

Review of ACT business regulation

Report to the ACT Government

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September 2002



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ISBN 0642 60167 4

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Produced for ACT Treasury by Publishing Services.

Enquiries about this publication should be directed to Economic Management Branch, ACT Treasury.

Publication No 02/1686

<http://www.act.gov.au>

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Mr Ted Quinlan MLA

Treasurer
ACT Legislative Assembly
London Circuit
CANBERRA ACT 2601

Dear Treasurer

In March 2002 you commissioned the Business Regulation Review Committee to undertake a review of the ACT business regulatory environment and issued terms of reference.

Following extensive public and industry consultations, we are pleased to submit to you our report on these investigations.

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Christine Macauley

Julie McKinnon

David Gaul

Geoff Keogh

Graeme Shaw

Michael Ockwell

Michael Capezio

EXECUTIVE SUMMARY

In March 2002 the ACT Treasurer, Mr Ted Quinlan MLA, appointed the Business Regulation Review Committee to review the ACT business regulatory environment.

Specifically the Review was to identify any regulatory processes that impose unnecessary burdens, costs or disadvantages on business activities in the ACT and recommend a course of action.

In undertaking the Review, the Committee consulted widely with business, industry and professional organisations and the wider community in the ACT and surrounding regions. The Committee examined the progress in improving the regulatory environment that had been made since the 1995 Red Tape Task Force Report and subsequent National Competition Policy related reviews of business regulation.

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Like earlier reviews, the Committee sought to identify problems in the existing regulatory framework and develop approaches that would simplify the structure and application of laws and regulations without unduly compromising consumer and environmental safeguards.

The nature and composition of ACT business activity has changed considerably since 1995 when the last major review of business regulation was conducted. The non-government sector of the ACT economy has acquired greater prominence and plays an increasingly important role in the local and regional economy.

The quality and private sector awareness of the ACT regulatory environment and perceptions of the associated regulatory burden have also changed since 1995. This was reflected in the more limited range of issues brought to the attention of the Committee compared with the extensive range raised during the previous 1995 Red Tape Task Force review. These differences point to a maturing of the regulatory framework and of the Canberra business community.

Perceptions of regulatory burden have changed from concerns about the sheer volume of regulation to a focus on:

- the accessibility of information about regulatory instruments and associated administrative requirements;
- the quality of regulatory instruments and associated administrative arrangements; and
- the consistency and equity of enforcement of existing regulatory instruments.

It is not sufficient for the Territory to maintain a comprehensive suite of business regulations. It is critically important that business and the general community have ready access to a full range of explanatory materials to assist them in meeting their compliance obligations. To complement this, it is equally important that regulatory agencies adopt processes that ensure enforcement of regulations is consistent and equitable.

Accessibility of information on legislative requirements

There has been a significant improvement in the availability of information on regulatory requirements since 1995. The Business Licence Information Service has made a valuable contribution to this availability.

More recently, the ACT Legislation Register is providing a readily accessible source of information on current and emerging legislative requirements. The usefulness of this Register is increasing as details on pre-existing legislation and other instruments are updated and incorporated. A particular benefit of the Register is that it provides a mechanism that is continually updated. This contrasts with the comprehensive listing of regulatory instruments that was established at the time of the 1995 Report, but was not maintained and so declined in usefulness.

The Committee considers that more work needs to be done to increase the accessibility of information on regulatory requirements in the ACT, particularly to meet the increasing compliance needs of the rapidly growing home-based and micro-business sectors. To this end, **the Committee recommends that:**

1. the ACT Legislation Register administered by the Department of Justice and Community Safety be enhanced to allow for a facility enabling searches to be conducted on an industry-by-industry basis; (*Chapter 4*)
2. the Government require agencies to continue to review the range and relevance of public and industry information packages they offer with a view to improving their readability and ongoing usefulness to clients, with particular attention paid to the layout and accessibility of web-based information and application packages; (*Chapter 4*)
3. the Government confirm that Canberra Connect has a primary role in assisting agencies to improve the quality and accessibility of their web-sites and in facilitating improved linkages between the ACT Legislation Register, the Business Licence Information Service and other agency specific information on regulatory requirements; (*Chapter 4*)
4. the Government initiate a customer focussed review of information that is provided by agencies to enhance the transparency of Government operations and access by business and the general public to relevant functional areas; (*Chapter 4*)
5. the Government build on existing arrangements and establish a mechanism to assist business to comply with regulatory requirements; (*Chapter 10*)
6. the Government continue to give priority to the development of small and micro business and require BusinessACT to regularly review its programs and services to ensure they continue to meet the needs of that sector. (*Chapter 10*)

Quality and efficiency of regulatory instruments

In recent years an extensive program of National Competition Policy related reviews and other sector specific reviews have significantly improved the quality and appropriateness of a wide range of instruments through which business activities are regulated.

These reviews were generally conducted in consultation with industry groups, particularly in relation to the more significant reviews. This process has served to increase regulatory certainty for business.

Notwithstanding the substantial improvement in the broad suite of regulatory instruments, business activities are dynamic and often change rapidly in response to technological development and community needs. A level and form of regulation that is appropriate today is not always what is needed tomorrow. **The Committee therefore recommends that:**

- 7. the Government adopt a formal process to regularly review the ongoing relevance and effectiveness of all legislation and related instruments on an industry by industry basis every five years. (Chapter 5)**

The actual number of pieces of legislation, regulations and other delegated instruments that regulate business activities has increased significantly since the 1995 Red Tape Task Force report.

Some of this increase is attributable to legislative responses to emerging technologies and practices. A major part of the increase has resulted from the formalisation of pre-existing codes of practice, guidelines and voluntary arrangements. Whilst the Committee recognises a continuing role for voluntary codes of practice and like arrangements, replacement of the informal mechanisms by legislative instruments, which have been subject to Legislative Assembly and broader public scrutiny, has improved the quality of the various instruments and increased regulatory certainty for business.

However, the Committee found that there remains a significant number of informal instruments that some agencies seek to enforce that have no, or only limited, legal status. The continuing application of these informal arrangements, their inconsistent application and their potential inability to withstand legal challenge increases regulatory uncertainty and business sector concerns with aspects of the current regulatory framework.

The Committee further recommends that:

- 8. the Government require agencies to review the continued application and enforcement of all unofficial (non-legislative based) codes of practice, guidelines, protocols and standards with a view to either formalising their status under legislation, discontinuing their use or allowing them to operate as purely voluntary private sector arrangements with no related Government enforcement activity. (Chapter 6)**

The Committee notes recent improvements in policy and legislative development processes within Government agencies. It has also noted the particular contribution that Regulation and Business Impact Statements have made towards improving the quality of legislative proposals brought forward by Ministers for Government and subsequently Assembly consideration.

To enhance the quality of the ACT's regulatory environment, the Committee recommends that:

9. the Government require agencies to review the data and other information they require for the purpose of business regulation with a view to standardising as much as practical these requirements and reducing the number of occasions on which the information is sought; (*Chapter 4*)
10. the March 2000 *Guide to Regulation in the ACT* be endorsed by the Government and be re-issued to all agencies; (*Chapter 6*)
11. the ACT Legislative Assembly require that all proposals for new legislation, regulation or amending legislation placed before the Assembly be accompanied by a mandatory Regulatory Impact Statement, regardless of which Member brings the proposal forward; (*Chapter 6*)
12. the Government make Regulatory Impact Statements available for perusal by the public; (*Chapter 6*)
13. the public notification of agency regulatory plans be discontinued and that the Government's published legislation program provide the basis for all detailed public consultation on the Government's legislative intentions; (*Chapter 6*)
14. the Government require all ACT agencies to include within their annual reports a summary and analysis of the costs and benefits of regulatory reforms undertaken during the previous year. (*Chapter 6*)

The effectiveness of individual regulatory instruments and the overall efficiency of the regulatory regime may be constrained to the extent that individual instruments vary from those applying in neighbouring jurisdictions. This is particularly the case where there is significant actual or potential trade across borders.

While harmonisation may not always be achievable because of differing community needs or expectations or Government policy approaches in different jurisdictions, the Committee identified a number of areas where greater efforts to achieve harmonisation are desirable. In this context, the Committee recommends that:

15. the Government allocate responsibility to the Chief Minister's Department for the coordination of cross-border negotiations designed to harmonise business regulation within the wider National Capital Region; (*Chapter 4*)
16. the issue of cross-border harmonisation of workers' compensation arrangements be actively pursued by the ACT Government; (*Chapter 8*)

17. the Government monitor developments in NSW requirements for professional development standards for all occupations and pursues harmonisation or mutual recognition in the event of any significant inconsistencies that emerge. *(Chapter 8)*

Consistency and Equity of Enforcement

A major issue that arose during the consultations was the inconsistent application of existing legislation and delegated instruments across industry participants in a range of trades. Businesses operating from commercial premises consider that they are bearing a disproportionate share of regulatory enforcement activities. By being appropriately licensed and highly visible to inspectors, they consider that they are subject to greater regulatory attention than their home based competitors.

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To ensure that the regulatory burden is shared equitably amongst all classes of business in particular sectors and that the extent of regulatory oversight and impact is not dependent on the type or location of the particular businesses, **the Committee recommends that:**

18. the Government require agencies to take into account emerging industry trends in enforcing existing regulations; *(Chapter 9)*
19. Planning and Land Management allocate resources to increase its capacity to ensure home based businesses hold appropriate planning approvals; *(Chapter 9)*
20. the Government require all ACT agencies maintaining inspectorate functions affecting businesses to develop a formal coordination process and participate in regular feedback and information sharing sessions. *(Chapter 9)*

Sectoral Issues

A number of regulatory problems relating to specific sectors were brought to the Committee's attention during the consultation process. Most of these issues have been resolved through the Committee's efforts in contacting and facilitating cooperative agreements between agencies and business.

The Committee is pleased to note the readiness of agencies to work with business to resolve problems when they are identified. This highlights the need for an ongoing facilitative office within government.

Many of the issues raised touched on planning approvals and processes.

The Committee has examined these matters and **recommends that:**

21. the criteria under which third-party appeals may be lodged against development applications be limited so as to allow access only to persons who can reasonably be expected to be directly affected by the proposal; *(Chapter 4)*

22. the Government require agencies to develop and implement improved processes for keeping applicants informed of progress in the consideration of their applications for regulatory approvals; (*Chapter 4*)
23. the Government review the timing of critical stages of consultation during the consideration of development applications to increase the timeliness of decision making; (*Chapter 4*)
24. the Government make provision for a transparent complaints handling and resolution mechanism in the proposed Planning and Land Development Authority; (*Chapter 11*)
25. the Government consider introduction of a form of temporary liquor licence to allow for the sale of unopened bottles of wine at approved tourism events. (*Chapter 8*)

Ongoing Regulatory Review Mechanisms

The Committee notes its disappointment with the relatively low response from ACT business to its many offers to consult. This may simply indicate that ACT businesses are generally satisfied with the nature and level of business regulation.

However, responses from many groups reflected the view that irregular major reviews are no longer appropriate and so attract little attention despite the importance of the issues raised. Business clearly considers that Government must be interested in business concerns all of the time, not just every now and then.

This indicates the importance to the Territory of an ongoing accessible mechanism for regulatory review and dispute resolution to address business concerns as they arise. This view is reinforced by the Committee's experience during the conduct of the Review. To provide this focus **the Committee recommends that:**

26. a central agency's role be expanded to include an ongoing formal function of regulatory oversight and dispute resolution. (*Chapter 12*)

The Committee's recommendations address immediate areas of concern and point the way forward for the adoption of a more open and consultative regulatory and procedural framework.

Adoption of the recommendations outlined above will provide an enhanced framework within which the interests of business and the broader ACT community can both be served to a consistently high standard.

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THE ROLE OF THE COMMITTEE

Background to the Report

Business activities are shaped not just by markets, innovations and customers, but by the regulatory and administrative environment created by governments.

Regulations are important tools through which governments protect consumers and the environment through implementing policies such as health and safety standards.

Regulations can also assist business by providing them with a stable operating environment and protection from unfair competition. Pro-competition regulations can benefit business by opening new markets and removing the monopolies enjoyed in the past by government business enterprises. A strong regulatory framework in areas such as food handling, financial services and the management of dangerous goods promotes community and consumer confidence in the market and facilitates consumer purchases.

There is always a risk however, particularly in periods of rapid changes in economic and social conditions, that regulations and the processes supporting them can impede innovation or create artificial barriers to trade that are unintentional, unnecessary or counter-productive. Regulations and bureaucratic processes that become outdated or are poorly designed can impose unnecessary costs on both business and the community and reduce overall community wealth and opportunities.

The cumulative effect of such regulation, particularly where these are administered by multiple agencies through several tiers of decision-making, can slow market growth by reducing business responsiveness to opportunities, diverting resources away from productive activities and generally discouraging entrepreneurial activities.

Terms of Reference

The potential for such problems to arise was recognised by the ACT Government who announced as part of its 2001 election policy on business regulation, that:

“ An ACT Labor Government will, in consultation with business, industry and professional organisations, update the Red Tape Task Force Report and review its implementation ”.

A Business Regulation Review Committee (the Committee) was established in March 2002 by the ACT Treasurer, Mr Ted Quinlan MLA.

The Committee's Terms of Reference were:

The purpose of this review is to identify any regulatory processes which impose unnecessary burdens, costs or disadvantages on business activities in the ACT, and recommend a course of action.

In particular, this review will examine the progress made since the 1995 Red Tape Task Force Report and subsequent National Competition Policy associated reviews of business legislation and recommend any further action which is necessary to improve the regulatory environment faced by business without unduly compromising existing consumer and environmental safeguards.

Specifically, the review will:

1. *Provide a stocktake of changes in the business regulatory environment since 1995.*
2. *Examine the effectiveness of the reforms implemented since 1995, including but not limited to:*
 - *the status of implementation of reforms recommended by the various reviews;*
 - *the effectiveness of reforms to date; and*
 - *inconsistencies in regulation and scope for improved Government agency coordination.*
3. *Examine any inconsistencies in licensing and regulatory requirements between the ACT and NSW that affect cross-border business operations.*
4. *Recommend changes to administrative and regulatory structures and activities that will improve the efficiency of the ACT business environment.*

Definitions

In addressing these Terms of Reference the Committee adopted:

- a broad definition of the concept of regulation that also includes the forms, processes and practices by which regulations are interpreted, administered and enforced by public officials;
- a presumption that the measure of regulatory burden is not simply a matter of volume of regulations but more a matter of the unnecessary or undesirable impact of those regulations; and
- a presumption that, except in exceptional circumstances, the burden of regulation imposed by Commonwealth Government legislation and agencies is beyond the scope of this Report.

Committee Membership

The Committee comprised a mix of ACT public servants and business persons. These members brought to the Committee a wide range of skills and experience along with a strong personal commitment to the future of Canberra. The members were:

Mr John Robertson (Chair)

John Robertson has been a senior executive within ACT Treasury since 1997.

His responsibilities have included general economic policy, National Competition Policy, microeconomic reform, energy and water policy, utility regulation, the analysis of major projects and specific industry development proposals, the reform of ACT Government business enterprises and procurement services.

Mrs Christine Macauley

Christine Macauley is a part-owner and director of Robbo's Motorcycles in Fyshwick. Robbo's is a small business that has been under its present ownership for almost 25 years.

Christine is a member of the ACT Chamber of Women in Business, a Board member of the ACT & Region Chamber of Commerce and Industry and is the Chair of the Australian Motorcycle Industry Association.

Mr David Gaul

David Gaul is President of CEA Technologies, an advanced technology company specialising in research, development and the supply and support of radar and communications technologies to private and Government customers.

David was a member of the original 1995 Red Tape Task Force team and is actively involved in various Boards, including the Defence and Industry Advisory Council, and is the Chairman of the Canberra Region Advanced Technology Manufacturing Association.

Mr Graeme Shaw

Graeme Shaw is the Managing Director of G E Shaw and Associates Pty Ltd, one of Canberra's most successful construction and property companies.

Graeme has been involved in many high profile local projects including the Canberra Museum & Gallery, BRL Hardy Kamberra Winery Complex and the development of the Dame Pattie Menzies buildings in Dickson.

Mr Michael Capezio

Michael Capezio is a Chartered Accountant specialising in taxation and small business services.

Michael is currently the President of the Australian Hotel Association (ACT) and the Chairman of Host Plus Superannuation Fund. He also holds several directorships of ACT and interstate hospitality industry businesses.

Ms Julie McKinnon

Julie McKinnon is the Executive Director, Land within the ACT Department of Urban Services responsible for policies and programs in relation to the government's land issues.

Julie was previously the First Assistant Secretary, Domestic Property Group, Department of Finance and Administration where she was responsible for the development and implementation of the Commonwealth Property Reform Agenda.

Mr Geoff Keogh

Geoff Keogh is the Director of BusinessACT within the ACT Chief Minister's Department. In this position he is responsible for providing a range of services to meet the needs of the business community.

Prior to 1999 Geoff was Manager of the Business Regulation Review Unit and assisted in the implementation of the recommendations of the 1995 Red Tape Task Force.

Mr Michael Ockwell

Michael Ockwell is the Executive Director of Corporate Services in the ACT Department of Justice and Community Safety. He has occupied a number of senior executive positions in the ACT Government administration over the last six years, following a lengthy career with the NSW Government.

The ACT Department of Justice and Community Safety played a major role in the 1995 Red Tape Task Force.

Secretariat

The Committee acknowledges the research and analytical support provided to it by its Secretariat:

- Mr Alan Traves, ACT Department of Urban Services;
- Ms Patricia Devlin, ACT Treasury; and
- Ms Amanda Smorhun, ACT Chief Minister's Department.

Further administrative support was provided by Ms Jodie Abraham and Mr David Riddell of ACT Treasury.

THE APPROACH ADOPTED

The Committee's approach was based upon the appreciation that business activities and regulations affect everyone in the community whether they are a business operator, a shop assistant or a consumer. Accordingly, a policy of maximum and accessible consultation was pursued.

The Committee sought to make its activities as open and transparent as possible and adopted a policy of full disclosure of documents. All written submissions received by the Committee from the public and business community were regarded as public documents. As such they were published on the Committee webpage and made available on request in printed form.

This policy was subject to the proviso that submissions would not be published where, in the opinion of the Committee, they contained defamatory or abusive statements about named individuals or organisations or where the authenticity of the submission could not be satisfactorily established.

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Advertising

The conduct of the review was widely publicised and extensive efforts undertaken to obtain public input.

Advertisements requesting public submissions were placed in *The Canberra Times* in March 2002 and in the regional and suburban print media.

Seven thousand information and promotional flyers were also displayed and distributed through ACT Government agencies, local business organisations, shopping centre management offices and community groups. This flyer also appeared in electronic form on many organisations' websites and in printed newsletters.

The Committee would like to thank participating organisations for their cooperation and assistance in publicising the activities of the Committee. In particular, the Committee appreciates the assistance provided by the ACT and Region Chamber of Commerce and Industry for including Review information in their mail-outs to members and for their inclusion of questions relating to regulation in their regular member survey to assist the Committee's deliberations.

An additional 2,000 flyers promoting the schedule of public meetings were distributed to businesses around the meeting venues with personal visits to business premises also being undertaken by Secretariat staff.

Electronic Access

The Committee established its own webpage (www.act.gov.au/ti/brr) and email address (BusinessRegulation.Review.act.gov.au) with links to many ACT Government agency and local business organisation websites.

The Committee was mindful of the rapid increase in e-commerce and internet-based information in the years since the 1995 Report and was keen to utilise this technology to facilitate contact with the rapidly growing number of IT and home based micro-businesses within the Territory.

The number of inquiries received through this media was most encouraging with useful contacts being established for further research and investigation. However, only a few of these inquirers eventually lodged submissions with the Committee, with most content to seek informal advice on their particular issues.

Correspondence

The Committee wrote directly to all Members of the ACT Legislative Assembly and local business organisations and trader groups advising them of the Review and inviting their participation. Similar letters were sent to surrounding NSW Shires and Local Councils in recognition of Canberra's increasing role as a regional market and provider of services.

In addition, the Committee wrote to all known ACT and Queanbeyan/Yass business organisations (both formal and informal) with details of the Review. Where possible this correspondence was followed-up with telephone and e-mail contact.

A targeted mail-out of 470 letters was sent to recent inquirers of the Business Licence Information Service (BLIS). This service offers advice on regulations and licensing requirements to persons intending to open a business or expand an existing business. The views of these persons were specifically sought due to their recent first-hand experience of the ACT business regulation framework.

Additional information concerning the Review was included in all BLIS information packs issued to prospective business operators (approximately 450 packages were issued during the Review consultation period).

Other Consultation

The Committee embarked upon a wide-ranging program of meetings with business groups and public meetings.

Public meetings were conducted at a number of town-centre and suburban locations with both day and evening sessions being offered. This spread of venues and times was seen as providing an important avenue for hearing the views of small and home-based business operators who may otherwise felt that they had been excluded from the review.

As noted earlier, this program of meetings was supported by the distribution of flyers to businesses in the vicinity of each venue and reminder advertisements in the local print media.

In addition to these meetings, Secretariat staff conducted a number of workplace visits during which local shopkeepers and merchants discussed issues relevant to their local area. These meetings were conducted with the assistance of HelpSHOP, a business unit within the Department of Urban Services.

The Committee also examined the experiences and publications of other Australian jurisdictions and regularly sought advice and cooperation from these parties. The Committee extends to its interstate equivalents its thanks for this assistance and support. An additional survey of international publications placed upon official agency and university web sites was also conducted.

Summary of Consultation

A number of ACT business organisations and individuals were active contributors to the review by way of written submissions and participation in public and other meetings. Sector specific issues that are discussed elsewhere in this Report gained prominence during this process.

Notwithstanding this participation, the Committee was surprised at the relatively low level of response to its many efforts to consult with both business and the wider community.

Given views on regulation long expressed by many organisations and individuals prior to the establishment of the Review and the Committee's continual efforts to engage with the wider business community, this low level of response was disappointing.

Committee discussions with those organisations that were expected to take a more active role in the review proceedings indicated that these organisations faced more overriding business concerns, such as the crisis in public liability insurance and other matters outside of the scope of the Review.

Regulatory issues were not generally acknowledged as a current business priority with the recognition that there was only general interest and energy for matters of immediate concern.

It was also noted that of the many intending business operators contacted through the BLIS service, no correspondent to the Committee identified themselves as such.

It can be inferred from this feedback that specific interest only peaks when matters of immediate relevance to individual businesses and industries are involved. A periodic review may not be the most appropriate or timely avenue for addressing these problems as they arise.

In these circumstances, business requires a readily accessible and ongoing mechanism to assist them in resolving those particular problems.

Specific details of consultation and meetings are included in Appendix 3. A summary of these activities appears below:

Consultation Mechanism	Number of Contacts
Letters to specific business organisations and operators	740
Website inquiries	355
Email inquiries	17
Telephone inquiries	80
Meetings with business groups/businesses	23
Persons attending public meetings/workshops	8
Formal submissions received	12

SETTING THE SCENE

The ACT business scene has changed since the 1995 Red Tape Task Force made its original recommendations. To determine the ongoing relevance of these recommendations and to establish a base for further research the Committee first examined the current composition of ACT business activity.

