunday trading hours limited and prohibited outside tourism zones. No restrictions above the 26th parallel.	An Industry Reference Group report completed in 1999 and a further review was conducted in 2003 but reports were not released. An Options Paper was prepared, examining the benefits and costs of different trading hours regimes. The paper was released in June 2003.	In June 2003, the Government announced that it would not change trading hours until 2005. The Retail Shops and Fair Trading Legislation Amendment Bill 2003 retains the current trading hours regime in the metropolitan and non-metropolitan area until 2 May 2005, when weeknight trading will be extended to 9 pm for all general retail stores in the metropolitan area. The Bill has passed the Legislative Assembly and has had its second reading in the Legislative Assembly on 2 December 2003.
Retirement Villages Act 1992, Regulations and Code of Practice	CEP	Restrictions on the use of retirement village land; compliance with the Code of Fair Practice for Retirement Villages; and marketing and price determination rights	Review completed in 2002. The Retirement Villages Reference Group produced a discussion paper and responses were obtained from retirement village residents and associations. In May 2002, the Government endorsed the review recommendations on the use of retirement village land, the Code of Fair Practice for Retirement Villages, and the marketing and price determination rights of residents.	The Code of Fair Practice for Retirement Villages was reviewed and amended during 2003. Amendments are being prepared.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Rottnest Island Authority Act 1987	RIA	• The membership of the Authority; • Access to facilities on the island is limited; • The Authority has the power to grant leases and licences on the island; • The Authority is prohibited from selling any land on Rottnest; • The Authority is prevented from allowing anyone to remove any flora, fauna, rock, stone or soil from the island for any commercial purposes; • Limitation on development and provision of accommodation; • Requirement for a management plan; • Enforcement Powers of Rangers; • Requirement for revenue to at least equal expenditure and application of net profits; • Building work to be approved by the Authority; and • Control of certain activities on Rottnest.	Review completed in 1998. Review found that generally the restrictions on competition are necessary to achieve the objectives of the legislation. The objectives of the legislation are expressly to preserve the character of the island, to protect the environment and to ensure that Rottnest is accessible as an affordable holiday destination. Review recommended retaining the restrictions on public benefit grounds with the exception of the restriction prescribing the knowledge and experience necessary for appointment as a member of the authority which is to be removed. The continued need for a Management Plan for Rottnest should be considered in the context of any Government wide review of the use of Management Plans in the management of A-class reserves and the restriction on competition relating to access to facilities and the requirement for revenue to at least equal expenditure and application of net profits are to be considered in the Authority's competitive neutrality review.	The Government decided to retain all of the restrictions, including the restriction to appoint board members with prescribed knowledge and experience.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Rural Adjustment and Finance Corporation Act 1993	A	Differential treatment.	Review not required.	Act repealed and replaced by the Rural Business Development Corporation Act 2000.
Rural Housing Bill	CHA	• Differential treatment of the Authority compared with similar private sector institutions (Sections 5,11,16,17); and • differential treatment of customers based on location, occupation or type of business (Sections 18-26).	Review completed in 1998. Review classified the restrictions as minor and in the public interest.	Changed name to the Country Housing Act 1997.
Sandalwood Act 1929 and Regulations	CALM	Caps the quantity of naturally-occurring sandalwood harvested from Crown and private land. Licenses the harvesting of sandalwood. Individual licences capped at 10 per cent of the total limit.	Review completed. Review recommended removing the cap on harvesting from private land while retaining limits on harvesting on public land.	The Acts Amendment and Repeal (Competition Policy) Act 2003 amends the Act accordingly.
Secret Harbour Management Trust Act 1984	PI	Competitive neutrality.		Repealed by the Statutes (Repeal and Minor Amendments) Bill (No. 2), this became operational on 30 April 1998.
Securities Agents Act 1976 and Regulations	J	Licensing.		Act repealed and replaced by the Security and Related Activities (Control) Act 1996.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Security and Related Activities (Control) Act 1996	P	Licensing (security and inquiry activities), registration, entry requirements (training, character, possible medical exam for security officers), the reservation of practice, business conduct (operating restrictions, no advertise unless licensed), and business licensing.	Review by WA Police Service completed. Review involved no consultation. Review concluded the security and related industries need statutory control to ensure high standards and to instil public confidence, especially in the area of crowd control. Review concluded that the legislation is effective and provides the necessary controls to maintain and improve the industry.	The Government endorsed the review recommendations in 2000.