Comparison of Business Activity Indicators

In 1995 the ACT economy was characterised as being dependent on its status as the “public service capital of Australia”. In 1995-96, 52.3% of people worked directly for the public service and there were 12,800 private sector businesses.

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Successive Commonwealth Governments undertook substantial structure and staffing reviews over the period 1995 to 1997. The most significant outcomes of these reviews were significant staff redundancies, the relocation of some activities to interstate locations and a policy of selective outsourcing of service delivery to the private sector.

At the time, the proposed shedding of staff by government was viewed with alarm by the ACT business community with a fear that an exodus of displaced public servants would occur leaving behind a depressed property market and a declining retail economy. However, these fears were not generally realised with the policy of outsourcing in particular proving to be a catalyst for a growth in private sector employment in the medium term.

Business opportunities generated by Commonwealth outsourcing of activities and an infusion into local employment markets of retrenched public servants with technical and service delivery experience provided a dynamic base for growth. This growth was to some extent supported by a renewed impetus within ACT Government agencies to provide increased business incentive and development opportunities.

The actual contribution to ACT employment by individual industry sectors is indicated in the following table.

Comprehensive data on number of businesses in each sector was available to the Committee for the period up to May 2001. Employment data was available for the period up to May 2002.

Contribution to Employment by Business Sector

Industry Sector	Number of businesses May 1995	Contribution to Employment 000's May 1995	Number of businesses May 2001	Contribution to Employment 000's May 2001	Contribution to Employment 000's May 2002
Agriculture, forestry, and fishing	155	1.3	132	0.8	0.6
Mining	12	0.1	6	0.0	0.0
Manufacturing	276	5.3	377	5.4	4.6
Electricity, gas and water	4	1.1	7	0.7	0.8
Construction	1270	10.6	1167	8.2	8.0
Wholesale trade	384	5.1	280	3.9	2.7
Retail trade	1677	20.5	1504	22.1	23.8
Accommodation, cafes and restaurants	516	8.4	567	6.7	8.1
Transport and storage	283	4.7	266	4.5	4.3
Communication services	17	2.7	98	2.5	2.5
Finance and insurance	356	3.7	384	4.1	4.2
Property and business services	2345	16.8	3179	25.8	25.2
Government administration and defence	128	36.6	82	37.9	39.6
Education	131	12.2	159	13.2	14.1
Health and community services	919	12.8	925	17.1	16.5
Cultural and recreational services	283	6.1	342	5.8	5.8
Personal and other services	629	6.5	698	8.7	9.5
Total	9,385	154.4	10,173	167.4	170.3
Comparative Census data #	12,800		18,500		

Sources: ABS Catalogue 1369.0.55.001 and associated Companion Data
 Characteristics of Small Business 2001 ABS Catalogue 8127.0
 # small business less than 20 employees only

Notes – significant changes to recording methodology have been implemented by the ABS since 1995, most notably an emphasis upon ABN registration for GST purposes as the primary basis for number of businesses. It should be noted that the ACT micro-business sector is characterised by a large number of businesses operating below the \$50,000 turnover GST threshold. These would not reflect in ABS data but are captured within the broader census data.

The ACT workforce grew by 10% over the period 1995 to 2002. Significant movements between industry sectors have occurred with Property and Business Services and Personal and Other Services recording strong increases in employment. This growth is largely attributed to increased demand for consultant and professional business support services arising from Commonwealth outsourcing.

A change of data treatment methodology within the Australian Bureau of Statistics (ABS) has generated the apparent decline in Construction employment. Many of these persons are now classified as providing Property Services and appear in that sector data. The decline in the number of retail outlets since 1995 despite an increase in employment within that sector is attributed to the growth of larger chain and mega-stores and a concurrent shift of small specialty retail to residential operation.

It is noteworthy that the predominant industry sectors of 1995 (Government Administration and Defence, Retailing and Property and Business Services) have retained their pre-eminence into 2002 with all 3 sectors further increasing their contribution to employment levels. These sectors provide the underlying stability of the ACT economy.

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Despite the common perception that Canberra is rapidly moving to a private sector, Government remains the primary employer and purchaser of services within the Territory. Government Administration and Defence directly employs 39,600 persons with a further 27,000 government employees providing education, health, community and cultural services. It is estimated by the ACT Business Council that a further 17% of the workforce relies solely or principally upon government contracted work for their livelihoods.

Composition of Key Business Sectors

The following table indicates the contribution to ACT employment of key non-government industry sectors.

Industry Sector	Number of businesses May 1995	Contribution to Employment 000's May 1995	Number of businesses May 2001	Contribution to Employment 000's May 2001	Contribution to Employment 000's May 2002
RETAIL	1677		1504		
Food	*	9.5	*	8.1	9.7
Personal and household	*	7.8	*	9.4	10.1
Motor vehicle retailing and services	*	3.4	*	3.4	4.0
ACCOMMODATION, CAFES AND RESTAURANTS	516	9.0	567	6.7	8.1
FINANCE AND INSURANCE	356		384		
Finance	*	1.6	*	1.2	1.4
Insurance	*	1.4	*	1.7	1.5
Services to finance and insurance	*	1.0	*	2.0	1.2
PROPERTY AND BUSINESS SERVICES	2345		3179		
Property services	*	2.0	*	1.9	3.0
Business services	*	13.5	*	22.5	22.2
PERSONAL AND OTHER SERVICES	629		698		
Personal services	*	2.6	*	3.8	3.7
Other Services	*	3.2	*	3.5	5.8
Employed in private households	*	0.6	*	0.0	0.0

Source: ABS Quarterly Average Employment and Companion data

* Reliable data not available

The growth in Retailing, Business Services and Personal and Other Services is significant and points to a strong local consumer economy with high disposable incomes.

The 1995 Red Tape Task Force noted the existence of 12,800 small businesses in the ACT. Census data collected by the Australian Bureau of Statistics as at June 2001 indicated that there are now at least 18,500 small businesses established in the ACT, representing a 31% increase over 1995, with 4,800 of these businesses being established in the 12 months to July 2000. Small business currently represents about 96% of the total number of ACT businesses and provides 78% of the private sector employment.

Changes in activities within industry sectors are also significant. While Property and Business Services is the predominant non-government sector, an increasing number of businesses within the sector are involved in specialised information technology (IT) development.

In mid 1999 it was estimated by BusinessACT that over 700 IT related businesses were operating in the ACT compared to about 400 in 1996. They now consider that there are about 740 such businesses active within the Territory.

Growth prospects for this sector were boosted in May 2002 when the ACT was successful in its bid for a major role in the development of the National Information and Communications Technology Centre of Excellence. It is expected that about 33% of this major IT research and development project will take place in the ACT providing further opportunities for growth.

Recent ABS data indicates that most of the non-retail growth noted coincides with a significant change in business domicile.

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A rapid growth in the number of home-based business activities undertaken within the ACT economy has been recorded. This has been attributed to a combination of lifestyle choices and an increased confidence amongst a skilled workforce to run their own businesses.

According to recent ABS data, since November 1999 the ACT has recorded the strongest growth in the home based business sector in the country, with an increase of 26%.

As at June 2001, the 14,600 home based businesses represented 79% of the total number of ACT small businesses. It is estimated that 10,600 of these businesses do not employ staff, other than a single operator and immediate family members (not always paid).

About 33% of home based businesses are affiliated with some form of business or industry organisation. However, a significant number (9,800) do not utilise any facilitated avenues of access to business and government compliance information.

The Committee has noted that ACT business confidence in their economic prospects remains relatively high. The August 2002 Yellow Pages Business Index indicated that an increasing number of Small and Medium Enterprises (SME) are concerned about a perceived lack of Government understanding of the needs of small businesses.

In this light, the ability of ACT Government agencies to reach and provide timely information to small business is critical to the future economic health of the Territory.

The 1995 Red Tape Task Force Report was developed during a period of significant shedding of public service staff by the Commonwealth Government that, if not addressed, threatened to upset the economic and employment stability of the Territory.

There was a real concern at the time that a sustained reduction in the staff needs of what was, until then, the dominant employer, would result in a significant contraction of the Canberra economy as displaced public servants left for interstate employment. The need to encourage and foster the development of a viable and dynamic private sector was a strong driver behind the Report.

The 1995 Recommendations

The 1995 Report identified 35 recommendations that the Red Tape Task Force considered should be pursued to facilitate the steady growth of the ACT private sector employment base.

The main themes of the recommendations were:

- a review of specific regulations and legislation including solicitors' and agents' regulations, workers' compensation legislation and a simplifying of the process of payroll tax collection;
- enforcement of internal government reporting mechanisms such as mandatory business and regulatory impact statements when amendments to legislation are proposed;
- providing the business community with the opportunity to comment on regulatory change and being informed of any such changes; and
- a review of planning and land management issues.

Implementing the Recommendations

The Red Tape Task Force Report was presented to the ACT Government in October 1995 and adopted in March 1996.

An advisory group was established in 1996 to oversee implementation of the Recommendations.

By 1998 it was considered that the size of the advisory group and the increasing time commitments of its members was acting as an impediment to its effective operation.

A smaller group of four members was formed to progress the remaining recommendations. This group changed its name to the Business Advisory and Regulatory Review Team (BARRT) in 1999.

BARRT comprised four business representatives, three of whom had been members of the original Red Tape Review Team Consultative Panel.

BARRT's role was to provide advice on matters concerning small business, as well as providing a mechanism for on-going dialogue between the ACT public and private sectors. BARRT also provided advice as requested on regulatory reform and red tape issues in general, and specific regulatory proposals and issues as appropriate.

BARRT ceased operations in late 2001 following a decision of the incoming Government to commission the Review that is the subject of this Report.

Progress of the Recommendations

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As its starting point the Committee reviewed the progress made in implementing the recommendations of the 1995 Report. The Committee also considered how changes in business activity and community expectations since that time impacted upon the relevance of the original recommendations.

The Red Tape Task Force recommendations that the Committee considers to be finalised and not requiring further action are detailed in Appendix 1.

Major activities and reforms arising from these finalised recommendations included completed reviews of:

- the operation and delivery of the Business Licence Information Service (BLIS);
- the potential benefits of a Master Licencing regime;
- the operation of the *Land (Planning and Environment) Act 1991* and supporting processes administered by Planning and Land Management (PALM); and
- the ongoing need for a government-operated Business Services Centre.

Additionally, as part of the implementation of recommendations designed to promote greater regulatory transparency, a Business Impact Statement and business consultation process was formalised. These processes assist agency officials in the review of specific legislation proposals impacting upon business.

Using this methodology, reviews of the *Liquor Act 1975*, *Agents Act 1968* and the suite of legislation then in development in the areas of Environmental Protection, Public Health and Municipal Services were conducted.

Recommendations that, in the opinion of the Committee, are still relevant and require additional action to effectively implement are noted below. Also included in this discussion are other matters raised within the original Report that the Committee considers now warrant further action.

Outstanding Issues Arising from the Review

Access to Regulatory Information

In its Report, the 1995 Red Tape Task Force recommended (at Recommendation 1) that

“a list of regulations and their impact on business be maintained and updated by the Business Regulation Review Unit in conjunction with the Attorney-General’s Department and relevant agencies, as a resource for the ACT community, the business sector and Government”.

The 1995 Report contained, as an annexure, a comprehensive listing of Acts and Regulations as they applied in the broadest sense to business activities. This represented, for the first time, a comprehensive guide to business of their regulatory obligations and details of which agency administered those regulations.

Compilation of that list was a time consuming and lengthy manual exercise. When the Business Licence Information Service (BLIS) was upgraded to an automated system in late 1999, elements of the database (principally relating to licensing information) were incorporated.

However, maintenance of the full list and explanatory notes lapsed as it proved to be impractical given the limited resources then available. This lapse, while understandable, was unfortunate as a valuable information and research tool was lost to the business community.

More recently the ACT Department of Justice and Community Safety has established a website of all ACT legislation. A preliminary system developed in conjunction with University of Canberra (ACT Lawnet) evolved in 2001 into the ACT Government legislation website www.legislation.act.gov.au which is a comprehensive listing of all new legislation in the ACT.

The listing includes authorised re-publications of laws in force, as well as new Acts, subordinate law, disallowable instruments and resolutions passed by the Legislative Assembly. At present the data that is contained cannot be categorised or searched for specific references to specific business activities.

It is noted that provision was made in the 2002-2003 Budget for additional funding to allow for the completion of the data component of this database. This is part of the ongoing Public Access to Legislation (PAL) initiative.

However, the Committee considers that the further addition of an appropriate search tool would provide business with a more flexible means of accessing the full suite of ACT legislation and assist in compliance.

In the interim, to assist businesses the Committee has closely examined the current status of business-related legislation in the ACT and has included a summary of the relevant Acts, Regulations and Standards at Appendix 5 of this Report.

The Committee recommends that the ACT Legislation Register administered by the Department of Justice and Community Safety be enhanced to allow for a facility enabling searches to be conducted on an industry by industry basis.

Improving Access to Regulatory Information

The 1995 Red Tape Task Force recommended (in Recommendation 7) that:

“each Government agency conducts a review of its explanatory material relating to regulatory requirements and, where necessary, and in consultation with relevant business groups, develop comprehensive user-friendly information packages.

Once these packages have been prepared they should be distributed and marketed widely by the Business Services Centre including to peak business groups and to professional advisers throughout the ACT. Business information packages should also be prepared in the same manner when new regulatory proposals are introduced”.

The principles contained within this recommendation were incorporated into the *ACT Manual for Regulatory Reform* first issued in 1996 that encouraged agencies to provide adequate and current information to affected parties and the wider community.

Agencies are now required to develop background and information packages when legislation is being developed for consultation purposes. This information is generally targeted at specific stakeholders and is considered by agencies to be adequate.

Many persons and organisations consulted by the Committee were however critical of the readability and complexity of agency information. A plain language style was most frequently advocated.

The Committee has considered a broad sample of the brochures and support materials prepared by agencies and has noted a wide variance in the accessibility and readability of the documents that have been produced.

It is apparent in many cases that once the urgency surrounding new legislation wanes the importance attached by agencies to producing clear and accessible information also declines. Publications become out of date due to further legislative amendment, print-runs are exhausted reducing access to documents and there appears to be a

general belief amongst parties that everyone who needs to know already knows what is involved in the particular regulatory process.

During consultations the Committee noted a degree of complacency in this matter in both regulators and, surprisingly, in many of the industries being regulated.

This is attributed to the familiarity engendered by long association and experience within industries. This makes it difficult for new players seeking to enter the industry or public officials recently appointed to regulatory positions.

This attitude is most noticeable in small industry segments where little change has occurred for many years and where the applicable legislation was introduced long ago. The attendant complacency can also lead to industry participants and regulators not being aware of broader legislative changes which may impact on their particular sector.

The Committee has also noted that where publications are made available many are not provided in a format or style well suited to the intended readership. Many well-meaning documents are marred by the use of unnecessary jargon or an overly fussy and complex presentation.

This was raised as a major area for improvement during consultations, particularly by micro-business operators (traditionally operating under tight time constraints with very limited resources) and persons seeking information to assist them in entering business.

The transition of many of these documents to an electronic format to allow access through the Internet has not generally assisted their readability.

Almost all persons and groups consulted by the Committee consider that ACT agency web-sites in general are poorly designed, confusing, contain unclear links and descriptors and often require the inquirer to almost “know the answer first so they know what question to ask”.

The inclusion of numerous graphics not directly related to the information required by aspiring and existing business operators adds considerably to the time required to download such documents and acts as a deterrent to accessibility. Committee Secretariat experience in searching agency websites, while researching aspects of this report, supports the business sector comments.

Inconsistencies in web design and site operations were also identified as major obstacles to usage.

There is a need for a consistent approach to design and accessibility planning for these sites. The Committee notes the range of services and expertise offered by Canberra Connect in facilitating public contact with ACT agencies and considers that a

coordinating role could be usefully played by this organisation in improving agency web sites.

A notable exception to these perceptions was the suite of electronic documents produced by ACT WorkCover explaining obligations, regulations, services and initiatives.

The Committee considers that further ongoing efforts by agencies are warranted to streamline the design of information packages and increase their readability to the wider community.

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The Committee recommends that the Government require agencies to continue to review the range and relevance of public and industry information packages they offer with a view to improving their readability and ongoing usefulness to clients, with particular attention paid to the layout and accessibility of web-based information and application packages.

The Committee recommends that the Government confirm that Canberra Connect has a primary role in assisting agencies to improve the quality and accessibility of their web-sites and in facilitating improved linkages between the ACT Legislation Register, the Business Licence Information Service and other agency specific information on regulatory requirements.

Streamlining Data Requirements

The 1995 Red Tape Task Force recommended (in Recommendation 10) that:

“the principles embodied in the report on paperwork prepared by the Tasman Institute should be adopted in the design of future Government information and regulatory requirements”.

In 1991 the Tasman Institute prepared a report for the Commonwealth Department of Industry, Technology and Commerce outlining a model for the implementation of regulations.

In summary, the Tasman Institute Report recommended that the amount of information to be provided should be the minimum necessary to meet the program objectives, not duplicate or be inconsistent with information already held within government, be able to be quickly processed and be expressed in plain language. The Committee notes that these principles are applied within current ACT agency practices.

The Tasman Report was largely supportive of a culture of centralisation of business and individual details and compliance data with full accessibility of data across all government agencies. Such a concentration of data is required for schemes such as master-licensing to be effective.

This approach was reminiscent of the failed “Australia Card” concept and awoke similar public controversy. Additional impediments to this approach were presented by the operation of the Commonwealth’s *Freedom of Information Act 1989* and the *Privacy Act 1988*. As a result the Commonwealth and the ACT largely retained a decentralised approach to data holding and access.

The Committee raised this issue in the course of its consultations. There is only isolated private sector support for an increase in business data accessibility by government agencies.

Most business proprietors expressing an opinion on the matter preferred a case-by-case approach where they know what information had been provided to whom and for what reason. A degree of scepticism was expressed concerning both the confidentiality and accuracy of data accessible and open to amendment by so many agencies.

The remaining principles relating to the volume of information required and their expression in clear language have been adopted within ACT agencies.

However, standards of what degree of detail is necessary and what constitutes plain language varies across agencies just as it varies across industries and between individuals. The Committee considers that there is unlikely to be a single format that is understandable to all parties that still fulfils the need to convey detailed information on often complex and technical matters.

The Committee recommends that the Government require agencies to review the data and other information they require for the purpose of business regulation with a view to standardising as much as practical these requirements and reducing the number of occasions on which the information is sought.

Land Development Consultation Processes

The 1995 Red Tape Task Force recommended (in Recommendation 21) that:

“as part of the review of the Land Act consideration needs to be given to a single public notification and consultation process to enable full public consideration of an application rather than a number of consecutive consultation processes dealing with parts of the proposed development”.

The review of the *Land (Planning and Environment) Act 1991* which was completed in 2000, made provision for the implementation of a single notification process along the lines recommended by the Red Tape Task Force. This process allows for the concurrent notification of development approval applications, the completion of environmental impact statements, proposed variations to the Territory Plan and the seeking of community views.

However, this approach has not always proven feasible given the range and complexity of many of the matters raised in major proposals and the potential for the outcome of some stages of review to significantly affect the consideration and outcome of other stages. In many cases an incremental approach has been required to enable a balanced consideration of all issues involved.

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Evidence provided to the Committee indicates that land developers and commercial landlords are still critical of the time delays they perceive as being inherent in this process.

Frustration with these processes is such that the Housing Industry Association (ACT) in its submission to this Committee recommended the abolition of third-party appeal rights in relation to development applications and restrictions on the power of members of the ACT Legislative Assembly to intervene in planning approval processes.

Some contributors to the review also consider that PALM staff “do not understand that time is money” in business and that developers in particular need current information to better assess their options and manage their risks.

Third party appeal rights are the primary vehicle by which the community can voice its opinions on activities and developments in their local area. In line with best practice standards, the Government has prepared a Bill that will transfer Planning and Land Management to statutory authority status. A *Planning and Land Bill* formalising this proposal has been presented to the ACT Legislative Assembly for debate later in 2002.

Such transfers are generally perceived as providing opportunities for increased input into planning matters by, and accountability to, the public. The abolition of third party appeal rights in toto would not support this goal nor be consistent with community expectations of open and transparent government.

The Committee has concluded that the availability of consultation and investigation processes meet the best long-term interests of the wider community. However the lack of restrictions on the criteria under which third parties can lodge appeals appear to provide unwarranted opportunities for the lodgement of vexatious and frivolous appeals that delay otherwise worthwhile proposals.

The impact of excessive appeal rights is that undue costs accrue to the community (for example, people seeking to extend their homes) and the business sector, with the associated uncertainty reducing business's ability to invest in other opportunities in a timely manner. By tying up scarce capital in particular projects, the opportunity to pursue other ventures is often lost, with broader community implications in terms of unrealised job opportunities and reduced amenity.

Approval processes across ACT agencies generally need to have an enhanced customer focus and embody greater accountability and transparency to ensure that applicants or proponents are kept better informed of the progress of individual applications. This should include greater certainty in relation to the timeframes for consideration and decisions on individual applications.

Consideration should be given to improving the timeliness of decision making by examining the scope for concurrent rather than sequential consultation on development applications and in relation to other regulatory approvals that include public consultation elements.

The related matters raised by the Housing Industry Association in relation to the role of the ACT Legislative Assembly are discussed in Chapter 9.

The Committee recommends that the criteria under which third-party appeals may be lodged against development applications be limited so as to allow access only to persons who can reasonably be expected to be directly affected by the proposal.

The Committee recommends that the Government require agencies to develop and implement improved processes for keeping applicants informed of progress in the consideration of their applications for regulatory approvals.

The Committee recommends that the Government review the timing of critical stages of consultation during the consideration of development applications to increase the timeliness of decision making.

Mutual Recognition

The 1995 Red Tape Task Force recommended (in Recommendation 30) that:

“mutual recognition be used as a tool for limiting the need for regulation. Agencies should specifically examine the opportunities afforded by mutual recognition when undertaking future reviews of legislation and regulation”.

The *Mutual Recognition (Australian Capital Territory) Act 1992* promotes the recognition of regulatory standards across State and Territory boundaries with the goal of facilitating freedom of movement of goods and service providers in a national market.

34 In summary, this Act seeks to establish grounds for the development of national standards for goods, services and occupational qualifications. These principles have been actively applied by ACT agencies where it can be shown that it is practical and where there is a net public benefit in doing so.

This goal has been pursued by ACT Government agencies through a variety of national working groups and bilateral discussions with individual State and Territory administrations (notably New South Wales).

Often, the ACT has had to adopt an interim regulatory position in order to facilitate later discussions on a truly national format. For example, the recent adoption of Bus Operator Accreditation by the ACT brings ACT practice into line with all other mainland jurisdictions and will lead to further discussions on a set of national standards.

In the short term however, this entails a less than optimal system of recognition on a case-by-case basis. While not the ideal solution for either regulator or industry, it is a vital pre-requisite insisted upon by larger jurisdictions, before negotiations can commence leading to later simplification and reform of processes on a national basis.

The ACT is also subject to regulatory pressures flowing from agreements and directions arising from its participation in national Ministerial Councils. In some cases, for example with regulations relating to National Energy Efficiency labelling, the ACT was obliged to introduce additional legislation that met national requirements.

The Committee notes that responsibility for progressing discussions and negotiations in interstate jurisdictions is a function of the Premier’s Department or equivalent.

For example, in NSW negotiations are coordinated by the Cross-Border Anomalies Committee of NSW Premier’s Department. It would appear that the ACT has adopted an ad-hoc approach whereby individual agencies and, in some cases, individual officials have developed proposals and brokered agreements with their interstate counterparts.

The Committee has spoken with a number of these interstate committees and working parties. They are formal bodies with specific powers to negotiate with other jurisdictions and provide coordination and guidance to line agencies.

All interstate officials interviewed have stressed to the Committee the benefits of central coordination, of having a plan and a goal in sight and working towards it in a consistent and methodical manner. While individual agency initiatives can, from time-to-time, be successful, in the longer term such negotiations require a consistency of approach and a balancing of, sometimes, conflicting needs to ensure sustainable outcomes.

Individual ACT agencies do not always have the influence with larger jurisdictions to progress worthwhile reforms and agreements. Often, a high profile approach is required to overcome impasses that have developed at officer and agency level and galvanise further discussions.

The current cross-border taxi trial with Queanbeyan Cabs initiated by ACT Department of Urban Services is an example of an ACT agency enjoying limited success in advancing regulatory reforms.

However, approval for the trial arrangement to be made permanent would require NSW Government approval not just that of the NSW Department of Transport. It would be appropriate for such negotiations to be settled at the highest agency level.

The 2001 election platform of the current ACT Government called for the urgent progression of cross-border discussions largely to support the needs of the Canberra Economic Region. No agency as yet has been formally allocated this responsibility.

The Committee recommends that the Government allocate responsibility to the Chief Minister's Department for the coordination of cross-border negotiations designed to harmonise business regulation within the wider National Capital Region.

A Culture of Service

The 1995 Red Tape Task Force recommended (in Recommendation 34) that:

“ the Customer Commitment Program form the base of developing a culture of service. This Program should include the development of indicative timeframes for the delivery of different types of services, have single points of client contact wherever possible and ensure Executive management involvement in the resolution of impasses. It should be backed up by staff training and by establishing consultative mechanisms with business”.

Customer Commitment Standards and Statements were first introduced into ACT Government agencies in 1996. Each business unit within agencies, whether their customer is internal or external to the agency, has a published set of standards and complaint protocols relevant to their particular service and customer base. These Statements are reported upon each year in agency Annual Reports.

Several agencies (notably the Department of Urban Services) operate a Customer Service Award regime whereby service initiatives and achievements are recognised and acknowledged by the Departmental Executive on a regular basis.

These Statements include timeframe guidelines appropriate to each service delivered and varied according to the nature and complexity of the service. For instance, timeframes applicable to a telephone based inquiry service will be vastly different to those applying to complicated lease variation requests. Agencies review the relevance of these Statements and reissue them on a regular basis.

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For face-to-face inquirers, both Environment ACT and Planning and Land Management (within the Department of Urban Services) offer clients dedicated shopfronts for all compliance, applications and program information. Where possible information concerning most other agency services may be obtained through the ACT Government Shopfronts or the ACT Government website. A complementary electronic based information service accessible through internet and telephone is operated by Canberra Connect.

However, it has been noted that the adoption of Purchaser/Provider organisational structures within some ACT Government agencies has tended to erode the usefulness of these arrangements. This model provides for a division of service delivery responsibilities under a Purchaser/Provider framework where work is performed on behalf of each agency (the Purchaser) either by an in-house business unit or an outside contractor (the Provider).

These relationships are guided by a variety of Service Level Agreements and quasi-commercial contracts. All of these documents make provision for the resolution of disputes between the parties usually escalating to executive level as necessary.

As the Purchaser represents the interest of the community and will be the body to whom complaints are made, this mechanism also allows for the resolution of disputes between Providers and customers/users within the wider community.

However, customers have expressed a degree of confusion over who exactly controls service delivery and makes decisions on particular matters.

The proliferation of similar business unit titles has compounded this confusion for customers. For example, business units included within the Department of Urban Services include:

- Road User Services and Road User Management;
- City Operations and City Management; and
- Canberra Urban Parks and Places and Canberra Places.

Similar instances are noted in other agencies. While these units perform distinct and different roles within the Purchaser/Provider model the similarity of titles provides an unnecessary source of confusion for customers and stakeholders.

These instances highlight the need for agencies to maintain high levels of both staff training and consultation with their clients.

The Committee recommends that the Government initiate a customer focussed review of information that is provided by agencies to enhance the transparency of Government operations and access by business and the general public to relevant functional areas.

Removing individual agency telephone number listings from local telephone directories could also reduce this confusion. This would lend increased emphasis and effectiveness to single inquiry point services, such as that offered by Canberra Connect, to place customers in contact with the correct area of agencies. This is an option that may be appropriate to some agencies and merits further investigation.

ACT Government agencies are required to record details of staff training programs in their Annual Reports. A perusal of these Reports indicates that initiatives such as customer service skills, conflict resolution training and contract management are accorded high priority reflecting the importance attached by agency managers to these outcomes.

All agencies maintain standing consultative committees and feedback groups relevant to their services and responsibilities.

For example, within the Department of Urban Services consultation groups are widely utilised. These groups include the:

- Development Application Forum (hosted by Planning and Land Management);
- Waste Management Forum (hosted by ACT No Waste); and
- Transport Reform Advisory Group (hosted by Road Transport).

All of these groups are composed of relevant industry and community representatives and provide both feedback and advice to agency regulatory staff.

In addition to these individual agency arrangements the Government maintains a large number of wider community advisory bodies, including a number of groups specifically constituted from within the business community.

In early 2002, the ACT Government extended its support for the business community through the formation of 3 new peak business advisory boards to provide ongoing input into relevant business issues.

These new boards are:

- Business Canberra;
- Small and Micro Business Advisory Council; and
- Knowledge Based Economy Board.

The two latter boards have responsibility for the interests and needs of two of the most significant segments of the ACT economy, with Business Canberra adopting a more holistic approach to identifying and promoting overall business interests.

The implementation of the 1995 Red Tape Task Force recommendations has been only one of many business regulation reform initiatives that successive ACT Governments and agencies have pursued. Nationally, the review of regulations that restrict competition with a view to increasing their effectiveness and removing unnecessary impediments to business has been a common theme with all levels of government.

National Competition Policy

In 1992, the Council of Australian Governments (comprising all State, Territory and Federal Governments) commissioned Professor Hilmer to undertake an *Independent Committee of Inquiry into National Competition Policy*. There were concerns that the declining ability of Australian business to compete with overseas-based providers and their local subsidiaries was undermining national economic viability.

Acting on the 1993 Hilmer recommendations, a number of reforms were drawn together in 1995 to form a package, agreed upon by all Australian Governments, called the National Competition Policy.

National Competition Policy aims to enable and encourage competition. It also addresses reforms in other areas that are critical to the long-term sustainability of Australian industry and the economy. The reforms can be briefly outlined as:

- the extension of 'Trade Practices' laws prohibiting anti-competitive activities (such as the abuse of market power and market-fixing) to all businesses - previously most government owned and some private businesses were exempt;
- the introduction of competitive neutrality so that Government-owned businesses can compete on an equal footing with the private sector. The basic principle adopted is that government-owned operations that provide services or goods in a commercial market should not enjoy any net competitive advantage flowing from their association with government;
- the review and reform of all laws that restrict competition unless the benefits of the restriction to the community as a whole outweigh the costs and these restrictions are needed to attain the benefits;
- the development of a National Access Regime to enable competing businesses to use significant infrastructure (like airports, electricity cables, gas pipelines, bus stops and railway lines); and
- specific regulatory reforms to the gas, electricity, water and road transport industries.

National Competition Policy and the 1995 Red Tape Task Force Report

The review and reform of legislation is a fundamental goal of National Competition Policy. The intention is to ensure that legislation (including Acts, Ordinances and Regulations) does not unduly restrict competition unless it can be demonstrated that:

- the benefits of the restriction to the community as a whole outweigh the costs; and
- the objectives of the legislation can only be achieved by restricting competition.

Since 1995, the ACT Government has been applying these criteria in undertaking reviews of all existing and proposed legislation.

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The 1995 Red Tape Task Force Report identified 42 pieces of pre-1980 legislation for repeal and recommended an ongoing process of periodic review to ensure the currency of existing legislation. The Committee notes that the ACT Government has implemented a formal process of regulatory review and regulatory impact statements to accompany all new or amended legislation.

Within the wider context of National Competition Policy, in order to meet its commitments, the ACT Government in 1995 commenced an exhaustive examination of business-related legislation with the aim of identifying and removing any unwarranted anti-competitive regulatory restrictions from laws and regulations.

A summary of the 138 ACT principal Acts subjected to review under these criteria and a brief outline of any changes that resulted is at Appendix 6.

Impact of National Competition Policy on ACT Business Activities

As a general principle, legislation has the potential to restrict business activities and, in doing so, may limit the benefits that can be derived from competition. According to this model, legislation that governs business conduct should be the minimum possible level to encourage competition, innovation, investment, development and growth.

However, it must also be recognised that regulation is also an effective safeguard of community standards and promotes a general environment characterised by safe and ethical business practices.

When considering the restrictions to competition that regulation can impose it is important to balance these two, not necessarily consistent, requirements.

In addition to the benefits flowing to business from the stringent review of local legislation, benefits have been derived from a number of reviews conducted at a national level.

Structural changes to the national electricity industry have already delivered significant choice and cost savings to local electricity users of greater than 100 megawatt hours per annum (by comparison, the average residential household consumes 8 megawatt hours per annum).

The benefits of an extension of retail contestability to users of less than 100 megawatt hours per annum has recently been reviewed by the Independent Competition and Regulatory Commission (ICRC). The ICRC recommendation to extend competition to all users is currently being considered by the ACT Government.

If adopted, this initiative (basically allowing freedom of choice of electricity provider) would remove existing cross-subsidies in the pricing of residential electricity. This may benefit small businesses/factories who currently pay a relatively higher price for their electricity. For example, small businesses currently pay an electricity consumption charge of 11.3 cents per kilowatt-hour (for the first 330kwh per day) as opposed to a charge of only 8.6 cents per kilowatt for residential users.

Within the Territory the general competition reforms have been complemented by sector specific reforms. An example is the reforms embodied within the *Utilities Act 2000*. This Act is significant in that it represents many of the elements recognised as characterising good legislation. That is, it:

- is consistent with national reforms and requirements;
- is the outcome of extensive consultation with both industry and consumer groups;
- clearly identifies roles and separates regulatory and commercial functions;
- clearly outlines regulations, industry and technical codes and enforcement provisions;
- facilitates competition within the Territory; and
- contains adequate and effective consumer safeguards.

Significant national reforms within the freight transport and public transport industries have also found expression in local legislation that goes some way towards the adoption of nationally recognised processes and service quality within those industries.

Significant changes to ACT standards for heavy vehicle driver fatigue, dimension and mass limits and the opening of competition within the ACT public bus industry have already been implemented. These changes have endorsed national practice and, as a general rule, have increased the ease with which businesses can operate across borders.

The ACT is now well placed to participate in further discussions to implement a fully national approach to these regulatory issues.

The adoption of consistent standards across industries is beneficial to both industry and consumers. The Report of the Commonwealth's *Taskforce on Industry Self-Regulation (2000)* indicated that increased confidence in the pervasiveness of standards within an industry provides greater certainty about product quality for consumers and leads to increased levels of commerce and competition.

Feedback provided to the Committee during consultation generally supports this view. ACT business organisations and individuals see consistency and certainty as extremely desirable regulatory outcomes.

In this context, the concept of “sun-setting” whereby all legislation enacted would have a fixed termination date that would require re-assessment and passage by the ACT Legislative Assembly before it could continue was discussed with a number of organisations and interstate regulators.

Whilst a popular regulatory theory in the mid-1990's, “sun-setting” now enjoys little support within industry and government circles. Business organisations, with whom the Committee discussed this matter, were concerned that a regular program of possible repeal and complete reappraisal of industry standards and regulations would lead to anxiety and uncertainty within industry. In turn this uncertainty would reduce the incentive for long-term investment and promote instability.

These organisations were supportive of an incremental process by which legislation was regularly reviewed (no less than 5 years but no longer than 10 years) in consultation with industry and the community so that it evolved at a manageable and agreed pace. Such a program should not however prevent Government from undertaking reviews of critical legislation as needed in response to significant market changes (for example, the recent crisis in public liability insurances).

Interstate and local regulators shared this opinion, though for different reasons. While regulators also saw benefits in regulatory stability they were more concerned at the possible implications of beneficial legislation being allowed to lapse due to agency oversight or legislative overloads. Above all else, concern was expressed at the prospect of critical regulations having lapsed at the time of a major breach that would create legal uncertainty and perhaps place the community in jeopardy. This was seen as an unacceptable risk by regulators.

This feedback, across disparate industry and government groups, points to the benefits of the ACT adopting a process of ongoing review of legislation along National Competition Policy lines without however, use of “sun-setting” clauses.

The Committee recommends that the Government adopt a formal process to regularly review the ongoing relevance and effectiveness of all legislation and related instruments on an industry by industry basis every 5 years.

The 1995 Red Tape Task Force report noted that “red tape in the ACT appears more pervasive than at any other State level elsewhere in Australia”. This perception stems from the fact that the regulatory functions of local and State level governance are combined in a single political entity in the ACT.

The 1995 Task Force went on to state that *“the Australian Capital Territory with only two tiers of government is well placed to achieve a regulatory system that is more efficient than any other state and one that can provide the most favourable environment to foster economic growth and community well being”*.

The Committee agrees with this earlier analysis and believes that the ACT is indeed well placed to achieve greater efficiencies and has, in some cases, realised this potential. However, there is still ample scope for further improvement, especially in the manner in which regulations are enforced.

The Role of Regulation

As noted earlier, regulation exists for the protection of generally agreed community values and imposes standards of conduct relating to safety, fair-trading, professional behaviour and customer service.

New technologies are increasingly presented to the community as new products and services leading to increased community expectations of quality and consumer protection.

It is appropriate that regulation evolve to address the unique problems presented by these new technologies and through changes in social interaction and standards of behaviour.

The Extent of Regulatory Burden

Where this Committee differs from the 1995 Red Tape Task Force is in the manner in which the burden of regulation is measured. The Committee considers that the real measure of regulatory burden arises from uncertainty or lack of clarity about what rules exist and inconsistent enforcement of specific regulations.

The 1995 Task Force concluded that *“it is the volume of business regulation rather than problems with specific regulations that is of greatest concern to small business”*. That Report indicated that as at 1 January 1995 there were 655 laws in the ACT (including Acts, Regulations, Rules and By-Laws). This daunting figure however represented the entire body of ACT and inherited Commonwealth legislation at that time enacted for all purposes, not just business regulation.

An examination of 1995 data by the Committee indicates that only 109 pieces of principal legislation could reasonably be construed as being solely or significantly intended for the regulation of business activity.

As at 30 June 2002, there were 140 pieces of principal legislation noted by the Committee as being intended for the purpose of business regulation. By way of comparison, a perusal of the NSW Legislation Register indicates that about 348 principal Acts are currently in effect in that state to regulate business activities.

A further 72 sets of ACT regulations were noted as impacting significantly upon business activities (a comparative figure for 1995 could not be reliably established).

44 The Committee has noted a proliferation of codes of practice and guidelines across many areas of government administration.

These documents go by a bewildering range of titles such as code, guideline, standard, protocol, agreement and template. Many of these documents are based in legislation but a significant number do not appear to have formal statutory backing.

Some of these have been proposed by the industry being regulated and others developed through custom and usage by public service officers. Many take the form of voluntary regulations. These documents do not have a formal legislated basis for enforcement but have in time achieved the operational status and imposition of regulations (delegated statutory instruments).

The Committee recognises a continuing role for voluntary codes of practice and like arrangements to facilitate industry specific activities. In recent years, replacement of a number of these informal arrangements by legislative instruments, which have been subject to Legislative Assembly and broader public scrutiny, has improved the quality of regulation and increased regulatory certainty for business.

However, a significant number of informal quasi-regulations are still employed by ACT agencies and agency officials seek to enforce compliance or penalties based on requirements which have no real legal status.

Many businesses contacting the Committee were unable to distinguish between formal regulations and such guidelines. In their eyes they are all “government rules” that have to be followed.

It is noted that this problem has also been detected at a national level. A Commonwealth *Interdepartmental Committee on Quasi-Regulation* met in 1999 and concluded that these documents exist in great numbers, across a bewildering range of activities and in some cases, amount to “backdoor” regulation.

This latter point is an important point to consider. Codes without a legislative basis can be easily established by regulators and just as easily amended. Enforcement proceeds on the basis of bluff or reliance upon the ignorance of the regulated parties as to the actual legal status of the instrument. This regulatory activity can be pursued without the knowledge, scrutiny or consent of the ACT Legislative Assembly or a detailed awareness by the government of the day.

Unlike the formal passage of Bills and Regulations, there is no systematic way of scrutinising, announcing, launching or promulgating these arrangements. As a result, knowledge of their existence and details of their content may not be widely known even within the industry being affected. The Committee is concerned at this lack of accessibility and transparency.

The uneven impacts of such an approach on the local retail pet industry was highlighted by Belpet Pty Ltd in their Submission to the Committee (detailed in Appendix 2).

This Submission discusses the inequity of rules that purport to govern the activities of the whole industry but are selectively applied to shopkeepers and not to private individuals operating within the same industry. The Committee has concluded that this approach is inequitable and that the lack of any formal mechanism for enforcement is not conducive to stable and responsible regulation nor to a perception of fairness within the industry.

It should not be assumed however that all informal Codes are examples of bad regulatory practice. It is the manner of their creation rather than their intentions that concern the Committee. Many are well-designed and reasonable documents. They just have no real legal status.

A number of the codes examined by the Committee appeared to have sound public benefit reasons for their development and application. However, given that these codes are not strictly enforceable under law, there is significant potential for adverse community outcomes where such codes are ignored or found to be invalid when challenged.

A listing of the informal Codes currently applied by agencies in the ACT is included at Appendix 4. That appendix lists 66 items. A process by which these codes are reviewed with a view to either formalising or discontinuing their use would remove a significant area of uncertainty for local business operators and contribute to a streamlining of existing processes.

The Committee recommends that the Government require agencies to review the continued application and enforcement of all unofficial (non-legislative based) codes of practice, guidelines, protocols and standards with a view to either formalising their status under legislation, discontinuing their use or allowing them to operate as purely voluntary private sector arrangements with no related Government enforcement activity.

The Cost of Regulatory Compliance

The identification, measurement and comparison over time of the cost of regulation has proven difficult. This difficulty is not unique to the ACT. Interstate and international professional literature indicates a similar lack of precision in this area across all jurisdictions.

Broadly speaking, regulatory compliance costs can be categorised as follows:

- | | |
|----------------------|--|
| Capital costs | where businesses require specialised equipment or IT support to achieve or prove compliance (eg specialised accounting software or equipment to control environmental emissions). |
| Administrative costs | where businesses incur additional operating and staffing costs to meet compliance requirements (eg preparation and submission of reports and applications).

These costs also accrue to the public sector in terms of administrative processing, inspection and appeal mechanisms. |
| Efficiency costs | where businesses experience delays in obtaining necessary approvals or encounter unreasonable barriers to innovative or market opportunities. (eg delays in obtaining development approvals). |

Difficulties arise in the correct attribution within these categories of the net costs of regulatory compliance activities, such as how to accurately quantify the extent and value of off-setting financial benefits and social benefits that accrue.

It is difficult to differentiate between those costs that are solely driven by regulatory requirements and those which also confer real business investment opportunities and returns.

For example, businesses may obtain benefits from such outcomes as increased consumer confidence leading to purchase decisions, improved financial management leading to efficiency and productivity/profitability and access to IT infrastructure that can support a number of productive uses. The wider community can similarly enjoy benefits such as higher service standards, security of employment and improved product quality.

Similarly, it has not been possible for the Committee to determine a satisfactory basis on which to assess the level of additional net cost (if any) accruing to the community through the management of regulatory activities by the public sector.

Within the public sector the real cost of administering regulations is generally obscured through their merging into wider agency cost structures.

The accurate measurement of efficiency costs too is problematic, as the value of “lost” opportunities and “might-have-been” scenarios is not generally quantifiable.

As a result it has not been possible to quantify the cost of business regulation to business and the wider ACT community. A recent 15 nation OECD survey of *Businesses’ View on Red Tape*, October 2001 (including Australia) indicated an average cost of regulatory compliance across all businesses of about 4% of turnover.

Discussions by the Committee with officers of the Productivity Commission indicate that, as an average cost, this estimate is as good as any they have examined, noting however that costs differ markedly across businesses based on scale of operation, type of activity and (in particular) efficiency of management.

The Committee acknowledges that the cost of regulation, (however it may be calculated), will impact in a regressive manner on small business and as such, any reduction in compliance requirements should be aimed specifically at relieving pressure on this significant business sector.

Impact of Commonwealth Legislation

Most contributors to this Report agreed that the most pressing current day-to-day problems of doing business flow not from local regulations but from the changes to the Commonwealth’s taxation regime, in particular the imposition of GST and quarterly business activity statements. Other parties raised concerns over the costs of complying with industrial relations standards.

However, care should be taken to exclude the impact of Commonwealth legislation when calculating the extent of regulatory burden within the ACT as these matters are beyond the Committee’s Terms of Reference.

Where appropriate the Committee forwarded comments on Commonwealth regulatory imposts for consideration to the Secretariat of a concurrent Inquiry into Small Business Employment being conducted by the Senate Employment, Workplace Relations and Education References Committee.

The Legislation Process

The 1995 Red Tape Task Force report recommended the adoption of a 10-point package of structural and reform processes (Recommendation 28). Directly relevant to the current legislation process were the recommendations to:

- implement a regulatory needs analysis process and a business impact assessment process;
- introduce a regime of regulatory plans for all ACT Government agencies; and
- provide for the effective enforcement of regulations.

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Regulatory and Business Impact Statements

The Committee notes that both the *Legislation Act 2001* and the ACT Government Cabinet Handbook contain detailed requirements for the inclusion with all proposals for new or amended legislation of a statement containing an assessment of business and regulatory impact. In most cases it would appear that both regulatory and business impact analysis issues are addressed within a single document.

The *Legislation Act 2001* formalised the requirement to produce these documents and also details the basis on which the Government or responsible Minister may grant an exemption to this process. These exemptions principally relate to legislation arising from national agreements or compliance with a Commonwealth Government requirement. It is noted that the Department of Justice and Community Safety is currently reviewing the regulatory impact statement sections of this Act with a view to further clarifying the form, intent and content of the required documents.