Seeds Act 1981 and Regulations	A		Review completed.	This legislation will be superseded by the Agriculture Management Bill, scheduled for introduction in 2004.
Settlements Agents Act 1981 and Regulations	CEP	Licensing, entry requirements (qualifications, two years experience, age, good character, fit and proper person, material and financial resources, resident in WA), the reservation of practice, business conduct (supervision, trust accounts, maximum fees, professional indemnity insurance, fidelity fund), and business licensing.	Final report of the legislation review completed in March 2002. Review report found the requirement for settlement agents to be licensed should be retained in the public interest because the benefits of reduced risk of financial loss and increased consumer confidence outweighed the costs associated with reduced competition. Review recommended replacing provisions regarding the financial resources of agents with provisions preventing insolvent persons holding a licence, removing the residency requirements, replacing the cap on fees with an offence of 'demanding a fee that is excessive', and giving agents the option of arranging their professional indemnity and fidelity insurance through an insurer of their choice.	Cabinet endorsed the review report in May 2002, but is yet to implement the reforms. The required amendments to the Act are being progressed, together with amendments to the Real Estate and Business Agents Act 1978, in a Bill that is currently being developed.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Shipping and Pilotage Act 1967 and Regulations	PI	Governs pilotage services (licensing, competitive neutrality issues).	Review not required.	Act to be repealed.
Small Business Development Corporation Act 1983	SBDC	Differential treatment of businesses.	Review completed. Review found the effects of the restrictions on competition to have no practical importance. Government endorsed review findings.	Act retained without reform.
Small Business Guarantees Act 1984 and Regulations	SBDC	Differential treatment.	Review not required.	Act to be repealed.
Soil and Land Conservation Act 1945 and Regulations	A	Market power. Soil conservation notices, rates and service charges, clearing controls, and 90 day notice to clear or drain land.	Review completed.	The Government endorsed the review recommendations. Act retained without reform.
South Fremantle Oil Installations Pipeline Act 1948		Licensing.	Review completed in 1998.	Act retained without reform.
State Employment and Skills Development Authority Act 1990 and Regulations	DET	Licensing.	Review not required.	Legislation repealed and replaced by the Vocational Education and Training Act.
State Superannuation Act 2000	GESB	Limits on choice of fund managers. The Government Employee Superannuation Board (GESB) is the sole fund provider which government employees must use for employer contributions.	Review recommended retaining restrictions on fund choice for public benefit reasons.	The Government endorsed the review recommendations in February 2003. The Government introduced choice of investment type for West State Super members on 1 July 2001. Another review of choice of fund has commenced, but it is limited to financial impacts on the State.
State Supply Commission Act 1985 and Regulations	HW	Differential treatment.	Review completed.	Amendments to this Act incorporated into the Acts Amendment and Repeal (Competition Policy) Bill 2002, which gained assent on 15 December 2003.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
State Trading Concerns Act 1916	TF	The Act prohibits the Government from entering into or establishing any trading concern, except where the entity has been established under specific enabling legislation; has been established as a 'trading concern' under the Act; or is a department and has been authorised by the Treasurer under the Act to generate revenue from specified activities.	Review completed in 1998. Review concluded that while the legislation restricts the freedom with which government agencies can enter markets for goods and services it also reduces the risk that Government will become involved in inappropriate ventures. Recommended the restriction be retained.	The Government endorsed the review recommendations. Act retained without reform.
Statutory Corporations (Liability of Directors) Act 1996	J	Differential treatment of directors.	Review not required. Assessment of the effects of the potential restriction indicated that it does not give rise to significant costs or benefits. In view of this the Act was considered to not give rise to a restriction on competition. The 1998 amendments impose similar constraints on directors of statutory corporations as apply to private corporations, and therefore does not give rise to restrictions on competition.	Act retained without reform.
Stipendiary Magistrates Act 1957	J	The Act provides for the appointment of stipendiary magistrates with secure tenure of office and other relative purposes.	Review not required.	Act to be repealed by the Magistrates Court (Consequential Provisions) Bill 2003.