Prior to passage of the *Legislation Act 2001*, the development of these statements was encouraged though guidelines within the ACT Government Cabinet Handbook and through individual agency instructions. The Committee notes a varied degree of compliance by agencies in the past. In part, this is attributable to a lack of familiarity with the process that is progressively being addressed through staff training.

The current legislative guidelines are supplemented by agency instructions of which the Committee considers the *Guide to Regulation in the ACT (March 2000)* issued by ACT Treasury to be a practical and common-sense outline of the Regulatory Impact assessment processes.

The Committee recommends that the March 2000 Guide to Regulation in the ACT be endorsed by the Government and be re-issued to all agencies.

The proposed re-issue should be accompanied by a reminder that the legislative response should be the last, and not the first, resort in dealing with regulatory issues and that adequate consultation is critical to the development of a successful regulatory regime.

In summary, regulatory agencies should produce Regulatory Impact Statements that:

- define the problem or issue to be regulated;
- explain why alternate non-legislative methods of dealing with this problem are not appropriate;
- outline the impact the proposal will have on affected businesses; and
- outline why the benefits to the community as a whole outweigh this imposition upon business.

The overall intention is to implement regulation only where a net benefit to the community can be reasonably established.

These statements are scrutinised by officials of ACT Treasury prior to their consideration by Government and an assessment made of the appropriateness and practicality of the proposed legislation.

Application of these principles should in theory lead to an avoidance of unnecessary regulation leading, in turn, to a reduction in regulatory costs and a minimisation of unnecessary impediments to competition.

The Committee considers that these processes do, up to a point, provide an effective means of reducing unnecessary regulation and in improving the quality and effectiveness of legislation that is enacted. These views were supported by officers of the Independent Competition and Regulatory Commission who rated the statements as an important regulatory tool but one which has not been used to its full potential.

The Committee is, however, concerned about anecdotal evidence that suggests that in recent times these processes have been viewed by some agencies as matters of administrative routine rather than an opportunity to actively canvass and consider the full range of available non-legislative compliance options.

Members of the Canberra Business Council and ACT and Region Chamber of Commerce and Industry indicated to the Committee their views that consultation with affected parties is often ad-hoc and varies greatly in effectiveness and interest across agencies.

Enhanced Use of Regulatory Impact Statements (RIS)

Regulatory Impact Statements are currently attached to papers submitted to Cabinet during the legislative development process. As such they fall within the category of documents which are Cabinet-in-Confidence, and hence are not available for public perusal.

In the Commonwealth, RIS documents are tabled in Federal Parliament along with the proposed legislation. This is a transparent process that makes explicit the arguments for the particular proposal.

These statements often contain a summary of alternative options considered and an assessment of the relative costs/benefits of these options. These statements, which have been subjected to independent scrutiny by the Office of Regulatory Review (Productivity Commission), provide for informed parliamentary debate on the issues and implications of the proposal.

This is not the case in the ACT. The Committee considers it unfortunate that the best source of impartial and professional analysis of regulatory proposals is not available to assist the ACT Legislative Assembly in its decision-making.

The Committee has also noted that the current requirement to develop Regulatory Impact Statements does not apply to non-government members of the Legislative Assembly. In previous Assemblies, a number of bills introduced by private Members have been debated, amended and adopted which have inadvertently imposed significant imposts upon business and public administration that may not have been anticipated or intended at the time.

The Committee sees merit in extending access to RIS documents to the full membership of the Legislative Assembly and ensuring that all regulatory proposals brought forward for Assembly consideration, however so developed, be accompanied by such statements.

The Committee recommends that the ACT Legislative Assembly require that all proposals for new legislation, regulation or amending legislation placed before the Assembly be accompanied by a mandatory Regulatory Impact Statement, regardless of which Member brings the proposal forward.

The Committee recommends that the Government make Regulatory Impact Statements available for perusal by the public.

Regulatory Plans

Prior to 2001, all ACT Government agencies produced Regulatory Plans at the commencement of each calendar year

These plans outlined the range and relative priority of legislative work proposed to be undertaken that year. It is important to note that these plans represented priorities within agencies and as such were not necessarily reflective of the philosophical direction and priorities of the government of the day.

These plans were, at best, only a general guide to business and other agencies of regulatory work that was being planned, may occur or were currently being undertaken. This should have allowed for a degree of cooperation between agencies and informed the consultative process. It is noteworthy that the Government's final legislative program for each year rarely closely resembled the original agency lists.

These variations appear to occur through a combination of factors outside of agency control and are often impacted upon by changes in government policy and priorities set during debate within the ACT Legislative Assembly.

During 2001, agencies began to express doubts about the continued utility of agency regulatory plans, especially as the development of these plans overlap with development of the government's legislative program. There is particular concern that there could be some duplication of effort and a degree of inconsistency between the documents produced.

The potential for agency plans to generate unfulfilled expectations or unnecessary concern within the business community also raises questions about the future utility of these plans.

In addition, agency regulatory plans would appear to play only a limited role in guiding the planning of staff and resource allocations within agencies. Overall, there would seem to be little merit in retaining these plans.

The Committee recommends that the public notification of agency regulatory plans be discontinued and that the Government's published legislation program provide the basis for all detailed public consultation on the Government's legislative intentions.

Best Practice Approaches

Professional and impartial oversight of the development of new regulations and public reporting of regulatory changes are important elements of an effective and modern regulatory regime.

As mentioned above, officials of ACT Treasury currently undertake this role within the ACT Public Service. To further define this role the Committee has examined the activities and roles of interstate agencies with responsibility for regulatory oversight.

In particular, the Committee has noted the active and independent role played by the Office of Regulatory Review in relation to Commonwealth agency legislation.

This Office, part of the Productivity Commission, plays a critical role in the independent assessment of regulatory options ensuring that arguments presented are logical and provide firm justification for the regulatory response proposed. All Commonwealth agencies fall within the jurisdiction of this Office allowing for a consistent approach and application of guidelines across government.

Similar offices exist in all other Australian mainland jurisdictions, with all playing a formal but minor role within the legislation process. In the opinion of the Committee there is sufficient evidence to suggest that the current process within the ACT would benefit from application of the formal requirements associated with the operation of an independent assessment body. This view is supported by comments made to the Committee by officers of the Independent Competition and Regulatory Commission.

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The Committee has considered the regimes introduced in other Australian jurisdictions to measure how good regulatory practice translates into improved outcomes for the community. The model currently in use in Queensland merits closer investigation.

Queensland established a Red Tape Reduction Taskforce in 1996. Part of the outcome of that review was a requirement for all agencies to report each year on specific improvements in their regulatory structures or procedures and, importantly, assess the impacts of these changes. The Queensland Minister for State Development issues these reports in a compendium each year.

The Committee sees particular merit in the approach adopted in the *Queensland 2000-2001 Red Tape Reduction Taskforce* Report. An extract from the most recent Queensland report illustrating this approach is at Appendix 8.

In that report, initiatives are reported by agency with a brief description of what was done and why. Each item is supported by a summary analysis of the impact on businesses/community (as appropriate). These assessments often include an estimate of hours saved in processing/approvals and relate that to monetary savings for the regulated activity or industry.

The most recent Queensland report quantified savings to the community across all activities of about \$12m per annum. Even after considering that Queensland is a much larger jurisdiction and that some of the savings identified do not relate specifically to business activities, the Committee considers that, notwithstanding some minor administrative costs, significant benefits would accrue to the wider ACT community through adoption of this approach.

The Committee sees merit in enhancing the role currently undertaken by ACT Treasury and in requiring that all ACT Government agencies include within their annual report, a summary and analysis of benefits of regulatory reforms undertaken along the lines of the Queensland model.

Guidelines for the production and presentation of these reports could be included within the *Chief Minister's Annual Reports Directions*, with detailed requirements being based on the Queensland model.

The Committee recommends that the Government require all ACT agencies to include within their annual reports a summary and analysis of the costs and benefits of regulatory reforms undertaken during the previous year.

Summary

As can be seen from the listings of legislation and other regulatory instruments contained in Appendices 4 and 5, the body of ACT legislation governing business activities has grown significantly since 1995. This growth has occurred despite an ongoing program of regulatory review and the progressive review and repeal of outdated laws.

Much of this growth can be attributed to an increasing specialisation of legislation to address new and emerging technologies and practice. Good examples of this trend are the specialised *Electronic Transactions Act 2000*, *Interactive Gambling Act 1998* and the *Utilities (Telecommunications Installations) Act 2001*.

The Committee also notes that a significant component of new legislation relates to the replacing of informal guidelines. It is also noted however, that a further component relates to a “creeping-back” of regulations as agencies seek to clarify small administrative anomalies. Such ongoing tinkering has the potential to unbalance regulatory effects and create unnecessary and unexpected impacts.

The Committee believes that these undesirable effects can be significantly moderated by the stringent assessment and wider distribution of Regulatory Impact Statements along the lines already discussed.

LICENCES AND PERMITS

The most visible aspects of business regulation are the various regimes of approvals administered by government agencies.

These regimes are generally based on the granting of approvals that confer upon the recipients the right to undertake certain activities on specified conditions. In almost all cases the payment of a fee or charge is mandated by law.

Policies Relating to Fees and Charges

Current ACT Government policy on the levying of fees and charges is that, all things being equal, the level of fees and charges should not differ significantly from those applying for similar activities in NSW.

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As a general principle, the cost of regulating a specific activity or industry should, where possible, be recoverable from the fees and charges associated with that activity.

The Committee notes that this general principle is not always practical in a small jurisdiction where the relatively small numbers of chargeable licences for some activities would not cover the cost of regulation unless substantial fees were charged. This outcome would not be conducive to the promotion of ACT-based business activities.

Despite this lack of cost coverage, regulatory activity is still important for the maintenance of community standards and safety and so cannot prudently be reduced.

As an example of this problem the Committee examined the recent passage by the Legislative Assembly of the *Road Transport (Public Passenger Services) Act 2000*.

This Act updated the regulation of public bus passenger services and introduced the concept of Bus Operator Accreditation. This process is in common use in all other Australian mainland jurisdictions and provides for a regime of mandatory standards of vehicle safety, maintenance and customer service.

Central to this approach is the provision for on-site and on-vehicle auditing of standards. This involves the regular examination of records and inspection/testing of vehicle components and maintenance facilities by government authorised inspectors. The number of public buses operating within the ACT is relatively low by national standards so the economies of scale present in other jurisdictions are not available.

However, the requirement to ensure that high levels of safety are maintained is no less important. Full cost recovery from the regulated industry in these circumstances was not practical.

Accordingly, the ACT adopted a policy of partial cost-recovery whereby operators with the most vehicles pay proportionally more than smaller fleet operators but still below what would otherwise be required to cover reasonable costs. The Government in this case made a conscious decision to subsidise the cost of regulating the industry in the public interest and, in doing so, keeps the process affordable for small business and not unduly increase prices for the consumer.

Listing of Permits and Licences

A summary listing of all of the business related permits or licences required or allowed for under ACT legislation appears at Appendix 7 along with a table of charges associated with these processes.

There are in total 432 licences, permits, and official authorisations that are applicable to a range of occupations and business activities in the ACT. These are broken down as follows:

- Licences are required for 138 occupations and business activities;
- There are 33 occupational activities recognised through certificates of competency;
- A number of specialised occupational activities are allowed through the issue of 55 types of permits;
- Registration with a health board or government agency is a requirement for 39 different occupations and activities;
- There are 116 different occasions when authorisation, approval, accreditation and/or inspection of the activities are required;
- Environmental provisions allow government to charge pollutant fees for 41 industry related activities; and
- Businesses are required to notify government agencies of their intent to carry out 10 prescribed construction related activities.

By way of comparison, in 1995 ACT regulations provided for 204 licences, permits and authorisations relating to a range of business activities and occupations.

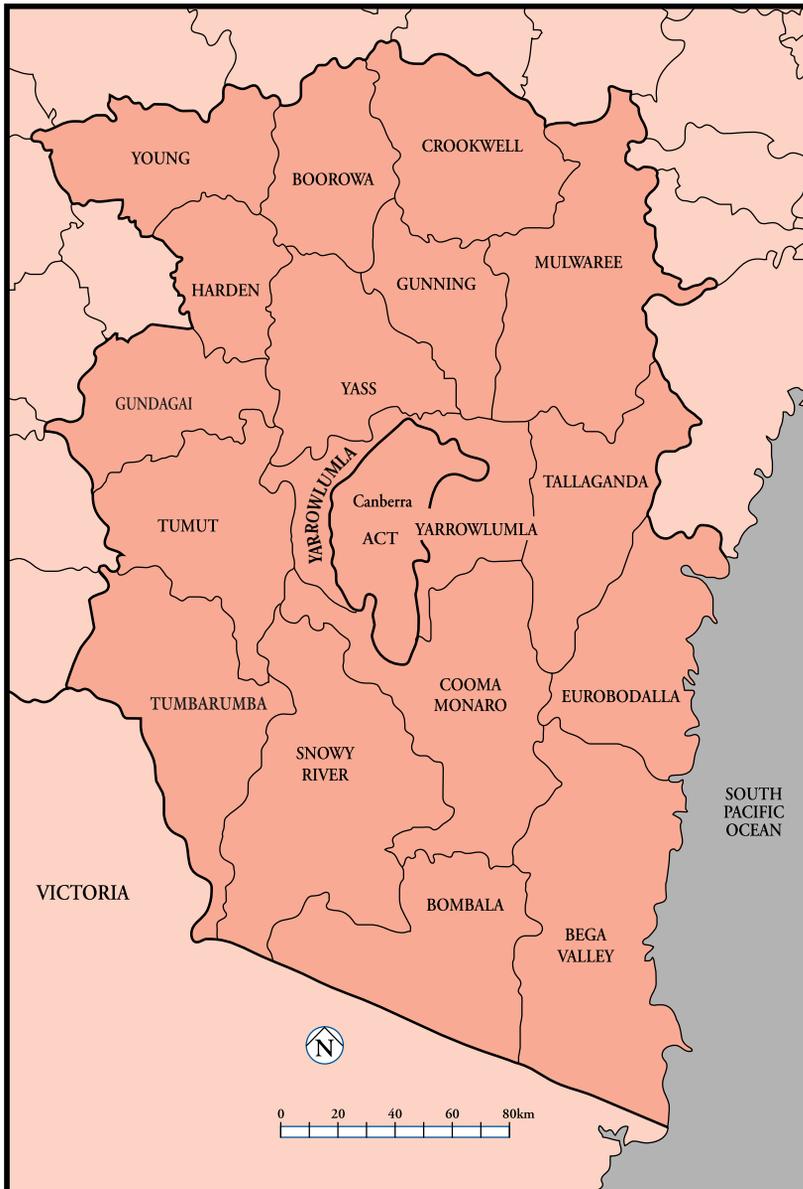
The Committee did not attempt to identify which of the individual charges were set at full cost-recovery levels.

DOING BUSINESS ACROSS THE BORDER

Australian Bureau of Statistics figures to August 2001 indicate that the ACT is the major commercial and service provider in the wider National Capital Region. The ACT has an estimated population of 321,700 persons (representing 60% of the Region's population), higher than national average disposable income levels and around 66% of the total number of registered businesses in the Region.

The Territory has over recent years been active in forging positive commercial and consultative links with councils and shires in the wider National Capital Region. The extent of this Region is indicated on the following map.

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While the ACT Region wine industry is a highly visible and promoted aspect of this regional partnership it is by no means the only example of the importance of regional business as a source of economic stability and opportunity to all parties. ActewAGL too has recorded recent successes in expanding its business base into adjoining NSW. There are increasing efforts to enhance intra-regional trade and business links.

To increase regional economic integration, the ACT has been active in a number of forums designed specifically to promote and develop regional markets and industries. These include the:

- *Australian Capital Region Development Council* (a joint initiative of the ACT and NSW governments).
- *ACT and Sub-Region Planning Strategy* (to promote consistency in planning and land development matters).
- *Regional Leaders' Forum* (chaired by the ACT and comprising nineteen surrounding Councils and Shires).
- *Capital Region Employment Council* (a collaborative group comprising Commonwealth, ACT and regional agencies to promote employment opportunities within the National Capital Region).

The Committee notes that at the most recent meetings of the Regional Leaders' Forum, (November 2001 and March 2002), the ACT Chief Minister spoke at length on the need to "ensure that the Territory's borders are borders in name only. We are one region and we need to operate as one region".

The Committee acknowledges that the ACT Government is currently developing an economic White Paper that will, amongst other issues, canvass regional development opportunities.

Regional business development is gaining an enhanced focus at the political level on both sides of the border.

Given this widespread commitment by regional leaders it came as a surprise to the Committee that local and regional business indicated only a passing interest in key aspects of the mechanisms by which this partnership could be realised.

Regional Consultation

As part of its program of consultation, the Committee wrote to the Chief Executive officers of the 19 surrounding Shires and Councils. This correspondence advised of the Terms of Reference of the Committee, invited submissions and requested that this information be drawn to the attention of local business organisations.

The Secretariat followed-up the initial contact letters with telephone inquiries to a sample of organisations. These inquiries indicated that Review information had been duly passed on to relevant business groups but that interest in this particular issue is low or of little priority.

Of particular concern to the longer-term prospects for a regional economy, were verbal responses from two business groups stating that “Canberra...that’s too far away for me to think about” and “we are not really interested in what happens outside of (our) town”.

A formal response was received from Queanbeyan City Council. This response referred to the results of a recent survey of businesses operating in Queanbeyan industrial areas in which only 1 respondent out of 390 expressed any concern over cross-border arrangements (other than Workers’ Compensation discussed below). That business was alerted to the role of the Committee. However, no submission or contact was received.

Advice was also received from the Queanbeyan Business Enterprise Centre. The Committee was prominently mentioned during their regular Networking Breakfast program (involving up to 150 businesses) and included within an article placed in the Queanbeyan Age newspaper. The Centre advised the Committee that there are no major cross-border regulatory issues within their membership. If regulation is at all an issue it is considered to be primarily a consideration of where businesses establish themselves in the first place rather than an ongoing concern.

No responses were received from any other regional council or business group. This strongly suggests that businesses in the wider region currently have no particular concerns over cross-border regulatory issues.

Issues Raised

Notwithstanding the lack of interest and apparent absence of concerns by NSW-based business groups and firms, a number of cross-border regulatory issues were raised with the Committee by ACT-based business groups. A number of these groups have significant cross-border membership.

These issues were:

- a lack of compatibility between NSW and ACT Workers’ Compensation arrangements. Specifically, concerns were expressed about the additional insurance requirement for NSW based businesses to operate in the ACT;
- a lack of compatibility in the processes between NSW and the ACT by which training providers apply for accreditation;

- a lack of compatibility between NSW and the ACT in the operation and structure of building warranty insurance (fidelity) schemes;
- inconsistent requirements between NSW and the ACT relating to ongoing professional development within the building industry;
- an inconsistency in key definitions in business related legislation across borders;
- unacceptable delays in the ACT in accessing Commonwealth apprenticeship and trainee programs for youths; and
- a perception that NSW based members of the ACT Region wine industry are unfairly treated under the *ACT Liquor Act 1975*.

Workers' Compensation

The submissions of both the Canberra Business Council and the Housing Industry Association drew attention to a perceived inconsistency in workers' compensation.

Both of these organisations have significant cross-border membership. Both see a requirement for NSW based businesses operating in the ACT to take out additional workers' compensation insurance to cover their ACT activities as an unnecessary impediment to cross-border business.

The Committee has examined these arrangements. The ACT Workers' Compensation Scheme confers benefits upon ACT based workers and businesses rather than discriminates against businesses from NSW.

The ACT scheme supports arrangements by which employees are entitled to the compensation available in their home jurisdiction no matter where the work-related injury occurred.

The standard adopted by the ACT provides for the extension of insurance coverage to ACT-based employees who work interstate for consecutive periods of less than 6 months. This arrangement, introduced into legislation in 1997, removes the need for businesses to maintain workers' compensation policies in two or more States or Territories when their employees work away from their ACT home jurisdiction. In short, ACT employees do not require additional insurances to operate within NSW.

The Committee considers that this arrangement, far from being an impost on business, provides them with a competitive advantage and acts as a positive stimulus to cross-border activity by ACT businesses.

However, the Committee notes that there is no equivalent arrangement within NSW.

NSW workers' compensation insurance coverage stops at their borders. As it is an offence for workers not to be covered by such insurance this means that NSW employers are required to hold additional insurances in each State or Territory in which they operate regardless of the period of time over which these activities are undertaken. As a result these businesses must take out an ACT workers' compensation policy. This serves to increase the cost of NSW based firms seeking to operate across borders hence reducing the potential competition within ACT markets.

This problem is not restricted solely to activities undertaken in the ACT and flows directly from NSW, not ACT, legislation. However, from a regional viewpoint, this is still a potentially restrictive arrangement that will not encourage the development or operation of a regional economy in which all businesses within the region operate on an equal footing.

It is appropriate that this issue be negotiated at government-to-government level to allow the development of a more integrated regional economy.

The Committee recommends that the issue of cross-border harmonisation of workers' compensation arrangements be actively pursued by the ACT Government.

Inconsistencies in Definitions

Both the Canberra Business Council and the Housing Industry Association (ACT) have proposed that the ACT adopt a single definition of what constitutes an "employee" as distinct from a "contractor". This single definition would then apply across all legislation impacting upon business.

The HIA has also proposed that the definition adopted by the Australian Tax Office for the purposes of its Alienation of Personal Services Income legislation could be adopted as this single definition.

The Committee has examined this proposal and has concluded that, superficially at least, a single definition may give the appearance of simplicity. The Committee does not agree however that such simplicity is readily achievable given the wide range of activities, roles and situations in which government and the community are legally required to establish the occupational status of persons.

All legislation is created with a specific end in mind. Similarly, definitions adopted within each piece of legislation reflect the needs of a particular circumstance.

In the case of the Australian Tax Office, the definition adopted reflects a desire to restrict tax deduction eligibility. This tight definition, while appropriate to the needs of revenue protection, is not necessarily consistent with the requirement of other regulations, for example, those relating to occupational health and safety where the range of persons in the community requiring coverage and protection is much broader.

The Committee notes advice from the ACT Department of Justice and Community Safety that the ATO definition, formulated for the express intention of revenue gathering, is incompatible with common law rules that apply in other areas.

The Committee also notes the recent High Court of Australia decision (*Hollis v Vabu Pty Ltd* 2001 HCA 44) in which the Court found that there was a place for both common law and legislative definitions of employment status according to the circumstances in which the relationship needs to be defined.

In the *Vabu* case, the Court considered the relationship from the viewpoint of establishing vicarious liability for personal injuries inflicted on a third party. Adoption of the ATO definition in this case would not have been within the spirit of the case nor, in the opinion of the Court, in the best interests of the community.

On this basis the Committee believes that the adoption of a single definition, produced by another jurisdiction for a specific purpose, is not appropriate to the broader requirements of the Territory.

Accreditation of Training Providers

The provision of specialised training and ongoing education is an increasingly important service industry within the Territory. The presence of a sophisticated IT market, large Commonwealth departments and easy travel times to and from Sydney has made it attractive for training providers to work in both jurisdictions.

Members of the Canberra Business Council have indicated that the ACT and NSW have incompatible requirements for seeking accreditation of training providers and training courses. Application forms and data requirements are significantly different between the two jurisdictions.

The Committee has been advised by the ACT Department of Education (Office of Training and Adult Education) that the process adopted by the ACT is consistent with the standard developed at a national level. This standard, relating to documentation and information requirements, has been adopted by most jurisdictions with the major exception of NSW.

NSW education agencies have customised the national standard package through a requirement for additional information, making it relevant for use in a wider range of NSW agency programs. This has, however, complicated the original standard to such an extent that some ACT based training providers have advised the Committee that they have invested in specialised software solely for tracking and maintaining these additional NSW data sets.

Similarly to the workers' compensation situation discussed above, ACT practice is consistent with the practice in most Australian jurisdictions. NSW has in this instance made a conscious decision to be different thereby creating an inconsistency.

The Committee understands that ACT Department of Education has previously raised this issue with their NSW counterparts. Responses elicited by them to date indicate a lack of interest from NSW in this issue and their (NSW) belief that the NSW training market is so lucrative that compliance with whatever requirements are put forward will be forthcoming. The utility of the additional data collected by NSW makes it unlikely that they would reduce their requirements to match the national standard in use in the ACT.

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Warranty Insurance

On 16 May 2002, the ACT Legislative Assembly passed the *Building Amendment Act 2002*. This Act provides for the establishment of industry-based fidelity funds to provide warranty insurance.

Warranty insurance is intended to cover the cost of repairs of faulty workmanship detected during the warranty period of new premises and extensions of existing properties if the original builder does not or cannot undertake these works. It is intended as a safety net for consumers.

The submission from the Housing Industry Association questions why this scheme is different to the Warranty Insurance Scheme applying in NSW and suggests that the ACT scheme will inhibit the capacity of ACT builders to obtain necessary insurances in NSW. The Association also has concerns that the new ACT scheme is not subject to the prudential guidelines of the Australian Prudential Regulation Authority (APRA).

The Committee has examined the context and intent of this legislation.

Prior to April 2002, two warranty schemes operated within the Territory. The Housing Industry Association (HIA) and Master Builder's Association (MBA) administered these schemes respectively.

With the collapse of HIH Insurances, the broker for the MBA scheme, Dexta, withdrew from the ACT insurance market. This left about 60% of the ACT's builders facing the very real prospect of not holding adequate warranty insurance. This in turn led to a

concern that unless builders could be provided with affordable and timely insurance, the viability of the industry and the ability of purchasers to occupy completed properties would be compromised.

The resulting crisis in building insurances across the country led to all jurisdictions urgently reviewing their warranty insurance arrangements.

Historically, the level of claims made in the ACT was low compared to other jurisdictions that were suffering increasing demands on their insurance schemes. These demands were heaviest in NSW, a situation that prompted NSW to review the operation of their insurance scheme.

The Committee notes that, as result of this review, the NSW Warranty Insurance Scheme is to some extent now underwritten by the State Government that is providing a fall-back guarantee of a type usually associated with commercial reinsurers. Unlike commercial reinsurers, the State Government is active only in the building insurance industry and so cannot effectively spread their risks. While providing surety to the operation of their scheme, this approach also opens the State Government to liability for scheme losses.

This approach was not considered appropriate for the ACT where the relatively low claims history supported a fidelity fund approach.

At a practical level the fund operates in a similar manner to the scheme operated by the HIA and the previous MBA scheme. Builders need to be pre-qualified financially, levies are collected from builders and consumers receive a fidelity certificate.

Access to funds to meet claims is only available as a last resort, for example, where the builder cannot be located to undertake the necessary repairs. The new scheme is being administered by the MBA and operates in tandem with the HIA scheme.

The Committee is mindful that these funds are prudently managed and has examined the applicability of the APRA standards to their operation:

- The APRA standards apply to large-scale commercial operations intended to operate throughout the country. The Fidelity Fund operates only within the ACT;
- The standards apply to incorporated bodies and outline requirements for capital adequacy, the issue of shares and share preferences and the responsibilities of directors. The Fidelity Fund has none of these characteristics.
- For example, the standards specify a minimum capital requirement of \$5 million. This is clearly excessive for the scale of operation contemplated for the Fidelity Fund; and

- The standards apply to all general insurers including household, travel, fire, aviation, consumer credit, mortgage, accident, public and product liability, professional and employer liability. All of these activities in their own right have significant and wide-ranging risks. The Fidelity Fund is assessed as having little risk.

Notwithstanding this lack of direct applicability of the APRA standards, the Government has adopted a set of prudential and reporting guidelines for the governance of the Fund.

The structure of the Fund has allowed the Government to adopt appropriate, targeted prudential standards and apply them with effectiveness of specificity.

The Committee has also inquired with NSW as to the restrictions on ACT builders that might apply in their State as a result of the ACT adopting a Fidelity Fund approach. The concerns of the HIA in this regard would appear to be baseless with no problems being identified by NSW regulators.

Taken in the context of the requirement for a tailored ACT solution to a national problem, the Committee considers that this legislation meets the desired outcomes of providing certainty and promoting prudential management. This legislation meets the needs of ACT builders. In the absence of any adverse impacts on the ability of ACT builders to work in NSW any resultant inconsistency with NSW practice appears justified.

The Committee notes that the NSW Government announced on 12 July 2002 that they are providing the Master Builders' Association (NSW) with a grant of \$100,000 to develop an industry-based scheme along the lines of that operating in the ACT. If this scheme is established this should remove any remaining perceptions of inconsistency.

Professional Development Standards for Builders

The Housing Industry Association has submitted that there are differences in the licensing requirements between the ACT and NSW, in the categories of work to be licensed and continuing professional development.

As many ACT builders and contractors are licensed in NSW, the HIA proposes that the ACT Government should adopt a mutual recognition approach to these issues to avoid divergent requirements. The Committee considers that the ACT should be monitoring the professional development standards for all occupations that operate across the border so that consistency is achieved.

The ACT commonly seeks to apply mutual recognition solutions to such inconsistencies. However, in this case it is understood that NSW requirements for builders have still not been finalised. Until that time it is difficult to assess the level of any incompatibility and whether or not this will pose the ACT-based building industry with any significant compliance challenges.

It is appropriate however that as a matter of principle that ACT agencies continue to monitor standards across all industries so that ACT practice is, as far as practical, compatible with interstate jurisdictions.

The Committee recommends that the Government monitor developments in NSW requirements for professional development standards for all occupations and pursues harmonisation or mutual recognition in the event of any significant inconsistencies that emerge.

Access to Youth Training Programs

The Commonwealth offers a range of programs and incentive payments to encourage businesses to employ and train young persons.

The Committee was approached by a business that had previously employed trainees under these schemes reporting excessive delays in obtaining necessary approvals. It was reported that delays of up to 2 months had been experienced.

Formal training cannot commence until this approval is obtained. As the trainee program lasts only 12 months a delay of this magnitude represents a considerable waste of both training and employment opportunities, particularly for the young person involved. In some cases this delay has had the effect of causing the student to miss a whole semester of study as the course runs to fixed schedules. Approvals obtained late in the semester might as well not be given as the student has by then missed too much of the course to benefit from attendance.

The Committee made inquiries with the Office of Training and Adult Education, (OTAE) within the ACT Department of Education. These programs are funded and administered by the Commonwealth.

The Commonwealth has appointed a number of New Apprenticeship Centres in each jurisdiction. There are two private sector organisations so appointed in the ACT. It is the role of these Centres to liaise with the employer, the employee and the training provider to complete a standard National Training Contract. The role of the ACT in this process is to ensure that the completed contracts match Commonwealth requirements and make appropriate payments to the training providers.

In the instance raised with the Committee, delays had occurred in the contract development stage. This is apparently not uncommon and results from the inflexibility of the Commonwealth designed process.

For example, once data is entered it cannot be corrected. Only the Commonwealth can do this. Until the data is corrected, the contract is not complete, and so the ACT cannot play its part in the process. Even so, many contracts still come to OTAE for approval with incorrect data.

Once received the ACT component of the process is generally completed within two days if the data is correct and about twenty days if it is not. OTAE reports a high incidence in incorrect applications being lodged by the Centres.

Delays of the extent reported are not uncommon in this process but are unfortunately outside of the power of OTAE to correct. The matter has been brought to the attention of the relevant Commonwealth agency.

ACT Region Wine Industry

The ACT Region wine industry is a good example of the benefits of a regional partnership. Most of this industry is based in NSW with only a few very small ACT wineries. It has developed in a short period of time into an industry of recognised product quality and tourism potential.

A submission to the Committee from Ken Helm, a local winemaker, infers that the *Liquor Act 1975* discriminates against the industry (particularly the NSW component) by not allowing the sale of single unopened bottles at events held in the ACT.

Currently the only option open to these vigneron is to offer or sell tastes from opened bottles. While there is no restriction on the taking of orders for later shipment to the purchaser, this restriction dissuades spontaneous purchases especially by visiting tourists who would not otherwise visit the winery or are unwilling to participate in order and ship arrangements.

The nature of these events (such as the *Leisure and Pleasure Show* and *ACT Region Focus on Business*) is such that many interstate visitors attend and express an interest in acquiring individual bottles as gifts and souvenirs.

Within the ACT, the ACT Office of Fair Trading administers the liquor act. The vast majority of past liquor sales in the Territory have been the preserve of large commercial operators with business premises in the ACT. These retailers have been able to obtain an Off-licence linked to their ACT based commercial premises allowing them to operate at a range of locations and events. The Office has advised the Committee that the current licencing system is not intended to facilitate minor retail activities by commercial operators.

However, the Committee is aware that several interstate jurisdictions make provision for temporary licences along the lines suggested by Mr Helm. The operation of these licences appear not to have undermined local commercial shopfront sales and has increased the diversity and interest of regional and local tourism events in those jurisdictions.

The Committee has concluded that such a class of temporary licence warrants consideration for the ACT. The Committee notes, however, that such licences could not reasonably be restricted only to “Canberra District” wines and should be available to all suitable applicants on conditions to be determined by the responsible Registrar.

The Committee recommends that the Government consider introduction of a form of temporary liquor licence to allow for the sale of unopened bottles of wine at approved tourism events.

The lack of a specific Vignerons Licence within the ACT was also raised with the Committee. The possession of such a licence makes the holder eligible for a Wine Equalisation Tax (WET) rebate from the Commonwealth.

The Committee has been advised that this rebate is only available to actual producers of wine (of which there are few within the ACT) and that the activity rather than the name on the licence is the assessed basis for eligibility.

States and Territories may only issue such licences to actual producers of wine within their jurisdiction. NSW producers already holding a licence in that State can achieve no further benefit under the Commonwealth scheme by also lodging a claim as an ACT producer. The rebate payable under the Commonwealth scheme applies to the total activity of the business entity lodging the claim regardless of where the activity occurred.

For ACT producers, the *Liquor Act 1975* already allows for a class of Special Licence which can have conditions added as necessary. Within limits, in effect this allows the Registrar to construct a licence suited to the specific needs of the licence holder.

The Committee considers that this existing process allows creation of a licence that will provide the necessary basis for ACT producers to justify WET tax eligibility. There is no need for the ACT to create another form of licence for this purpose.

The businesses with which the Committee consulted consider that it is the processes by which regulations are enforced, rather than the form and intent of the regulations, that pose the greatest difficulties and provide the greatest level of frustration for local businesses.

These concerns have been addressed under the following themes:

- Voluntary Compliance Options
- Equity of Enforcement
- Resources for Enforcement

Voluntary Compliance Options

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The 1995 Red Tape Task Force Report commented that insufficient attention had been paid by ACT agencies to obtain voluntary compliance with business regulations through improving the understanding and commitment of the parties/industry being regulated. A theoretical model based upon persuasion rather than audit and penalty was proposed in the Report but not discussed in any significant detail.

Possible models for voluntary compliance have been discussed with interstate regulators and with officers of the ACT Department of Justice and Community Safety. Literature available on interstate and overseas government websites was also examined.

International views are generally to the effect that voluntary codes are, at best, indicators to consumers and government of the best intentions of an industry. Self-regulation within an industry is seen as being indicative of a commitment within that industry to the need for ethical behaviour and social responsibility.

Several European retail organisations benefit within their market by setting for themselves and publicising standards well above what the rest of their industry considers practical. This “better than best” practice approach has proven to be an effective marketing tool for such organisations.

However, not all experiences with voluntary codes have been so favourable and, on balance, compliance ultimately flows from regulatory threat and without this threat, voluntary codes of behaviour often assume a token public relations aspect. In the worst instances, “voluntary” is translated as “optional” with little industry take-up of the desired standards.

The classic example of industry self-regulation best practice was, until recent international and national events, those schemes administered by the professional associations of accountants and auditors.

These professions operate in a highly organised and structured market with compulsory membership of peak organisations. The schemes of self-regulation and promotion of professional standards undertaken by these bodies had in most jurisdictions removed the need for stringent government regulation. There was a common belief that the industry could effectively and responsibly regulate itself.

However, the recent collapse of organisations such as HIH Insurances (in Australia) and WorldCom and Enron (in the USA) have tended to undermine public and regulatory confidence in such schemes.

These collapses affected thousands of small businesses operators and investors and involved losses of many \$millions, in the case of HIH, and many \$billions in the USA. State and Territory governments are still wrestling with the problems flowing from these collapses and will be doing so for several years yet. The full impact of these collapses on public confidence and business insurance premiums is yet to be felt.

In both cases, significant failures relating to the conduct of professional audit and accounting staff were revealed as major contributing factors. Business, community and government confidence in the standard and benefits of self-regulation have been brought into question.

Notwithstanding these recent experiences, significant sectoral support still remains for voluntary codes of practice and self-regulation.

The Motor Trades Association (MTA) has suggested to the Committee that the current mandatory *Motor Vehicle Service and Repair Industry Code of Practice*, administered by the Office of Fair Trading, be converted to a voluntary code administered by industry. The Association sees the current Code as being cumbersome, as being inconsistently enforced and not responsive to the needs of industry. Such an approach, it was claimed, would be consistent with processes currently adopted in NSW.

Relevant officials from NSW Transport were consulted by the Committee about this proposal.

The Committee considers that reducing the current Code to voluntary status is not justified. The Committee also has reservations about the ability of the Motor Trades Association to administer this Code (whether voluntary or mandatory) and the resultant potential for disruption within the industry.

It is noted from discussion with the NSW regulator that their code, while partly administered by industry, is an example of co-regulation and ultimately rests upon statutory powers that could be exercised by the government if necessary to ensure compliance. To date this fall-back position has rarely been used but does highlight the need for a firm legislative base to even a successful “voluntary” compliance regime.

The Committee has also considered the following factors:

- the MTA is the sole industry body with membership representing only about 50% of the total industry. The remainder of industry participants are not affiliated or aligned at a professional or industry level;
- the ACT motor repair industry is characterised by a large number of micro-businesses operating from residential addresses. The Committee has been advised by the MTA that home based businesses could represent up to 45% of the total number of businesses operating in the industry. MTA membership amongst this segment is relatively low;
- as recently as October 2001, the Motor Trades Association, National Secretariat (Canberra) was advocating the adoption of a mandatory code “to regulate the commercial relationship between insurers and automotive body repairers with a view to ensuring the interests of consumers are paramount in the repair of motor vehicles”. It was proposed that this code be established within the Commonwealth’s *Trade Practices Act 1974* (cited in Motor Trades Electoral Action Committee, Issues Brief 2001 Federal Election); and
- the Committee is aware from its consultations with businesses operating from commercial premises that there is a considerable body of resentment within the industry against the home-based operators who, through their lack of on-street visibility to regulators, are perceived as being effectively exempt from the Code of Practice and other regulatory regimes (such as those relating to the disposal of oils and chemicals). This issue is discussed in detail in the following section.

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The Committee believes that the MTA’s lack of comprehensive industry coverage and the potential for the Code to be exercised against (largely) non-members could expose the Association to accusations of discrimination and lead to recriminations within the industry. Any degree of disruption would not be conducive to maintaining consumer confidence, a key objective of the Code. In this instance, continuing enforcement by an impartial body, such as the Office of Fair Trading, appears to be in the public interest.

Having said this, the Committee considered that there was potential for the Office of Fair Trading and industry to work more closely in the enforcement of the Code, with the actual enforcement remaining the responsibility of the Office.

The further suggestion that the relevant skills of the membership of the Dispute Resolution Panel specified under the Code also be reviewed was supported by the Committee.

The Committee is pleased to note that, arising from discussions with the Office of Fair Trading, arrangements for the implementation of such reforms have already been agreed with the Motor Trades Association.

The Office of Fair Trading has advised that the Code will be jointly reviewed and relaunched with an increased emphasis to be placed upon issues of increased public awareness, compliance and industry cooperation. It is understood that changes to membership of the Disputes Resolution Panel are also under consideration.

This outcome, in which agencies and industry cooperate to improve the clarity and fairness of business regulation, is an excellent example of the flexible and participative approach to regulation supported by the Committee.

In summary, the Committee considers that in certain circumstances a voluntary code or self-regulation approach may be appropriate. Such an approach may allow limited agency resources to be applied to priority areas of real community or regulatory concern, for example, community health and safety.

However, great care needs to be exercised to ensure that this approach does not give rise to perceptions of inappropriate responsibility shifting or preferential treatment within and between regulated activities and the community.

The Committee strongly urges that this approach be used sparingly and only where it can be clearly established that it represents best practice and does not undermine community confidence or unduly compromise reasonable community expectations of responsibility and duty-of-care.

Equity of Enforcement

Issues of fairness and equity in the enforcement of regulations have been raised with the Committee by most parties consulted. The frequency and level at which these concerns were expressed indicates that a perception of inconsistency in regulatory enforcement is a major and growing issue within the ACT business community.

There is a strong belief that laws should apply equally to all and that sound justification must exist for any waiving of responsibility or obligation. There are generally few objections to charity and not-for-profit organisations being treated in a lenient manner provided that this competitive advantage is not abused.

There are however strong concerns where it appears that unfair advantages have been allowed to some industry participants (either actively or through inattentiveness by government agencies), or where public interests and safety are considered to have been unduly compromised.

On a national basis, this notion of a “level playing field” has been embodied into the principles of National Competition Policy, in particular in the belief that Government business activities should be subject to the same business rules and imposts as everybody else. The passage of the *Road Transport (Public Passenger Services) Act 2001* supported this principle by removing the special legislative protection of the government-owned bus operator (ACTION) and subjecting them to the same regulatory regime applying to private sector operators.

Recent Australian Bureau of Statistics figures indicate that the mix of ACT business is changing. These trends were examined in Chapter 3.

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These structural changes hold particular significance for the effective enforcement of regulations. With micro and home based businesses within the ACT now the predominant business structure (representing nearly 80% of recognised business entities) the location of business activity is now diffused throughout the community.

While there are still recognisable business districts within the city (for example, Phillip, Fyshwick and Mitchell) it is no longer reasonable to expect that this visible activity is representative of the activity within all industries. While business locations have diffused the Committee notes that regulatory enforcement practices do not appear to have followed this trend.

The Committee has been advised by several parties, including the Motor Trades Association (Submission 10) and Belpet Pty Ltd (Submission 1), that significant sectors of business are bearing the brunt of regulatory enforcement because they choose to operate from visible commercial premises and openly abide by all relevant regulatory regimes and standards. These sentiments were repeated in discussions with a wide range of other industry groups and individual business proprietors.

There is a strong perception by these parties that by following the rules these businesses have effectively made themselves regulatory targets for ACT agencies. It is claimed that these regulatory agencies and their inspectors find it easier to concentrate on visible business activity in commercial premises rather than on identifying and locating those home based businesses that have not drawn their operations and location to formal attention.

There is a further belief that, in addition to the unfair competitive advantages this reduced regulatory burden allows, home-based operators (particularly those in motor vehicle and hairdressing related trades) may not be sufficiently aware of their trade waste and other obligations. It is alleged that some such businesses pour oil and other chemicals down drains or bury toxic materials in residential backyards.

The Committee has closely examined these claims and the current processes by which ACT agencies regulate activities conducted from other than commercial premises.

The Committee considers that, notwithstanding the sometimes emotive expression of these views to the Committee, there is a basis to these beliefs and a need for a reassessment as to how ACT agencies deal with this ever-growing business sector.

The Territory Plan allows for the operating of certain business activities from residential premises.

These activities are categorised as:

- *Home Based Occupation* – where the property occupant carries on a business or trade, alone or in conjunction with other residents of the same property, that does not materially affect or have the potential to affect nearby residential amenity.

A good example of this is the consultant or IT programmer who operates a small business from a home office.

- *Home Based Business* – where the property occupant, with or without the participation of non-resident employees, carries on a business that has the effect or potential of disrupting residential amenity.

This disruption includes, but is not restricted to, higher than normal noise levels, handling, storage or disposal of hazardous materials, significantly increased visitor numbers, restrictions to existing parking/access or the need for property alterations (for example, the building of a workshop or other special facility).

A good example of this is a carpenter who builds a backyard workshop for the building of furniture and kitchen units, involving power tools producing dust and noise.

The level of home based activities in the ACT reported by the Bureau of Statistics would include both of these categories. In the great majority of cases, the activity being undertaken falls within the definition of Home Based Occupation.

For home based occupations, no specific approval is required and little if any additional regulation by ACT regulators is involved. For example, a home based accountant is already subject to professional scrutiny by their industry and to financial oversight by the Australian Tax Office. While the business continues to meet the criteria for Home Based Occupation no additional ACT regulatory oversight is required.

Home Based Businesses, on the other hand, are subject to approval through the Development Application process. Planning and Land Management (PALM) administer this process. The carrying-on of a Home Based Business is considered to be a variation to the lease purpose of the property on which the activity is undertaken.

A perusal of Development Application approval figures maintained by PALM indicates a remarkable diversity of activities that have been approved and are operating from ACT residences. The Committee is however, concerned at the relatively low numbers recorded within each category as having sought approval.

For instance, anecdotal evidence suggests that there are between 180-250 automotive trades businesses operating from homes but only 28 have ever applied for approval. Similarly, private sector members of the Committee have personal knowledge of business types that are not recorded and the Secretariat has identified activities where only a very small percentage of operating businesses hold the required approvals.

As a result very few of these businesses are subject to the same level of actual regulatory scrutiny as other players in their industry. In many cases, the existence of these businesses is known only to neighbours and customers. An increasingly large component of business is becoming invisible to regulators. The Committee agrees with the contention that businesses that are visible because of their ongoing compliance are carrying a disproportionate share of regulators' attention and the burden of regulation.

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The Committee considers that it is necessary for ACT agency regulators to acknowledge and respond to these very significant changes in business domicile.

The Committee recommends that the Government require agencies to take into account emerging industry trends in enforcing existing regulations.

Resources for Enforcement

Business groups have advised the Committee that government agency resources appear to be increasingly stretched to deliver adequate regulatory coverage and that some areas of regulatory activity have been allowed to fade away.