Stock (Identification and Movement) Act 1970	A	Branding of human food and fibre producing animals. Documentation required when moving stock.	Review by officials completed. Review found some scope for easing restrictions on horse owners.	This legislation will be superseded by the Agriculture Management Bill, scheduled for introduction in 2004.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Stock Disease (Regulations) Act 1968	A	Restricts importation of stock on grounds of disease control. Requires stockholders to control and notify diseases.	Review by officials completed. Review recommended no change.	
Strata Titles Act 1985 and regulations	LI	Only licensed surveyors can 'certify' a strata plan, survey-strata plan, or notice of resolution where a strata company is requesting a conversion from a strata scheme to a survey-strata scheme.	Review, in conjunction with the Licensed Surveyors Act 1909, completed in 1998. Review concluded restrictions are in the public interest and should be retained.	The Government endorsed review recommendation.
Street Collections Regulation Act 1940 and Regulations	CEP	Licensing.	Review not required.	These Acts will be repealed upon enactment of the Public Collections Bill. This Bill is expected to be introduced into Parliament during 2004.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Subiaco Redevelopment Act 1994	PI	• Redevelopment control of the area; • The compulsory taking of land; • Subdivision approval from Minister rather than the State Planning Commission; and • Treasurer's guarantee of loans.	Review completed in 1997. Review found that effects of the restrictions on competition are relatively minor. The report concluded that the restrictive elements of the legislation need to be retained to achieve the objectives of the Act. The report also finds that there would be substantial costs associated with removing the restrictions, particularly at this stage of the Authority's work. There are no acceptable alternatives to achieving the objectives of the three restrictions relating to the powers of the Authority. The powers are necessary to remedy the existing environmental problems and achieve redevelopment consistent with the vision for the area. At this stage of the Authority's activities, it would not be feasible to modify the regulatory framework. The restrictions relating to the internal running of the Authority stem from the Authority's status as a government agency and therefore cannot be removed. Recommended retaining the restrictions on the grounds of public interest.	The Government endorsed the review recommendations. Act retained without reform.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Suitors Fund Act 1964	J	Differential treatment of large companies and Crown Agencies.	Review completed in 1997. Review noted that all litigants are required to contribute to a fund which is used to defray legal costs where a court decision is reversed on a 'point of law' appeal or where the proceedings are aborted. However, companies with a paid up capital of $200 000 or more and Crown agencies are barred from access to the Fund to recover such legal costs. Recommended removing the bar on companies with paid up capital of $200 000 or more.	The Government endorsed the review recommendations. A Cabinet Submission is being prepared by the Department of Justice. This submission will incorporate drafting instructions necessary to give effect to the recommendations arising from the NCP review of the Act. A working party has been established to review this Act in its entirety. The working party is chaired by the Solicitor General. The review is likely to result in new legislation, and the working party discussed the option of putting aside the current NCP review and instead subjecting any new legislation to an NCP review. This approach was used previously with respect to the Magistrates Courts legislation and was approved by Treasury.
Swan River Trust Act 1988 and Regulations	SRT	Licensing. Limitations on development activity that can be undertaken in the area under the control of the Swan River Trust; and limitations on non-development activity (including advertising) that can be undertaken in the area under the control of the Swan River Trust.	Review by Water and Rivers Commission completed in January 2000. Review recommended restrictions be retained.	The Government endorsed the review recommendation on 14 August 2000. Act retained without reform.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Taxi Act 1994 and Regulations, and Amendment Regulations 1997	PI	Limitation on number of taxi licences.	Review completed in August 1999. Review recommended removal of all licence number restrictions, buy-back of existing licences at full market value and limiting new licence issues to 20 per cent a year. The Government tendered peak period licences in 2000. Uptake was low due to restrictive conditions. Industry forum in February 2003 was followed by a review. This review recommended that the Act be amended to allow for the release of additional licences on a lease only basis. The review also recommended that lease rates be set at a level below the rate currently charged by private plate owners and that licences be offered to drivers on a regular basis. The review favoured a voluntary buy-back but this was opposed by sections of the industry.	The Government announced in July 2003 that it would lease 50 new taxi plates 2003-04 and smaller numbers in following years. The Taxi Amendment Bill was introduced to Parliament on 19 August 2003 and assented on 15 December 2003. In January 2004, the Government offered 48 new plates for lease. Additional plates will be released in the future, although as yet the Government has not announced the details of the licence release mechanism.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Texas Company (Australasia) Limited (Private) Act 1928	HW	The Act defines the relationships, rights and duties of oil companies, local government authorities and the Minister for Works in relation to the construction, operation and maintenance of pipelines on public lands. These duties and powers of the State and local governments constitute restrictions on the commercial activities of the oil companies.	