For example, the Committee has noted comments from the Hire Car industry that enforcement of many of the regulations relating to Restricted Hire Car licences is erratic and that, in the past, Ministers have felt it necessary to direct that special efforts be made during the peak School Formals period.

Such an ad-hoc approach is not an acceptable long-term solution. The problem appears to stem from the need to regulate an activity that occurs outside normal business hours when relevant regulatory staff are not on duty. The hire car industry has commented that regulations that are not enforceable might as well not exist. The Committee supports this sentiment and notes that the Independent Regulatory and Competition Commission (ICRC) has recently addressed regulatory issues within the hire car industry and issued a report for discussion.

The significant changes to the structure of ACT business embodied within the growing importance of home-based activities make it appropriate that the focus of regulatory activity also follow this trend.

The process for approval of a home-based business is administered through the same process by which lease variations and conditions are monitored and enforced.

These activities are currently undertaken by 6 field officers as a minor and declining element of their broader responsibilities within Planning and Land Management. A perusal of the output statistics of these officers for the past few years indicates an increasing workload across all categories of work. Less and less time is available to be devoted to each case brought to their attention.

Accordingly, PALM has had to set priorities. In the case of Home Based Businesses this amounts to responding only to direct complaints from neighbours. There is currently insufficient capacity to provide the increased level of monitoring of Home Based Businesses required to ensure an adequate and equitable level of compliance. There is most certainly no current allocated capacity to undertake any program aimed at actively identifying and locating non-compliant businesses.

Over time, this unit will find itself increasingly unable to provide adequate regulatory oversight of this growing industry segment. It would not be unreasonable to assume that public health, amenity and safety could be jeopardised as a result. The Committee considers that a refocussing of priorities and resources within PALM may be required to meet this challenge.

The Committee recommends that Planning and Land Management allocate resources to increase its capacity to ensure home based businesses hold appropriate planning approvals.

The Committee notes that PALM is not alone in this regard. Inspectorate services are maintained by ACT WorkCover, the Office of Fair Trading, and the Department of Health and by Environment ACT. All have particular yet overlapping interests.

For instance, in the case of the home based motor repairer discussed in the previous section, it can reasonably be expected that:

- ACT WorkCover (an independent government agency) would have an interest in the operation and safety of mechanical equipment and the occupational safety of on-site workers;
- Office of Fair Trading (Department of Justice and Community Safety) would have an interest in the degree of compliance with the mandatory Motor Vehicle Service and Repair Industry Code of Practice;
- Environment ACT (Department of Urban Services) would have an interest in the storage and disposal of oils, lubricants and paint waste; and

- PALM (Department of Urban Services) would be required to approve operation of the activity as a Home Based Business.

There is no formal mechanism by which these agencies coordinate their activities or even bring matters to each other's attention. The Committee has been advised of incidents where inspectors from one agency have noticed obvious breaches of regulations administered by other agencies, yet have felt no obligation to inform their colleagues of the problem. On other occasions incidents have been reported with little confidence that the responsible agency will respond.

The Committee was also approached by a home based operator who acknowledges his responsibilities to these various agencies but has given up contacting each in turn, out of frustration with the multitude of independent processes.

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This experience points to the need for a single point of contact for both regulators and intending/operating business proprietors.

The Committee notes that the Department of Urban Services until recently operated a Regulator's Forum to provide regulators across that Department with an avenue for consultation and discussion. While a commendable initiative, this Forum was recently discontinued and, even when operational, did not actively involve regulators from outside of the Department.

The Committee considers that there is a need for a coordinated approach to improve the effectiveness of inspectorate services. The concept of multi-skilled inspectors has been considered but discarded due to excessive training requirements and recruitment difficulties. Discussions with other jurisdictions indicated that they consider the unlikelihood of training and retaining such staff as being an insurmountable obstacle to such an approach.

Similarly, it is not considered practical to create a "Super Inspectorate" through the consolidation of existing agency inspectors. The Committee believes that the skills of these inspectors are more likely to retain currency and relevance through ongoing exposure to policies and experience within their existing agency structures.

The Committee recommends that the Government require all ACT agencies maintaining inspectorate functions affecting businesses to develop a formal coordination process and participate in regular feedback and information sharing sessions.

Compliance Planning

Successful business operators prepare comprehensive plans that address issues critical to their ongoing viability.

While marketing, sales and financial plans are obvious components of this approach, increasingly Regulatory Compliance Plans are also being prepared.

Compliance Plans are intended to identify all relevant regulations impacting upon the operation of the business, noting fees and approvals required, and establishing a plan for dealing with these requirements. The first step in this process is identifying the particular regulations that are relevant.

In Chapter 4 of this Report the Committee discussed the shortcomings it has identified with many existing agency publications and websites. As noted earlier, the Committee believes that agencies should regularly review the range and relevance of public and industry information packages they offer with a view to improving their readability and ongoing usefulness to clients. Particular attention should be paid to the layout and accessibility of web-based information and application packages.

Undertaking of such reviews would do much to assist business in meeting its regulatory compliance obligations. However, the availability of information, while important, is only half the challenge.

Improving the Usefulness of Information

Many organisations, particularly those representing the interests of micro-business and the home based sector, consider that having information and understanding its implications are very different outcomes.

These organisations consider that the ACT is missing a vital service to business, that is, a service that interprets government agency regulations and explains how compliance can be achieved. Many correspondents have noted the increased availability of such advisory officers within Commonwealth departments and pointed to the success of the *One-Stop Shop* information and advisory services provided by the Victorian Government.

A number of groups have even proposed that the role of the Business Services Centre (the ACT Government-run business centre abolished in 1996) be resurrected, as a way of providing an increased emphasis on facilitating business compliance.

BusinessACT is the primary contact point for ACT business operators. It provides access to the Business Licence Information Service (BLIS), organises business and regional promotional events and provides information to overseas and interstate businesses seeking to establish in the ACT. In addition, BusinessACT will deliver programs for small and micro businesses worth over \$8 million in 2002-03.

The Committee notes that BusinessACT also funds other organisations to provide small business with assistance. For example, the Canberra Business Advisory Service (CanBAS) receives \$300,000 from BusinessACT to deliver business advice and support. 3,900 persons have made inquiries to the Service since January 2001. A further 15,210 persons have accessed the Business Licence Information Service webpage or made contact on the 1800 information telephone number.

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The small and micro business sector is the major beneficiary of this assistance. Between them, BusinessACT and CanBAS deal with over 7,000 inquiries from the small and micro business sector each year.

However, some parties within the micro and small business sector (notably Canberra Small Business Council, CREEDA, Home Based Business Association and HelpSHOP) have questioned the effectiveness of the current arrangements.

This includes concerns about the adequacy of the BLIS service and perceptions that most of the visible and discretionary activities of BusinessACT are targeted at “big business” and “grand visions”.

The Committee considers that BusinessACT should review its badging and publicity programs to build on its existing contact with the small and micro business sector.

The Role of Business ACT

The Committee considers that BusinessACT plays an important role within the ACT business community. It has been effective in promoting Canberra as a viable business location and has recently recorded great success in acquiring for the city a major share of the National Information and Communications Technology Centre of Excellence.

The Committee has also noted the promotional role undertaken by BusinessACT in developing events such as *Canberra Region Focus on Business* and *Business Doing Business*.

Many small and micro businesses are sole traders and, notwithstanding the ACT status as a highly literate and IT aware society, not all have the time or skills needed to interpret complex legislation nor find their way through websites that are not always relevant or clearly presented.

The BLIS service is a case in point. This service provides inquirers with documentation relating to the type of business activity they wish to undertake. In this regard it is a well organised and delivered service. It represents a significant improvement on what was available in 1995 and now provides comprehensive access to ACT and Commonwealth licence information. This service is also available electronically.

Notwithstanding the availability of the actual documentation, inquirers generally need further advice on how to comply with government regulations and it is appropriate that, in the first instance, the Government provide assistance in identifying compliance requirements.

Regulatory policies and practices within agencies evolve constantly to meet changing circumstances. Generally the agency administering the legislation would be expected to be best placed to provide the particular advice with BusinessACT and Canberra Connect acting as referral points to appropriate agency officers.

The Committee recommends that the Government build on existing arrangements and establish a mechanism to assist businesses to comply with regulatory requirements.

The Committee notes the Government has established the Small and Micro Business Advisory Council to give a greater focus to consultations within the sectors and to highlight their importance.

The Council is a tangible acknowledgment of the increasing information and consultation needs of small business.

The Committee also notes a wide range of initiatives to be introduced from late 2002 that will provide small and micro-businesses with enhanced levels of assistance in planning and employment issues. These initiatives include:

- *Small Business Employment Ready Program* – to assist small businesses with taking on their first employee;
- *High Tech Startup Program* – to assist the development of management skills;
- *Strategic Development Program* – to assist with the development of business and marketing plans; and
- *Knowledge Fund* – to assist with the development of a thriving and globally-competitive knowledge-based economy. This fund will, amongst other projects, provide businesses with assistance in commercialisation of innovative concepts and high technology start-ups.

The Committee believes that the creation of the Council along with these new assistance packages will help ensure appropriate policy responses by Government to emerging small business needs.

Government in a Business Advisory Role

The desirability of re-creating the Business Services Centre (BSC) concept has also been examined. Like the 1995 Red Tape Task Force, the BSC was an initial response to the pressing need to develop and nurture a viable small business employment base within the Territory.

The Centre provided a wide range of assistance to (mostly) intending new business operators through training seminars, one-on-one advisory interviews, assistance with the creation of marketing and financial plans and the provision of introductions and referrals to industry contacts and potential customers. Little if any fees were charged for this assistance.

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While the Centre undoubtedly provided valuable assistance to many small business persons at a crucial time, its level of resourcing indicated that it was never intended to be a fully comprehensive service. In 1996, the then Government decided to close the BSC and contract these services to the private sector. Accordingly the BSC ceased operations in 1996 with the functions being originally transferred to the ACT and Region Chamber of Commerce and Industry. This service is now provided by CanBAS.

Several groups, including the Canberra Small Business Council and the Home Based Business Association, have proposed that the Government again enter the business advisory market.

The Committee does not support direct provision of the service by public servants and notes the ample availability of a comprehensive range of support services through professional and industry bodies and private sector providers.

The Committee has concluded that the level of support provided to business will be improved through the initiatives discussed above. However, the Committee also believes that in conjunction with the introduction of an enhanced mechanism to assist business to comply with regulatory requirements, there is a continuing need to address the issues of small and micro businesses to enable their contribution to economic growth to be maximised.

The Committee recommends that the Government continue to give priority to the development of small and micro business and require BusinessACT to regularly review its programs and services to ensure they continue to meet the needs of that sector.

As noted elsewhere in this report, a wide range of sector specific issues were raised with the Committee during the conduct of the Review.

Planning Issues

Canberra is a planned city where design issues and planning decisions are common topics of both Legislative Assembly and public debate. Planning issues attracted considerable attention in the 1995 Red Tape Task Force report and those issues are addressed in Chapter 4 and Appendix 1. A number of other planning related issues that have attracted significant comment from private sector sources are discussed below.

But first, the Committee would like to note the many approaches made to it in which vague claims and repeated rumours were presented as evidence of the duplicity of public officials within Planning and Land Management (PALM).

According to these claims, PALM is either an “overly zealous enforcer of trivia” or a “lethargic culture of complacency”. Depending on the viewpoint of the complainant, PALM officials either do too much or they do too little. Very few of these complainants were willing to provide any reasonable level of detail or evidence to allow the Committee to either verify or reject these allegations.

The Committee notes that these divergent views are an outcome of a planning process that by its very existence generates winners and losers in determining contentious issues. However, the fact that the adverse perceptions held about PALM officials are circulated and given currency through repetition appears, in the Committee’s view, not to be warranted.

The ACT Government is currently considering the transition of PALM to Statutory Authority status. A committee has been established within the Department of Urban Services to examine this proposal.

The new governance arrangements should include the establishment of a complaint inquiry mechanism that would examine such claims. If claims are proven, valuable information for reform could be obtained. If unproven, the process at least provides PALM officers with an avenue by which to protect their public reputations. To ensure public confidence in the administration of planning issues, both outcomes in the longer term are desirable.

The Committee recommends that the Government make provision for a transparent complaints handling and resolution mechanism in the proposed Planning and Land Development Authority.

The following specific planning related issues were raised during consultation:

- the remediation of former petrol station sites; and
- the role of Members of the Legislative Assembly in the process of approving Variations to the Territory Plan.

Remediation Policies

Both the Motor Trades Association and a land developer interviewed by the Committee raised concerns over the processes administered by PALM and Environment ACT relating to the remediation of former petrol station sites. It was alleged that these processes are overly prescriptive, act as a discouragement to development and are inconsistent with practice in other jurisdictions.

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There are a considerable number of these sites vacant in Canberra. In other jurisdictions (notably in NSW) these sites are recycled for general retail use (for example, for mobile phone and fast food outlets). The incident referred to relates to a specific proposal to use a former ACT petrol station site for residential purposes.

The *Contaminated Sites Environment Protection Policy 2000*, and *Guidelines for the Assessment and Management of Contaminated Sites and Assessment of Site Contamination National Environment Protection Measure 1999* lists service stations as activities associated with land contamination. Service station sites have proven in the past to be sources of significant contamination of soils and groundwater in the ACT.

In 1977 an underground petrol leak spread into the basement of the Centre Cinema in Civic. An explosion and fatality resulted. An investigation determined that the leak consisted of about 78,000 litres of petrol creating a plume under the city that extended over 5,000 square metres and up to 4.5 metres deep. The leakage was found to have originated from underground fuel storage tanks and pipes at a nearby service station.

Based on this investigation, the ACT Coroner recommended that the Government continually monitor the plume and take measures to ensure that similar occurrences did not occur anywhere else in the Territory.

In response to the Coroner's finding the ACT Government developed a range of preventative measures including secondary containment of all new service station facilities and the assessment and audit of existing sites where redevelopment or decommissioning was proposed. Where a service station site is to be redeveloped, the Government has endorsed the use of the NSW EPA 1994, *Guidelines for Assessing Service Station Sites*.

To ensure the suitability of a site for a particular use Environment ACT recognises the NSW and Victorian Environment Protection Authority (EPA) contaminated land auditor schemes.

The approach of using an auditor to verify the findings of the assessment and remediation of contaminated sites in the ACT was first introduced in 1995 during the assessment and remediation of sheep dip sites in the ACT. This process ensures independent advice to provide certainty to the community, financial institutions and the business community. These provisions are consistent with those detailed in the NSW planning guidelines for managing contaminated land.

Part of the Government's role in setting standards and protocols for site assessment and remediation is to ensure that there is a system for auditing the results of the process. The aim of auditing is to independently verify that the land is fit, or not fit, for a particular land use or range of uses.

The resultant certificate of audit serves as an assurance to the actual or prospective owners/occupiers of the site and as a formal release from liability for parties who may be liable for costs associated with any future investigation or clean-up.

Small scale fuel facilities such as above ground tanks on residential premises are not regarded as activities likely to have a significant impact on the environment due to the amount of fuel stored and their location where leakage or spills would be evident and easily managed.

Amendments to the *Environment Protection Act 1997*, which provides the statutory framework for managing contaminated land in the ACT, commenced in March 2000. These amendments were modelled on the NSW contaminated land legislation and provide for consistency with the *NSW Managing Land Contamination Planning Guidelines and NSW State Environment Protection Policy No.55 - Remediation of Land*. As such there are no inconsistencies between ACT and NSW practice.

The Committee has concluded that these policies are appropriate to the degree of potential risk to the community offered by these sites and are not significantly different from practice in interstate jurisdictions. As such, the Committee does not accept that any changes to these processes are warranted.

Variations to the Territory Plan

The Territory Plan is a formal planning document setting operational and practical parameters against which all major development proposals are measured.

Section 19 of the *Australian Capital Territory (Planning and Land Management) Act 1988 (Commonwealth)* provides for the creation and maintenance of a National Capital Plan. The National Capital Authority (NCA) administers this Plan on behalf of the Commonwealth.

The Territory Plan is established under the *Land (Planning and Environment) Act 1991* as the primary means by which the Territory meets its obligations to the Commonwealth relating to its custody of the National Capital. Part 2, Division 2.2, Section 8 of this Act imposes an obligation on the Territory that provides that:

“The Territory, the Executive, a Minister or a Territory authority shall not do any act, or approve the doing of any act, that is inconsistent with the plan”.

Major land developments are considered to be variations to the Territory Plan. Under current arrangements, these proposals are subject to a formal process of community notification and consultation before the responsible Minister brings a variation proposal before the ACT Legislative Assembly. These proposals are examined by the ACT Legislative Assembly Standing Committee on Planning and Environment who place a recommendation before the Assembly members. Voting then proceeds.

The Housing Industry Association (ACT) has suggested that, in the interest of expediting variations, this arrangement be varied so that the responsibilities of the Territory are instead vested in an official of Planning and Land Management.

This suggestion is based upon a perception that the formal process is too lengthy, is administered by persons with no real experience of the issues and is open to determination on political grounds. In effect, this proposal would remove the right of Members of the Legislative Assembly to determine variations to the Plan.

The Committee has concluded that the role of the Standing Committee is in accord with both the spirit and intention of the relevant legislation. While it was acknowledged by the Secretariat of the Standing Committee that, on occasion, some applications do take longer than expected to resolve, such delays are not in themselves a sound reason for removing this important safeguard or in abrogating the responsibility of the Legislative Assembly onto public officials.

The Committee accepts that this process is different from that applying elsewhere in Australia. However, the circumstance by which Canberra was established as a National Capital, and the later process by which the ACT Government assumed this custodian role, is unique.

There is a clear need for the Standing Committee to have access to and use independent professional advice to inform its deliberations. Such expertise may be sourced by inviting officers from Planning and Land Management to participate in Standing Committee meetings or the secondment of such officers. Alternatively, establishment of a professional advisory group may meet this need.

The Committee notes that the Planning and Land Bill presented to the Legislative Assembly in August 2002, provides for the establishment of a Planning and Land Council. An important role proposed for the Council is the provision of an independent source of expert advice to the Standing Committee to assist them in their deliberations.

This initiative may go some way to resolving the timeliness problems and lack of professional planning experience within the Standing Committee noted by the Housing Industry Association. It is appropriate that, should this initiative be introduced, a formal mechanism be adopted to assess whether or not these outcomes have been achieved. The Committee notes that the Bill makes provision for such reviews.

Subject to the Bill being passed and the Council established, the Committee does not consider that any further changes along the lines suggested by the Housing Industry Association are warranted at this time.

Improving Regulatory Processes

During consultation, the Committee was approached with suggestions for improvements to other existing sector specific regulatory practices. Where the Committee considered the proposals had some merit, they were referred to the appropriate agencies for consideration and comment.

The Committee is pleased to note that in most cases agencies have actively embraced this opportunity to make improvements to pre-existing processes, with changes either implemented or included with a range of options that were already under consideration. These issues included:

- a review by ACTEW and the ACT Revenue Office of the procedures by which solicitors request and access search data used in conveyancing transactions. Both agencies are consulting with the Property Committee of the ACT Law Society on the final form of these changes.
- a clarification of ACT licensing requirements for interstate traders attending promotional and display events such as the Royal Canberra Show. The Office of Fair Trading is arranging for the production and distribution of appropriate explanatory brochures and liaison meetings with event organisers.
- a clarification for traders licenced under the *Liquor Act 1975* of their record keeping obligations. The Office of Fair Trading has accepted that records already maintained for GST purposes are suitable for the Office's needs.

In addition, the Committee brokered resolution of a number of minor problems brought to its attention. These issues were raised by business operators with the Secretariat and resolved in consultation with relevant regulators. The Committee does not propose to itemise these matters.

Other Issues

The Committee actively sought to facilitate the resolution on all matters of concern brought to its attention. This was not always possible in the time allowed for the Committee to undertake its review and report.

The Agents Act 1968

The Tourism Industry Council (ACT) raised the following issue late in the Committee's deliberations and insufficient time was available for its full investigation and resolution.

The Council has proposed an extension of the number and type of licencing categories applicable to travel agents, along the lines of current Queensland legislation.

It is claimed that this extension would have the effect of introducing greater competition and opportunities for small operators in the market. On face value, the proposal if implemented would result in the effective deregulation of the ACT travel agent industry.

The Office of Fair Trading (Department of Justice and Community Safety) regulates travel agents under the *Agents Act 1968*.

The Committee is aware that amendments to this Act arising from an earlier review are to be brought forward for consideration by the Legislative Assembly later in 2002. This current proposal was not raised by industry in the consultation processes leading to the development of those amendments.

The Committee does not consider that it would be prudent to attempt to examine this matter in isolation. As the wider context of this proposal is outside of the Committee's Terms of Reference, the matter has been referred to the Department of Justice and Community Safety for comprehensive investigation and response to the Tourism Industry Council (ACT).

Liquor Act 1975

The Australian Hotels Association (ACT Region) proposed late in the review that administration of the *Liquor Act 1975* could be improved through the addition of a mechanism by which third parties could appeal against the issue of new liquor licences. The Association considers that such a provision may help to prevent future noise and other problems relating to new clubs and bars, particularly those opening near residential developments. Third party appeals are allowed in some other jurisdictions.

There are existing third party appeal rights under the *Land (Planning and Environment) Act 1991* that could prevent the issue of a liquor licence, because of noise or other adverse public impacts, where a change to the lease purpose clause was required. However the existence of the rights in particular instances is dependent on the terms of the lease purpose clause for the individual premises or site.

The associated uncertainty for potentially affected parties indicates that there may be merit in having appeal rights more directly linked to the issue of a liquor licence.

In any event, operators of licensed premises are required to comply with a range of other statutory requirements, including those in relation to noise levels.

The Committee considers that the Government should give consideration to reviewing the need for third party rights of appeal against the issue of new liquor licences.

Government Tendering Processes

While not strictly forming part of its Terms of Reference, the Committee examined a number of claims brought before it concerning the management of tendering and procurement processes within ACT agencies.

Several parties commented that ACT agencies are unnecessarily conservative in their management of contract tendering processes and are reluctant to give local businesses a chance to prove themselves.

Some parties, including the ACT and Region Chamber of Commerce and Industry, the Home Based Business Association and the Chamber of Women in Business, consider that the management of tenders by ACT agencies is unnecessarily cautious with a strong aversion to risk-taking. They attribute this to an over-reaction to criticism concerning the management of major tender processes such as Bruce Stadium and the Hospital Implosion.

It is claimed that that this caution reduces opportunities for small business and service innovation by encouraging agencies to make safe selections. The ACT and Region Chamber of Commerce and Industry contends that agencies have interpreted this as “sticking with someone you know”.

It was further alleged that value for money was not given adequate consideration in making these decisions and that this attitude worked to the detriment of local small business

The Committee has brought these views to the attention of the ACT Government Procurement Board.

However, no evidence to substantiate any such claim of process mismanagement by agency officials has been provided to the Committee.

The selection of successful tenderers is devolved to ACT agencies under general guidelines issued by the ACT Government Procurement Board. This Board has been operating since August 2001 and provides ACT agencies with policy guidelines and practical guides in relation to procurement issues.

The Board has recently approved new *Government Procurement (Principles) Guidelines 2002*. Included within the Guidelines are six principles to be considered by agencies in all tendering situations. These principles are:

- value for money
- open and effective competition; and
- probity and ethical behaviour; and
- environmental sustainability; and
- local industry development; and
- management of risk.

Measures relating to both price and local content appear in these guidelines. The Committee notes that a series of training seminars targeted at agency staff involved in any aspect of procurement, particularly the exercise of financial delegations, have already been conducted.

Overall, the Committee considers that these guidelines provide a sound and prudent basis for government procurement activities and that the interests of local business in tendering processes are adequately represented.

The Board and its Secretariat are available to discuss issues with any business that feels that it has been unfairly treated in a government procurement process.

On a related matter, many parties also raised with the Committee concerns over the appropriateness of the level of coverage required under Professional Indemnity Insurance as a pre-requisite to tendering. It was considered that the high level of coverage required was often not appropriate to the level of risk inherent within the product or service being purchased and added unnecessarily to the cost of tendering by small businesses.

The Home Based Business Association and ACT Chamber of Women in Business in particular, considered this lack of flexibility in contract terms a major impediment to the participation of small local businesses in the government tender process. The ACT Government Procurement Board is aware of this problem and is working with government agencies to address risk mitigation and insurance issues.

This Review is the second such review undertaken by ACT Governments, the first being the Red Tape Task Force in 1995.

While such periodic reviews are useful in resolving problems at the time of each review, they are not, in the opinion of the Committee, a substitute for ongoing liaison and cooperation to address regulatory concerns.

An Ongoing Role

The Committee has noted many of the comments of business groups that regulation is not currently a critical issue and attributes the relatively low rate of response to this lack of current concern. These groups appreciated the offers by the Committee to consult on regulatory issues but, for many of these groups regulatory problems were either in the past and so no longer immediately relevant or yet to be experienced at which time they will look for assistance.

It is inevitable that new regulatory issues will arise after the Committee completes the current review.

The Committee is concerned that when ready access to government for resolution of these issues is required, no formal arrangements or point of contact will be available. A number of groups reported just such instances in the 12 months immediately following the closure of the 1995 Task Force. Emerging problems had no central focus point and either largely went unresolved or were grudgingly tolerated as another burden by the industry concerned.

Given the importance to the Territory of maintaining a viable private sector underpinned by an efficient regulatory framework, an ad hoc approach to resolving emerging issues is not sufficient. Such an approach relies too heavily upon individual initiatives and is subject to a lack of coordination, leading to instances of both oversight and duplication of effort. A process which facilitates ongoing streamlining of regulatory imposts is desirable.

Currently within ACT agencies there is no dedicated office tasked specifically with the resolution of regulatory problems.

The Committee has noted interstate and international experiences with Taskforces and Reviews similar to that conducted by this Committee. In almost all cases, the Taskforce has been the catalyst for the creation of an office specifically tasked with:

- ongoing liaison with business and the wider community to identify regulatory problems and make an assessment of what regulatory response may be justified;

- ongoing liaison with agencies through the oversight of new and amended regulatory proposals to ensure that regulatory burdens are reasonable and justifiable in the public interest; and
- ongoing liaison with regulators in other jurisdictions to continually monitor local performance against best practice.

The Committee considers that a mechanism responsible for this range of activities is vital to the maintenance of the Territory as a responsible and business-friendly regulatory jurisdiction. The future viability and vitality of Canberra relies upon maintaining a credible and innovative private sector. Canberra cannot afford, either economically or socially, to lose touch with business concerns or to appear to outsiders and established business as a less than desirable investment environment.

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The Committee has considered how this function could best be integrated into the ACT agency structure. In Chapter 6, the Committee discussed the merits of the assessment and reporting approach adopted by Queensland.

Following a Red Tape Review in 1996, the Queensland Minister for State Development established a non-statutory advisory office “committed to reducing the burden of regulation on (Queensland) business”. This advisory office operates through the Business Regulation Reform unit of the Department of State Development. In particular, this Committee recommended the adoption of the annual oversight and reporting model in use in Queensland.

Options

A number of options for implementing this approach within the ACT have been considered. These options include:

- **an enhanced role for the Independent Competition and Regulatory Commission (ICRC)**

The ICRC has existing responsibilities for the consideration of national competition policy issues and already regulates key aspects of several ACT industries, notably utilities (gas, electricity and water) and public transport (ACTION and taxis). On occasion it also examines particular sectors or legislation at the request of the Government or ACT Legislative Assembly members.

- **an enhanced role for BusinessACT**

This office currently acts as the primary liaison point between government and the business community.

- **an enhanced role for ACT Treasury**

The ACT Treasurer currently has portfolio responsibility for Regulatory Reform.

This responsibility is largely exercised through the Economic Management Branch of ACT Treasury.

The Committee recommends that a central agency's role be expanded to include an ongoing formal function of regulatory oversight and dispute resolution.

Status of Recommendations

The Committee has examined the current status and implementation of the 35 Recommendations made in the 1995 Red Tape Task Force Report.

Those that the Committee considers have been finalised or overtaken by subsequent events are detailed below listed under their original 1995 numbering. A commentary on each recommendation is included.

Those Recommendations considered by the Committee as requiring additional work to implement, or the consideration of which have given rise to new Recommendations by this Committee, are detailed in Chapter 4.

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Recommendation 2

The Task Force recommends that a Minister responsible for regulatory reform should have a coordinating role where issues of lack of coordination between agencies and unnecessary delays are unable to be resolved by other mechanisms.

A Minister for Regulatory Reform was appointed in 1996 to promote and expedite regulatory coordination between agencies. In subsequent changes to portfolio responsibilities in 1998, the Government decided that it was more appropriate that these powers be exercised as necessary by the Chief Minister.

Subsequent Administrative Arrangements Orders specifically allocated responsibility for regulatory reform, including policy and coordination roles, to the Treasurer.

The Committee is not aware, from its consultation or research, of any instance that would raise the need for any review of this arrangement.

Recommendation 3

The Task Force recommends that the Business Regulation Review Unit's review of the Business Licence Information Service (BLIS) currently underway in the ACT and the proposed systematic review of legislation and regulation should examine the opportunities for reducing the number of business licences.

A review of BLIS usage and effectiveness was undertaken by Chief Minister's Department in July 1999. This review highlighted some procedural deficiencies that when remedied did much to increase the accessibility of the service. A subsequent project examined the existing manual processes for transition to an electronic delivery format. This transition occurred in 1999.

A concurrent review of legislation and regulation conducted as part of the Government's obligations under National Competition Policy did not significantly reduce the number of licences and permits required. A concurrent review of pre-1980 legislation did result in a small reduction in licensing requirements.

To complement the BLIS review, a second review focusing on licensing within the tourism and hospitality industry was undertaken by the Business Advisory and Regulatory Review Team in February 2000. This project, termed *Streamlining the Licensing Approval Process in the Tourism and Hospitality Industry (SLAP)* was intended to examine a master-licensing regime with the industry and facilitate the easier establishment and operation of businesses.

In its unpublished report, the review team concluded that, contrary to expectations, the industry did not consider that there was much need for improvement in the existing licence approval processes.

Recommendation 4

The Task Force recommended that as a first step in assessing the efficacy of Master Licensing, the ACT Government develop a pilot scheme for a master licence system for restaurants, service stations and hairdressers and that the opportunity be explored to simplify and rationalise forms and administrative procedures.

Master licensing is a process by which a single license application is assessed against the criterion applying for the most stringent licence that applies to the applicant. A qualification for an upper-tier licence or one that requires the highest industry standards should in theory lead to automatic approval to undertake activities for which lesser standards are required. This could include licences administered by a number of different government agencies, as is common within the hospitality industry.

An examination of interstate practice indicates that for relatively simple arrangements, like driver licensing, the master licensing approach has worked well. For instance, a heavy vehicle license conferring approval to drive buses or articulated trucks infers automatic approval to drive standard sedan vehicles. The ACT chooses to endorse these higher qualifications upon the basic driving licence.

Where difficulties have been encountered is in instances where businesses, due to infringements or a change of business circumstances, fail to maintain the standards required for the master licence.

The tying of several approvals to a single application can mean that approval for all of the business activities of the applicant is terminated even though the applicant may still separately hold the qualifications required for grant of those lesser licences.

Having not applied specifically for those licences, they cannot exercise those rights once the master licence on which approval was predicated is removed.

An assessment of the efficacy of Master Licensing within the hospitality industry (see Recommendation 3 above) revealed that the procedural advantages of master licensing could be achieved without moving to a central licensing authority model. The industry supported this outcome.

A preliminary review of the applicability of this approach to service stations and hairdressing indicated that the wide range of goods and services provided by such outlets did not lend itself to a single licence regime. The mix of food handling, general retail, handling of fuels and dangerous goods, the management and disposal of chemical waste and significant occupational health and safety matters were more appropriately handled by purpose designed processes administered by regulatory specialists.

The successful implementation of a Master Licensing regime is dependent upon full integration and interchangeability of information maintained by separate government agencies. Such databases were originally constructed for a specific purpose with many businesses and individuals supplying information or allowing such information to be gathered for that purpose and that purpose alone.

An examination of national and international experience has indicated that the degree of central control and cross-agency accessibility required for the efficient exercise of a master-licensing scheme raises significant concerns within the community for personal privacy and confidentiality. Support for the concept of Master Licensing in interstate jurisdictions has in fact declined since 1995 and the approach is now generally seen as discredited.

Notwithstanding the support for this approach voiced by the Canberra Business Council in their submission to the Committee, contrary views were consistently expressed by a large number of disparate organisations across a variety of business interests.

These views were not supportive of the level of integration and intrusion by agencies required for the effective implementation of master licensing with a strong preference expressed for administrative reviews of individual licences and forms on a periodic basis.

Taken in the context of interstate trends, the Committee considers that master licensing should only be used in special circumstances and only where industry and community benefits are tangible and agreed.

Recommendation 5

The Task Force recommended that the Government review the marketing of the services provided by the Business Services Centre to create a greater awareness of them in the business sector.

At the time of the 1995 Report, business advice and assistance services were offered to ACT businesses through the Business Services Centre (part of the Department of Business, Arts, Sport and Tourism). The Centre offered a wide range of services but was not, in the view of the 1995 Task Force, adequately advertised or resourced for operation in a growing economy.

In 1996, the functions of the Centre were contracted out to the ACT and Region Chamber of Commerce and Industry. This transfer of functions recognised the wider range of contacts maintained by the Chamber and their more direct access to the business community.

A modified version of this service is now delivered on behalf of the Government by Canberra Business Advisory Service. Over 3,900 people have made inquiries to the Service since January 2001.

Of these, 568 people made inquiries that were categorised as a 'possible start up' or as 'establishing a business'. A further 633 people attended the free 'Your First Steps' introduction business seminar program that targets people who have just started, or thinking of starting a business. Seminar topics include market research, financial planning, licensing and permits, and other factors necessary for planning success in business.

It is noted that several correspondents with the Committee have recommended a return to the "one-stop-shop" concept embodied in the ACT government-run Business Services Centre. The implications of such a recommendation are discussed in Chapter 9.

Recommendation 6

The Task Force recommended that in undertaking the review of the Business Licence Information Service, the Business Regulation Review Unit consider the Service's effectiveness both from an agency point of view and that of the business community. The review should also assess the relevance of the recommendations of the Commonwealth's Price Waterhouse report.

In 1995 the ACT sourced the Business Licence Information Service (BLIS) from the NSW Department of Consumer Affairs. A national review of BLIS services conducted by Price Waterhouse in 1994 concluded that the service as a whole was under-utilised and had a low level of awareness within the business community.

This view was considered and accepted by the ACT when a review of the local BLIS operation was conducted in 1997. This review resulted in a decision to establish BLIS ACT as a separate service maintained and provided by the ACT Government, as a telephone service and, from 1999, through the internet.

BLIS is currently provided through BusinessACT (part of the ACT Chief Minister's Department), both in electronic form via the Business Gateway website, and by 1800-telephone number.

In the period July 2001-May 2002, 58,222 web contacts were recorded on the Business Gateway website of which 10,944 (18%) were directed specifically to the BLIS web page. In response to these inquiries, 1,363 information packages were downloaded, emailed or posted out. A further 4,266 inquiries were received on the 1800 telephone number over the same period.

It is noted that several correspondent organisations have recommended to the Committee that the range of BLIS services again be reviewed in light of a possible consolidation of business information and advice services. The implications of such an approach are discussed in Chapter 9.

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Recommendation 8

The Task Force recommends that the ACT Government make indexes to Acts and subordinate instruments available at the Business Services Centre.

The Department of Justice and Community Safety maintains a register of ACT legislation and regulation on www.legislation.act.gov.au

This information is available at no cost to the user and may be downloaded or printed as necessary. The register is regularly updated but requires additional development before it is fully accessible and a useful research tool for intending business operators. See also comments above regarding Recommendation 1.

Recommendation 9

The Task Force recommends that the Attorney-General's Department establish a working party of peak business organisations and professional advisers to further enhance the provision of on-line legal material to the private sector.

In 1995 the ACT Attorney-General's Department developed and launched ACT Lawnet, a web based information database, in conjunction with the University of Canberra. This has since been superseded by the Legislation Register available at www.legislation.act.gov.au

This Recommendation is similar to those already discussed at Recommendations 1 and 8.

Recommendation 11

The Task Force recommends that the ACT Government reviews regulations governing auditing of solicitors' and agents' trust accounts with a view to harmonising such regulations with those of New South Wales.

In its consideration of this recommendation, the then ACT Government only accepted that element relating to the review of agents' trust accounts. The proposed changes were incorporated into an intra-agency review that examined a range of regulatory issues relating to real estate, stock and station, business and travel agents. This review was completed in 2001 with amendments to the Act prepared for presentation to the ACT Legislative Assembly in late 2002.

It was considered in 1995 that the review of solicitors' trust accounts was more appropriately dealt with in the context of a proposed National Competition Policy Review of the *Legal Practitioners Act 1970*.

These reviews were initially to be undertaken on a state-by-state basis. The Commonwealth subsequently decided that a national review would instead be appropriate.

The Committee notes that there has been to date only limited progress on this review by the Commonwealth but that the Department of Justice and Community Safety is actively pursuing the matter.

Recommendation 12

The Task Force recommends that the ACT Government amend the Workers' Compensation Legislation affecting interstate workers in line with other jurisdictions as a matter of priority.

The *Workers' Compensation Act 1951* was amended in 1997 to provide for streamlined cross-border arrangements. These amendments removed the need for businesses to maintain workers' compensation policies in two or more States or Territories when their employees work away from their ACT home jurisdiction.

The standard adopted by the ACT provides for the extension of insurance coverage to ACT based employees who work interstate for consecutive periods of less than six months. This arrangement entitles employees to the compensation available in their home jurisdiction no matter where the injury occurred.

While this progress has been beneficial to ACT businesses the full benefits of this arrangement are yet to be enjoyed by businesses in the wider ACT Capital Region.

There is no equivalent arrangement within NSW. This leads in turn to a requirement for NSW based employees to hold additional insurance when working interstate, for whatever period of time.

It is noted that NSW has recently reneged on an agreement with other States and Territories to adopt a national standard that would have removed this anomaly.

The implications of this decision and its impact upon ACT business are examined in greater detail in Chapter 8.

Recommendation 13

The Task Force recommended ACT Revenue and business consult to develop a more simplified basis upon which to collect payroll tax and achieve the Government's policy objectives.

A review was conducted by ACT Revenue Office in 1997 aimed at simplifying the payroll tax (PRT) lodgement system and the recurrent need for the calculation of PRT liability.

As part of this review, a survey was conducted to ascertain employer feedback on proposals to lodge returns on a monthly (rather than annual) basis and in doing so isolate liability within each relevant month and thereby remove the need for an annual reconciliation process.

It was concluded that this approach had considerable merit. Existing processes already allow for an electronic payment option on a monthly basis (through Canberra Connect) and for the alignment of the value of fringe benefit for PRT purposes with the value of that same benefit for fringe benefits tax purposes.

However, it has not been possible to remove the annual reconciliation process as employer circumstances and liabilities relating to staffing numbers vary across the year so making predeterminations based on a single period unreliable.

Recommendation 14

The Task Force recommends that the draft Report on the Review of Liquor Licensing Procedures in the ACT be the subject of special consultation with the private sector before it is finalised.

A review of liquor licensing arrangements was conducted in 1993-94. The draft recommendations of this review were the subject of extended industry consultation and debate at the time of the 1995 Red Tape Task Force. This Recommendation was confirmation of an arrangement reached with interested parties to facilitate the advancement of those proposals.

Responsibility for this special round of consultation rested with the Chief Minister's Department. Consultation was undertaken with identified stakeholders and, in particular, with the Small Business Committee of the Institute of Chartered Accountants.

The review concluded that, while the licensing requirements were not themselves unrealistic, some of the processes for implementation and reporting were inappropriate. This comment related principally to the design and format of required applications and reports.

These forms were subsequently redesigned following the finalisation of the review.

Recommendation 15

The Task Force recommends that the redrafted Agent's Act be subject to a Business Impact Assessment (as proposed in Recommendation 28) prior to finalisation.

The *Agents Act 1968* was subject to an extensive intra-agency review as part of the government's commitment to the principles of National Competition Policy.

Under this agreement all legislation was to be progressively reviewed with a view to justifying or removing anti-competitive aspects. The review included a Business Impact analysis and was completed in 2001.

The analysis concluded that there were no competition policy issues in relation to the regulation of real estate, stock and station and business agents, but that the imposition of a licensing regime on employment agents should be further reviewed.

This latter recommendation has since been overtaken by changes made by the Commonwealth to national employment practices and the operations of Centrelink.

The analysis also concluded that the existing statutory Travel Compensation Scheme, to protect deposits and payments made by prospective travellers, should be retained. It was considered that the benefits of this Scheme to consumers far outweighed the modest costs imposed on travel agents.

Amendments to the Act are expected to be debated in the ACT Legislative Assembly in late 2002.

Recommendation 16

The Task Force recommends that the Integrated Environment Protection Legislation be subject to a Business Impact Assessment (as proposed in Recommendation 28) prior to finalisation.

The Environmental Protection Bill was presented to Government Cabinet in 1996 accompanied by a Business Impact Statement (BIS).

This Bill drew together and updated existing legislation relating to environment safeguards and outlined, amongst other matters, requirements for the prudent and responsible management by business of waste and resources.

The BIS did not identify any adverse impacts upon business that were not justifiable in the best interest of the community.

Recommendation 17

The Task Force recommends that the Public Health Legislation be subject to a Regulatory Needs Analysis followed by a Business Impact Assessment (as proposed in Recommendation 28) prior to finalisation.

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A discussion paper titled *Reform of Public Health Legislation in the ACT* was released in 1994. This document outlined the need for a change in the current approach to health legislation and arose from a previous comprehensive review of the *Public Health Act 1928*. That study concluded that the Act should be substantially repealed and replaced with new legislation that would be simpler, more comprehensive and easier to administer.

When the *Public Health Act 1928* was eventually repealed in 1997, and replaced with the *Public Health Act 1997*, a decision was taken not to develop a formal regulatory impact statement or business analysis statement. This decision was taken in recognition of the comprehensive and wide ranging consultation that had taken place up to that time and an appreciation that this framework principally had implications of an administrative rather than public nature.

However, subsequent legislation developed within this framework, such as the *Food Act 2001*, has been subject to robust impact analyses.

Recommendation 18

The Task Force recommends that the Municipal Services Legislation be subject to a Regulatory Needs Analysis followed by a Business Impact Assessment (as proposed in Recommendation 28) prior to finalisation.

The proposal for the development of integrated Municipal Services Legislation did not proceed. Best regulatory practice indicated that smaller, purpose-written legislation packages was preferable to the creation of an omnibus model. This approach was also taken in the recent transition of the *Motor Vehicle Act 1936* into the more specialised yet simplified Road Transport suite of legislation.

The intended outcomes, in particular the achievement of a coherent approvals process for private use of public land and the appropriate regulation of activities on public land, were pursued through significant reviews and amendment of the following Acts:

- *Hawkers Act 1936;*
- *Roads and Public Places Act 1937;*
- *Land (Planning and Environment) Act 1991.*
- *Collections Acts 1959;*
- *Litter Act 1977; and*

There is still a minor degree of overlap between the *Land (Environment and Planning) Act 1991* and regulations relating to management processes within the *Roads and Public Places Act 1937*. It is noted that the Department of Urban Services is currently drafting terms of reference for a review to address these few remaining inconsistencies.

Recommendation 19

The Task Force recommends that the Land (Planning and Environment) Act 1991 undergo significant revision to reduce its complexity.

Concurrent with the 1995 Red Tape Task Force, the ACT Government announced an Inquiry into the ACT Leasehold System (the Stein Report). Details of this Inquiry and its outcomes are contained within the discussion of Recommendation 20 below.

Recommendation 20

The Task Force recommends that planning and land development processes:

- *need to be well documented, understandable to clients and readily available, and should include flow charts similar to those recommended in the DELP Process Review;*
- *need to have a mechanism that upon request allows clients to be appraised of what stage of the process their application has reached; and*
- *need to have information packages developed for each type of application (including steps, timeframes and contact numbers) in consultation with key private sector organisations.*

In 1994 the ACT Government conducted a review of approval processes and information systems within the Department of the Environment, Land and Planning (DELP). This Department was later abolished with its primary environment and land planning responsibilities being incorporated into the Department of Urban Services.

The DELP Process Review highlighted several procedural issues and achieved small but significant improvements in service delivery. The recommendations of the DELP review were further examined in the 1995 Stein Report.

Following the Stein Report the following changes were introduced:

- creation of the office of a Commissioner for Land & Planning;
- powers for the Minister to 'call in' and determine Development Applications;

- provision for referral of appeals to the Administrative Appeals Tribunal (AAT);
- allocation of new rights of appeal;
- development of an integrated Development Application form;
- provision for the (qualified) automatic renewal of leases;
- introduction of a Change-of-Use charge;
- revision of public notification processes; and
- repeal of the *Building (Design and Siting Act) 1964*.

A review conducted by consultants Ernst & Young in 1998 recommended further changes including revised organisation arrangements for Planning and Land Management (PALM) and further amendment of public notification arrangements.

Since the 1998 review, the *Land (Planning and Environment) Act 1991* has been subject to ongoing review and amendment. This has resulted in a range of procedural amendments leading to improved standards of service being achieved.

The most recent example of such a quality improvement is the introduction of the High Quality Sustainable Development initiative. This initiative provides industry with guidelines and checklists to enable them to measure the quality and sustainability of development proposals.

This process involves assessment against a range of environmental, energy, design and social benchmarks and is seen as a quasi-regulatory process that directly assists industry in better meeting the long-term needs of its customers.