Review completed in 1998. Review considered the restrictions do not impose significant costs on the oil companies, or cost advantages or disadvantages on particular oil companies that are of sufficient magnitude to affect competition between the companies. The public benefits of restrictions were assessed to be: minor cost savings in management of municipal infrastructure from coordination in planning, construction and maintenance of municipal infrastructure and oil facilities; minimising public inconvenience during construction and maintenance activities on public land; and ensuring proper restoration of municipal infrastructure where this has been disturbed due to construction or maintenance activities by the oil companies. It concluded that due to the potential public benefits and the absence of significant costs or effects on competition, the restrictions arising from the legislation are either in the public interest due to current or potential future benefits, or have no current or potential future impact.	The Government endorsed the review recommendations. Act retained without reform.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Tobacco Control Act 1990	DH	Differential treatment, licensing.	Review completed in 2002. In May 2002, the Government endorsed the conclusions of the review that the restrictions on competition in the Act and regulations provide a net public benefit and therefore should be retained. Review found that the restrictions serve to correct significant market failures in the tobacco market and are based on sound public interest grounds. They also apply equally to all participants and do not prevent entry into the already very competitive tobacco market.	The Government endorsed the review recommendations.
Totalisator Agency Board Betting Act 1960 and Rules and Regulations	DRGL	Restrictions on events and prescription of circumstances under which betting may occur; restrictions on persons and organisations able to conduct betting; constraints and costs imposed on bookmakers and operators of totalisators generally; constraints and costs imposed on racing clubs, authorities controlling racecourses and owners/occupiers of premises;· constraints and costs imposed on punters; constraints and costs imposed specifically on the Totalisator Agency Board TAB); and competitive neutrality of the TAB.	Review, in conjunction with the Betting Control Act 1954, completed in 1998. Of the 42 restrictions analysed in the review, the legislative provisions pertaining to 20 restrictions were recommended for repeal or amendment including: • relaxing restrictions on the operation of totalisators other than by the TAB; • relaxing restrictions on bookmakers and their operations; • removing limits on bets in the regulations, leaving the racing clubs to set limits as they see fit; and • relaxing some restrictions on the operations of the TAB. The legislative provisions giving rise to the remaining restrictions were assessed as being in the public interest and recommended for retention.	The Government retained the prohibition on the licensing of additional off-course totalisators in the Acts that restructure the racing industry.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Town Planning and Development Act 1928	PI	Controls on land use, via town planning schemes	The previous WA Government developed the Urban and Regional Planning Bill 2000, which consolidated this legislation. The NCP review examined both the proposed and existing legislation, because the Bill was essentially a consolidation of the existing legislation. The review was almost finalised, but the change of Government in November 2001 meant that it was not submitted to Cabinet. The current Government re-activated the consolidation of the planning legislation with the release of a position paper in April 2002. The Government received a number of submissions and is developing a new green Bill, which will be called the Planning and Development Bill 2004. The purpose of the Bill is to elicit submissions on the broad proposals contained in the position paper and a number of fresh proposals.	Following review and analysis of submissions on the Bill, the Government anticipates introducing a consolidated Planning and Development Bill 2004.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Transport Co-ordination Act 1966 and Regulations	PI	Restrictions relate to provisions for the Minister to borrow funds and make payment of subsidies to providers of transport services. Also included are a range of provisions, powers and requirements related to the licensing of vehicles used for commercial purposes and the regulation of transport services provided by these vehicles.	Review completed in 1999. Review recommended: • removal of provisions relating to the licensing of ships engaged in coastal trade; • removing requirements for public vehicles (other than ships) to be licensed; and • limiting licence fees to an amount sufficient to recover costs incurred in administering the relevant licence system and associated regulatory activities.	The Government endorsed the review recommendations in November 2000. Since those recommendations were made however, the effects of 11 September 2001 and the Ansett collapse of 14 September 2001 have had a significant impact on the intrastate air transport market in WA, especially regional WA. This prompted the Government's intrastate air services review in 2001-02. The Government believes that some measure of air service regulation may be necessary to ensure that proposed and existing charter services do not compromise the viability of scheduled RPT services. The design of such regulations will proceed in open consultation with industry. Following the review of intrastate air services, the Government extended the licence to operate on the network connecting Perth with major coastal towns. It will undertake a further review of the provision of services to these routes from 2005. The Government is also considering changes for other air routes.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Travel Agents Act 1985 and Regulations	CEP	Licensing and compulsory consumer compensation fund.	Part of national review of travel agent legislation, coordinated by WA. A final review report by CIE released in 2000. Public consultation involved release of issues paper, background paper, consultation and receiving submissions. Review recommended that entry qualifications for travel agents be removed and maintain compulsory insurance, but recommended the requirement for agents to hold membership of the Travel Compensation Fund, the compulsory insurance scheme, be dropped. Instead, a competitive insurance system where private insurers compete with the Travel Compensation Fund was viewed as the best option. In November 2002, the Ministerial Council on Consumer Affairs (MCCA) decided to maintain the Travel Compensation Fund monopoly, but consider establishing a risk-based premium structure and making prudential reporting arrangements more equitable. It recommended that each participating jurisdiction review and amend its entry qualifications to ensure uniformity.	Cabinet endorsed the national review on 23 June 2003. WA has commenced implementation of the proposed reforms but all regulatory amendments will need to be agreed at the national level before being tabled in Parliament.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Trustees Companies Act 1987	J	Competitive neutrality, and licensing.	Review completed in 1998. Review recommended retention on limits on borrowings and loans, and lessening of barriers to entry.	National uniform legislation is proposed and has 'in principle' support from the Australian Government. States were to contract the Australian Prudential Regulatory Authority to complete the prudential reviews (as they already do them for insurance and superannuation) but no agreement could be reached. The Attorney General has written to Senator Campbell expressing disappointment with decision and asked that this situation be taken into account regarding the NCP review. Western Australia believes that South Australia (and maybe New South Australia) has written to the Australian Government expressing a similar view.
University Colleges Act 1926	ES	Competitive neutrality, and market power.	Review, by the Office of Higher Education, completed 1998. Review concluded that the restrictions are in the public interest given the quality of pastoral care provided to students by university colleges. Government endorsed review findings.	Act retained without reform.
University Medical School Teaching Hospitals Act 1955	DH	Market power.	Review completed. Review did not identify any restrictions on competition.	The Government endorsed the review recommendations.
University of Notre Dame Australia Act 1989	ES	Competitive neutrality, and market power.	Review, conducted by the Office of Higher Education, completed in 1998. Review recommended that investment provisions be consistent between universities. Government endorsed review recommendations	Amendment to the Edith Cowan University Act being progressed via the Acts Amendment and Repeal (Competition Policy) Act 2003, which gained assent on 15 December 2003.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
University of Western Australia Act 1911	ES	Competitive neutrality, and market power.	Review, by the Office of Higher Education, completed in 1998. Recommended that investment provisions be consistent between universities. Government endorsed review recommendations.	Amendment to the Edith Cowan University Act being progressed via the Acts Amendment and Repeal (Competition Policy) Act 2003, which gained assent on 15 December 2003.
Valuation of Land Act 1987	LI	Valuer-General powers and activities.	Review completed in 1998. Review undertaken by intra-agency committee. Public consultation involved submissions following release of an information paper. Recommended less narrowly defined eligibility for the position of Valuer General (dropping requirement to be a member of the Australian Property Institute), removing restriction that any person making valuation for rating and taxing purposes must be licensed under Land Valuers Licensing Act, and encouraging greater flow of information for the purposes of making valuations. Government endorsed review recommendations.	Recommendations are being implemented via the Acts Amendment and Repeal (Competition Policy) Act 2003, which gained assent on 15 December 2003. .
Veterinary Preparations and Animal Feeding Stuffs Act 1976	A	Until mid-1990s, required premises and products to be registered. Restricts packaging and labelling. Requires analysts to hold minimum qualifications. Restricts advertising.	Review as part of the national review completed in 1999. See the Agriculture and Veterinary Chemicals (Control of Use) Act 1992 (Victoria).	See the Agriculture and Veterinary Chemicals (Control of Use) Act 1992 (Victoria). The Veterinary Preparations Animal Feeding Stuffs Amendment Bill 2003, which implements the recommendations of the national review regarding consistency in regulation between jurisdictions, is currently before Parliament.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Veterinary Surgeons Act 1960	A	Licensing of veterinary surgeons and hospitals, reservation of practices, reservation of title, advertising restrictions, and controls on business names.	Review completed in 2001. Review recommended: • introducing a new registration for lesser qualified practitioners; • replacing restrictions on advertising, premises and ownership with voluntary codes; • repealing the restrictive aspects of the premises registration provisions, and replacing them with a voluntary code of practice; and • repealing the restrictions on ownership of veterinary practices by non-veterinarians.	The Government endorsed the review recommendations and drafting of an amendment Bill has commenced.
Video Tape Classification and Control Act 1987	J	Licensing.	Review not required.	Act repealed and replaced by the Censorship Act 1996.
Vocational Education and Training Act 1996	DET	Registers training providers and accredits training courses.	Review, by an independent consultant, completed. Review concluded that public benefits of restrictions outweigh costs.	The Government endorsed the review recommendations. Act retained without reform.
Water Services Coordination Act 1995 - Part 2 of 2: Water Services Coordination (Plumbers Licensing) Regulations 2000	CEP	Plumbers - licensing, registration, entry requirements (competency or six years experience and qualification, fit and proper, reservation of practice (either licensed or under supervision of licensed), and disciplinary processes.	Review completed. Review recommended retaining restrictions to prevent unlicensed persons performing plumbing work and maintain the power of the Board to set licence conditions.	The Government endorsed the review recommendations. Act retained without reform.
Weights and Measures Act 1915 and Regulations	CEP			Act to be repealed upon the enactment of new trade measurement legislation, which is to be based on the national model and introduced during 2004.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Western Australian Greyhound Racing Authority Act 1981	DRGL	Differential treatment.	Review completed. Review recommended removal from the WA Greyhound Racing Authority Act 1981 of the arbitrary limit on the number of meetings the WA Greyhound Racing Association may conduct. It also recommended that the provisions contained in the Act which establish centralised control of greyhound racing are in the public interest and should be retained. However, the establishment of an independent regulator should be considered if it is demonstrated that the Authority has improperly used its power to favour its racing activities.	The Government endorsed the review recommendations. Removal of provisions that limit the number of meetings that the WA Greyhound Racing Authority may hold was in the racing legislation that was enacted on 26 June 2003.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Western Australian Land Authority Act 1992	WALA	The WA Land Authority's exemption from rates and taxes. The Authority's power to compulsorily acquire land. The requirement to seek pre-approval from the Minister on contracts. Restrictions on the Authority's retail activities in the higher end of the residential land market.	Review completed in 1997. Review recommended: • the Authority be subject to a tax equivalent regime and pay to the Treasurer an amount equivalent to all rates and taxes imposed on private land developers that the Authority is currently not obliged to pay; • removing the section of the Act allowing the Authority's power to compulsorily acquire land; • amending that legislation to allow contracts to be agreed subject to Ministerial approval; and • exempting surplus public sector land assets and urban renewal projects from the restrictions on the Authority's retail activities in the higher end of the residential land market.	The Government endorsed the review recommendations. Amendment Bill passed on 6 July 2000.
Western Australian Marine (Hire and Drive Vessels) Regulations 1983	PI	Licensing.	Review not required.	The repeal of the Western Australian Marine (Hire and Drive Vessels) Regulations 1983 and the Western Australian Marine Act 1982 will form part of the Maritime Bill.
Western Australian Marine Act 1982	PI	Licensing.	Review not required.	The repeal of the Western Australian Marine (Hire and Drive Vessels) Regulations 1983 and the Western Australian Marine Act 1982 will form part of the Maritime Bill

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Western Australian Meat Industry Authority Act 1976	A	Controls on abattoir capacity, controls on branding, and regulations of saleyards, abattoirs and processing works.	Review by officials completed in 1998. Review recommended: • removing controls on abattoir capacity and regulation of saleyards; • retaining controls on branding; and • retaining regulation of abattoirs and processing works.	Amendments incorporated into the Acts Amendment and Repeal (Competition Policy) Bill 2002. The Upper House passed this Bill on 14 November 2003 and it was returned to the Legislative Assembly with amendments. It was assented on 15 December 2003.
Western Australian Planning Commission Act 1985	PI	Controls on land use, via town planning schemes	The current Government re-activated the consolidation of the planning legislation with the release of a position paper in April 2002. The Government received submissions on the position paper and is developing the Planning and Development Bill 2004.	Following review and analysis of submissions on the Bill, the Government anticipates introducing a consolidated Planning and Development Bill 2004.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Western Australian Product Symbols Act 1972	HW	The symbols are able to be used by eligible businesses free of charge and may present a slight advantage to WA businesses and products in home markets.	Review completed. Review found that the symbols do not comprise a significant restriction in their own right, but due to their widespread success and recognition, they now influence consumer behaviour in WA. Their use may therefore confer a competitive advantage on qualifying businesses and products, which could potentially lead to an ability to charge marginally higher prices or obtain a higher market share. Alternatively, when viewed as a labelling mechanism, the symbols may do no more than provide consumers with the necessary information to purchase local products or support local business according to their inclination. The review noted some important spin-off benefits from the symbols in growing the WA economy and noted their popularity among consumers. Review concluded that, on the balance of probabilities, the benefits of the current model outweigh its minor costs and that the Act should be retained.	The Government endorsed the review recommendations. Act retained without reform.
Western Australian Reproductive Technology Council (Nominating Bodies) Regulations 1992 and Directions	DH			Directions will be amended following amendment to the HRT Act currently before Parliament.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Western Australian Treasury Corporation (Amendment) Bill 1997	TF	The Act provides an exemption to the Corporation from State duties, imposts or taxes. The amendment Bill weakened this restriction by removing the Corporation's outright exemption, but allows the Treasury to grant an exemption where it is considered to be in the public interest.	Review completed. Review found that the potential effects of the Treasurer using his discretion to exempt the Corporation from certain taxes, duties or imposts were minor. The Treasurer is only likely to grant an exemption if the securities issued by the Corporation are at an unfair competitive disadvantage to securities issued by the Australian Government and other government borrowers. Recommended retaining the restriction.	The Government endorsed the review recommendations. Act retained without reform.
Western Australian Treasury Corporation Act 1986	TF	The Act provides an exemption to the Corporation from State duties, imposts or taxes. The amendment Bill weakened this restriction by removing the Corporation's outright exemption, but allows the Treasury to grant an exemption where it is considered to be in the public interest.	Review completed in 1997. Review found that the potential effects of the Treasurer using his discretion to exempt the Corporation from certain taxes, duties or imposts were minor. The Treasurer is only likely to grant an exemption if the securities issued by the Corporation are at an unfair competitive disadvantage to securities issued by the Australian Government and other government borrowers. Recommended retaining the restriction.	The Government endorsed the review recommendations. Act retained without reform.
Wheat Marketing Act 1989	A	Imports Australian Government Act into State jurisdiction.	Review not required.	Act no longer operating and will be repealed in the Acts Amendment and Repeal (Competition Policy) Bill 2003. The Upper House passed this Bill on 14 November 2003, and it was assented on 15 December 2003.

Name of legislation	*Agency*	*Major restrictions*	*Review activity*	*Reform activity*
Wild Cattle Nuisance Act 1871	A	Regulates the destruction of wild cattle.	Review by officials completed. Review recommended repealing the Act as it is redundant.	Repealed by the Statutes (Repeals and Minor Amendments) Bill 2001, which on 29 October 2003 reached the second reading stage in the Legislative Assembly (having already progressed through all Legislative Council stages). It was assented on 15 December 2003.
Wildlife Conservation Act 1950	CALM	Restrictions include prohibitions on the taking of protected fauna from all lands and waters unless one has authority to do so under the Act, prohibitions on commercial dealings in protected fauna (including skins and carcasses) and flora unless undertaken in accordance with licensing provisions and regulations, and prohibitions on abandoning or releasing fauna and prescribed animals into the State, or moving those animals out of the State, unless licensed to do so.	Review completed. Review and associated regulations concluded that all of the restrictions on competition identified in this legislation provide a net public benefit, and should be retained. Review identified a range of public benefits that arise as a result of the restrictions, including increased economic activity associated with sustainable wildlife management, enhanced tourism opportunities, enhanced environmental and recreational amenity, and the beneficial contribution of wildlife to the functioning of the ecosystem in general.	No reform required.
Workers' Compensation and Rehabilitation Act 1981	WCRC	Mandatory insurance, licensed insurers, centralised premium setting.	Review report completed early 2002.	WorkCover is progressing minor legislative change.