The Committee notes the recent introduction into the ACT Legislative Assembly of a Bill intended to transfer PALM to the status of a Statutory Planning Authority. The range of eventual powers that may be exercised by this proposed Authority and what impact this may have upon PALM procedures is as yet unclear.

It is clear however, from consultation and business feedback provided to this Committee, that existing PALM processes are (fairly or unfairly) generally perceived as unsatisfactory and are in need of continued and critical review.

The Committee considers that failures of communication rather than errors of process are the principal contributors to this perception. These matters have been brought to the attention of the agency committee responsible for the development of the new PALM statutory authority structural model.

Recommendation 22

The Task Force recommends that further to the recommendation contained in the NCP (National Competition Policy) review “to facilitate concurrent amendment of the National Capital and Territory Plans”, the ACT Government supports the introduction of consistent timeframes and ensures that this is an issue that is taken up through the proposed review of the Land (Planning and Environment) Act 1991 and the implementation of the NCP review outcomes.

The management and amendment of the Territory Plan by the ACT is subject to a rigorous process of consultation with the National Capital Authority (NCA), the body overseeing Commonwealth interests in Canberra as the national capital.

The NCA itself is subject to a range of Parliamentary and sub-committee consultative mechanisms. Planning and Land Management (ACT) too has Ministerial and Assembly reporting obligations. All of these bodies set their own reporting and consultation timetables. The matching of these two different schedules and priorities has, on occasion, proven difficult.

These coordination problems cannot be corrected through the exercise or amendment of ACT regulation. In practice, close cooperative links between individual officers within PALM and NCA have been found to be generally effective with attention being paid by both parties, as far as possible, to an alignment of key release and consultation dates.

Recommendation 23

The Task Force recommends that the Department of Urban Services and the ACT Planning Authority immediately commence implementation of the package of process reforms for planning and land development applications.

This package of reforms arose from the 1995 Stein Report and subsequent Ernst and Young review in 1998. The range of reforms proposed and implemented is outlined above at Recommendation 20.

Recommendation 24

The Task Force recommends that individual design and siting approval functions within the ACT Planning Authority be transferred to the Department of Urban Services.

The 1995 Stein Report identified a significant lack of coordination between the land management and planning role of the Department of the Environment, Land and Planning (DELPL) and the municipal and infrastructure services provided by the Department of Urban Services.

To remove this anomaly, the Government created, from 1 July 1996, Planning and Land Management (PALM) as a division within the Department of Urban Services. With the concurrent creation of Environment ACT, this transfer effectively abolished the Department of the Environment, Land and Planning.

It is anticipated that the proposed statutory planning authority will assume the design and siting approval function currently exercised by PALM.

Recommendation 25

The Task Force recommends that the Department of Urban Services and the ACT Planning Authority establish an on-going forum with peak private sector organisations in the building sector, and with the professions including the Institute of Architects and the Association of Consulting Engineers to discuss implementation of the new administrative processes.

Consultative groups were maintained by the Building Controller within Planning and Land Management until 1999. The activities of this group were no longer considered relevant with the introduction of a process of private building certification at that time.

Planning and Land Management now hosts the ACT Development Assessment Forum. This voluntary body comprising relevant professional bodies, (such as the Master Builders' Association, ACT Property Council and the Institute of Architects), meets every 2-3 months to consider topical matters and innovations within both planning and industry circles.

Recommendation 26

The Task Force recommends that the ACT Planning Authority and the Department of Urban Services give high priority to coordination of their roles.

As indicated in Recommendation 23 above, on 1 July 1996 responsibility for most of the land and planning functions of the Department of the Environment, Land and Planning passed to the Department of Urban Services.

As such the activities of PALM came under the responsibility of the Chief Executive of the Department with PALM issues being considered within the Department by members of its Board of Management.

The Committee notes the intention of the current Government to establish a separate statutory planning authority. It is not known at this time how this transition will impact upon agency coordination arrangements.

Recommendation 27

The Task Force recommends that the ACT Government conduct an independent review of the operation and effectiveness of the new administrative processes relating to planning and land development two years after they commence.

Planning and Land Management was created on 1 July 1996. Ernst and Young conducted an independent review of the effectiveness of these new arrangements in 1998.

The review concluded that further reforms were required and recommended additional changes to PALM administrative arrangements and application processes.

The range of reforms introduced as a result of this review is detailed above in Recommendation 20.

The Task Force recommended that the Government put into place a 10-point package of structural and reform processes:

This Recommendation is a composite of previous and subsequent Recommendations. Accordingly, only those components that are not addressed under those separate Recommendations or within Chapters 6 and 9 of this Report are addressed in detail in this section.

- *a panel of business representatives to provide advice on regulatory reform issues*

Following the 1995 Report, a Consultative Panel of Business Representatives was formed to implement the recommendations. This panel comprised at various times between 20 and 30 business representatives. A smaller Business Advisory and Regulatory Review Team (BARRT) was established in 1999.

As part of the Government's 2001 election platform, BARRT was abolished and replaced with the Review for which this Committee was formed.

- *developing the Business Regulation Review Unit with a central focus of co-ordinating and furthering best practice in regulatory reform on a whole-of-government basis.*

The regulatory functions and responsibilities of the former Business Regulation Review Unit now rest with the Micro-Economic Reform Section, within ACT Treasury.

- *a regulatory needs analysis process and a business impact assessment process*

See Recommendation 31 and discussion in Chapter 6.

- *a staged review of existing regulations*

Clause 5 of the National Competition Agreement obliges the Territory to conduct a review of all legislation that has the capacity to restrict competition. The general approach is to repeal or amend legislation that cannot be shown to provide a net public benefit. The major component of this review was completed in July 2002, with some minor points yet to be finalised.

A listing of the Acts included within the review and a summary of the outcomes is at Appendix 6.

- *agency regulatory plans*

See Recommendation 32. The utility and ongoing relevance of such plans is discussed in detail in Chapter 6.

- *consultative mechanisms between the public and private sectors*

The ACT Government is committed to the provision of adequate consultation opportunities with all community stakeholders. These principles are embodied in the *Consultation Manual 2001* issued by ACT Chief Minister's Department.

In addition, the Government has recently established new links with the ACT business community through the formation of 3 new advisory boards. These boards represent the interests of business sectors that are of growing significance to the ACT economy.

These boards are:

- Business Canberra;
 - Small and Micro Business Advisory Council; and
 - Knowledge Based Economy Advisory Board.
- *effective enforcement of regulations*

This recommendation is discussed in detail in Chapter 9.

- *developing a culture of service*

All ACT agencies have adopted a regime of Customer Service Statements. These statements provide agency customers with an overview of the services available, the standards of timeliness and quality that may be expected in their dealings with each agency and details of processes by which grievances and complaints regarding service provision may be resolved.

A number of agencies have supported this program through a series of competitive customer service awards.

- *developing a culture of regulatory reform.*

The *Legislation Act 2001* provides for the mandatory inclusion of Business and Regulatory Impact Statements in all proposals for new or amended legislation. The utility of these statements is discussed in detail in Chapter 6.

Recommendation 29

The Task Force recommends that the Business Regulation Review Unit should report to the Minister responsible for regulatory reform.

The responsibility for the role previously undertaken by the Business Regulation Review Unit now rests with Micro-Economic Reform Section of ACT Treasury and reports to the ACT Treasurer. The ACT Treasurer currently has portfolio responsibility for the role of regulatory reform.

Recommendation 31

The Task Force recommends that the guidelines for the preparation of Business Impact Assessments be the subject of consultation with peak business and professional organisations in the ACT before they are implemented.

The Manual for Regulatory Reform (current version 2001) incorporates guidelines for the preparation of these statements. The original guidelines were the result of consultation with the business community conducted by the Consultative Panel of Business Representatives formed in 1996 to implement the Recommendations of the 1995 Report.

The future utility of these guidelines is discussed in Chapter 6.

Recommendation 32

The Task Force recommends that each Government agency prepare a regulatory plan at the start of each financial year. A regulatory plan should describe the regulatory proposals to be considered during the year and contain a summary of reforms proposed to existing regulations.

Up until 2001, each ACT agency produced a regulatory plan at the commencement of each calendar year. These plans were intended to signal upcoming legislative programs and facilitate discussion with other agencies and business and community stakeholders.

The Minister for Regulatory Reform tabled the first agency regulatory plans in the Legislative Assembly in September 1997. It was a requirement that all agencies report against their regulatory plans in their Annual Reports.

The utility and ongoing relevance of such plans is discussed in detail in Chapter 6.

Recommendation 33

The Task Force recommends that the ACT Government prepare guidelines for regulatory enforcement which acknowledge that the greater proportion of resources and endeavour should be devoted towards obtaining voluntary compliance by business.

Various models for voluntary compliance regimes have been considered by ACT agencies since 1995. The Committee has reviewed these models and conducted a study of interstate and international regulatory practice.

This Committee considers that in certain limited circumstances a voluntary or self-regulation role may be appropriate. Such an approach would also serve to allow agency resources to be applied to areas of real community or regulatory concern, for example, community health and safety.

However, agencies need to be selective in applying this approach if it is not to give rise to the perception of responsibility shifting or preferential treatment within and between regulated activities and the community.

A fuller discussion of the merits of voluntary and self-regulation regimes is included within Chapter 9.

Recommendation 35

The Task Force recommends the ACT Government consider the implementation of management standards against which the regulatory reform performance of agencies can be assessed.

ACT Government agencies operate under a budget and performance accountability model based upon the measurement of outputs. These requirements are outlined in the *Financial Management Act 1996* and the *Accounting Policy Manual*. In simplest terms, achievement, not activity, is measured.

Other than the development of particular regulatory initiatives, ongoing implementation of regulations under this system is considered to be an input. It is considered a task and not a goal.

Major policy development issues do find expression, and hence measurement, in agency output statements. These tend to be high profile projects such as the development of new legislation but these, once implemented, are replaced by new projects in subsequent reporting periods.

A discussion of management standards and accountability mechanisms in use within interstate jurisdictions is included in Chapter 6.

Submission Guidelines

To assist contributors to the Review the Committee issued guidelines for the preparation of Submissions. The following guidelines were posted on the Review webpage and provided in printed form to prospective contributors.

Contents

- There is no fixed format or length for any Submission.
- You may use your Submission to convey facts, opinions, arguments or make recommendations.
- You do not need to address all of the Terms of Reference.
- It would be appreciated if Submissions of more than 4 pages could contain a summary of issues raised in the text.
- All Submissions received will be considered as public documents and, subject to confirmation of authenticity, will be displayed for information upon the Review's webpage (www.act.gov.au/ti/brr).
- To enable your Submission to be authenticated you should include details of:
 1. your name, phone number and address (email and postal); and
 2. who you are representing in your Submission. If you are writing on behalf of an organisation you should clearly identify it and the position of authority that you occupy.

Rejection of Submissions

The Committee reserves, at its discretion, the right to:

1. reject any Submissions that fall outside of its Terms of Reference;
2. reject, or only partially release, any Submission that contains potentially defamatory or abusive statements about named individuals or organisations; and
3. reject any Submission the authenticity of which cannot reasonably be established.

Confidentiality

You may indicate to the Committee that you consider the matters raised within your Submission to be "Confidential" or "Commercial in Confidence".

You should do this by clearly marking the top of each page submitted with those words along with a statement or explanation as to why release of the information may be damaging.

The Committee will sympathetically consider all such claims. However, in the spirit of open and transparent consultation, it is far more useful to the Committee if issues raised and information on which it has been requested to act, can be publicly released and freely discussed in a public forum.

The Committee may choose not to use information or consider or endorse recommendations made to it in confidence that cannot be validated or authenticated through public scrutiny or inquiry.

Written Submissions Received

The Committee received 12 Submissions during the course of its review. These are available in full text versions at www.act.gov.au/ti/brr or in hardcopy by inquiry with the Secretariat.

The Committee responded to all written submissions in writing. This response was additional to any discussion of issues contained within this report.

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The following is a summary of the issues raised in these formal Submissions. Submissions are listed in order of their receipt by the Committee.

Submission 1

Submitted by Belpet Pty Ltd t/a Bates Pet Paradise, Woden

This Submission raised a number of issues relating to perceived inconsistencies in requirements and administrative application of the *Animal Welfare Act 1992*, *Nature Conservation Act 1980* and, to a lesser degree, the *Fair Trading Act 1992*.

Major issues raised in the submission were:

- the inequitable application of regulation between the retail sector and private individuals arising from inconsistency within the regulatory regime,
- unnecessary and unexplained licensing delays,
- cross-border regulatory control inconsistencies, and
- ineffective or officious enforcement of the regulatory regime on occasion.

Submission 2

Submitted by Mr Les Hanbidge, Taxi Operator

This Submission questioned the basis of the draft recommendations of the Independent Competition and Regulatory Commission (ICRC) report into the reform of aspects of the ACT taxi and hire car industry.

A formal report was issued by the Commission in June 2002. The Government has not as yet responded to this report nor made any announcement of any decision or regulatory policy options it may, or may not, choose to pursue in this matter.

This submission was examined by the Committee in this light. The Committee determined that its Terms of Reference were limited to an examination of existing business regulation and did not consider it appropriate to speculate on issues that had not yet been decided or implemented by Government.

Submission 3

Submitted by Mr Dennis Foot, Solicitor

This Submission raised issues relating to processes for the application for rates and utilities certificates for the purposes of residential conveyancing.

In particular the Submission questioned the arrangements for the lodging of applications and the payment of fees at the ACT Revenue Office (ACTRO) and ACTEW and proposed a range of procedural changes for consideration by those agencies.

Submission 4

Submitted by Mr Digby Swan, Liquor Shop Proprietor

This Submission proposed a streamlining of the record keeping requirements of the *Liquor Act 1975*.

Liquor licence fees are calculated on the total value of purchases with a fee of either \$750 or \$2,000 depending upon whether purchases exceed \$100,000 per annum or not. The onus is on the licensee to maintain records to prove that liquor purchases fall within the lower category, otherwise the \$2,000 fee is levied.

The Submission proposed that GST related records already kept by licence holders could be used for this purpose.

Submission 5

Submitted by Mr Settimio Manca, Spokesperson, Downer Traders Group

This Submission raised concerns about the maintenance and enforcement of public places regulations in pedestrian shopping precincts such as the Downer Shopping Village.

Specifically, these issues related to the disrepair of paving and the activities of skateboarders, cyclists and roller skaters in the vicinity of outdoor café areas. The Submission also requested the erection of barriers and signage to address these concerns.

The Committee examined these matters and determined that these were primarily issues of maintenance of public assets and public order. As such they were not considered to be regulatory imposts upon business and therefore outside of the Committee's Terms of Reference.

These matters were referred to the appropriate agencies within the Department of Urban Services and the ACT Police for their attention.

Submission 6

Submitted by Canberra Taxi Proprietors' Association Limited

This Submission questioned the basis of the draft recommendations of the Independent Competition and Regulatory Commission (ICRC) report into the reform of aspects of the ACT taxi and hire car industry.

In this regard it was considered to be identical in content and intention to Submission 2 discussed above. The Committee again determined that this matter was outside of its Terms of Reference.

Submission 7

Submitted by ACTEW Corporation

This Submission addressed in a general manner the statutory obligations met by ACTEW in its ACT operations. In particular, the *Utilities Act 2000* and the *Water Resources Act 1998* are noted as directly impacting on ACTEW business operations. The submission flags ACTEW's intention to make submissions to forthcoming reviews of these Acts.

No issues were raised for the consideration of the Committee in this Submission.

Submission 8

Submitted by Housing Industry Association (ACT)

This Submission raised issues of cross border inconsistencies as a pressing regulatory burden on the building industry. Differences between ACT and NSW practice are noted in the areas of:

- workers' compensation arrangements;
- definitions used in defining employee and contractor status. In particular it is proposed that the tests prescribed in the Commonwealth Alienation of Personal Services Income legislation should be adopted for the purposes of the *Payroll Tax Act 1987*;
- levels of concessions provided to low income and first-home buyers. It is proposed that revenue from stamp duties, rates and land taxes be used to increase these concessions.
- licensing and continuing professional development requirements; and
- the operation of the industry-based fidelity fund to provide warranty insurance for homebuyers provided for by the *Building Amendment Bill 2002*.

The Submission also addressed issues relating to ACT planning processes. Specifically:

- a proposal to abolish third-party appeal rights to development applications with community interests to be represented in the process by officials of Planning and Land Management;
- a proposal to remove the power of Members of the ACT Legislative Assembly to intervene and decide on proposed variations to the Territory Plan; and
- a proposal to reduce rates of betterment tax applied to land in outlying suburbs to encourage building in those areas.

The Committee has examined this Submission and has determined that the issues relating to the application of betterment tax and the provision of subsidies and grants to consumers are issues outside of its Terms of Reference.

The offering of concessions and the uses to which government taxation revenues are directed are more properly matters of government social policy rather than business specific regulation.

The extent to which a schedule of differential betterment tax acts as a driver for development is considered an issue better examined by relevant agencies in the wider context of sustainability.

The Committee has referred this particular proposal to the newly established Office of Sustainability within Chief Minister's Department.

Submission 9

Submitted by: Canberra Business Council

This Submission raised an eclectic range of issues reflecting a diverse membership base. Specifically:

- a lack of consistent interpretation across different business related legislation, in particular the lack of a standard definition of who is or is not a "contractor";
- the potential benefits of a Master Licence regime similar to that outlined in Recommendation 3 of the *1995 Red Tape Task Force* Report. The Submission also suggests merit in the cross-skilling of inspectorate staff;
- a lack of quality and timely information relating to changes to government policy and legislation affecting business operations and decisions. For instance, the Submission criticises the processes by which Hansard records of ACT Legislative Assembly proceedings are placed upon the web;
- poor integration between Government websites including Canberra Connect, the ACT Business Entry Point and the sites of other agencies;
- cross-border licensing arrangements in the bus public transport industry;

- perceived inconsistencies in information requirements for accreditation as a registered training organisation between NSW and ACT;
 - the Independent Competition and Regulatory Commission review of the ACT taxi industry;
 - alleged delays in planning approval processes;
 - incompatibility of workers' compensation arrangements between NSW and ACT;
 - the level of fees charged for ACT business licences and permits compared to NSW;
 - agency administration of government tender management processes; and
 - improved systems to provide compliance assistance and advice to business.
- It is proposed that innovative, user-friendly technologies should be implemented. The Submission also proposes the incorporation of a means of logging complaints and concerns about business regulations on a government website.

The Committee has examined this wide range of issues. In particular, it has examined the concerns relating to the proposed reform of the ACT taxi industry and the operation of NSW based bus operators in the ACT and determined that these are matters outside of its Terms of Reference.

In the case of the taxi review, the Government has not announced a position on any options or decision for reform. It would not be appropriate for the Committee to speculate on the possible business impacts of regulations that have not been announced.

The Committee has investigated the claims made in the Submission regarding the restriction on operation of regular bus routes within the ACT by Deanes Bus Services, based in Queanbeyan.

It has been established that this restriction is not a regulatory prohibition aimed at NSW operators but the effect of the ACT Government having exercised its power to let an exclusive contract for such services to ACTION Authority.

A 5-year contract conferring an “exclusive right and obligation” of ACTION to operate regular route bus services within the ACT was signed in January 2002. The right of Deanes (and other cross-border operators) to continue to run pre-existing services within the ACT is protected under the terms of that contract. However, a restriction on the introduction of new services applies to all non-ACTION operators, including those based within the ACT.

As such this is considered a contractual rather than a regulatory impost on Deanes and beyond the Committee's Terms of Reference.

Submission 10

Submitted by: Motor Trades Association (ACT)

This Submission raised four major issues:

- enforcement of the *Motor Vehicle Service and Repair Industry Code of Practice*

This Code was developed in 1999 by the Office of Fair Trading and provided for the establishment of a Code Administration Committee to meet annually to review and recommend changes to the Code.

The Association considers that a review is needed urgently to address the following issues:

- the Code be changed to a voluntary code, preferably administered by industry;
 - the composition of membership of the Dispute Resolution Committee be amended to allow for a wider panel of members. The Association contends that some Dispute Resolution Committee members are not qualified to judge whether or not the level and cost of repairs undertaken, and now subject to dispute, are reasonable or not, due to a lack of relevant experience; and
 - a perception that licence fees are disproportionate to the benefits derived from the licence due to a lack of applicability across the industry. This issue is related to the matter of home-based repairers discussed below.
- processes for the remediation of former underground petroleum storage sites (petrol stations)

The Association considers that unnecessary legislative and bureaucratic processes relating to these sites are detrimental to business development.

- restrictive trading conditions of the Motor Dealer's Licence

Under the *Sale of Motor Vehicles Act 1977*, motor dealers within the ACT are licensed to carry out their business from specified premises within the Territory. However, any dealer that displays 'off site' at events like the Canberra Travel and Leisure Show - with sales staff present - is required to obtain an additional permit.

The Association considers that this additional impost should be reviewed.

- the regulation of home-based motor vehicle repairers

There is a perception that these repairers unfairly avoid regulatory controls imposed on complying businesses. In particular, there is a concern that regulations relating to the disposal of oils and compliance with other environmental guidelines are being neglected.

This issue was also raised with the Committee in discussions with the Phillip Traders' Association.

Submission 11

Submitted by: Mr Ken Helm, Winemaker

This Submission was received after the closing date had passed. However, the Committee considered that the issues raised were of significance to the review and accepted the late lodgement.

The Submission proposes a number of amendments to the *Liquor Act 1975* to simplify retailing arrangements for the local wine industry and encourage responsible alcohol consumption at public events.

Specifically, these suggestions relate to the ability to retail individual unopened bottles of ACT Region wine at public and promotional events, such as the Royal Canberra Show, and the introduction of a Vignerons Licence to enable local wine-growers to claim the Federal Wine Equalisation Tax rebate for cellar door sales.

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Submission 12

Submitted by: Master Builders' Association (ACT)

This Submission was received after the closing date had passed. However, the Committee considered that the commonality of issues raised with those previously expressed by the Housing Industry Association (Submission 8) provided a useful complement to those views.

Views on the appropriateness of public consultation mechanisms and the role of Members of the ACT Legislative Assembly in relation to Variations to the Territory Plan are again raised. It is proposed that these powers be vested instead in the proposed Planning Authority currently being considered by the ACT Government.

A review of the use of Betterment Tax revenue is also proposed.

Oral Submissions Received

The Committee recognised that not all interested parties had the resources or time to prepare and lodge formal Submissions.

Accordingly, the Committee and Secretariat also conducted a series of informal meetings with business organisations and individuals during which issues were raised and discussed. A record of each meeting summarising these issues was prepared and issued to all parties.

Issues relevant to the Committee's Terms of Reference are summarised below:

- administration of tender processes by government agencies;
- single point access to business related information by small business;
- a perceived over-dependence on web-based information systems within agencies;
- the need for a plain-language approach to government publications;
- the role of BusinessACT and the Business Licence Information Service (BLIS);
- the role of the proposed Statutory Authority for planning matters;
- inconsistency in the application of regulations to home-based businesses;
- access to traineeship schemes for young persons; and
- a lack of compatibility of Workers' Compensation arrangements between NSW and ACT.

DETAILS OF CONSULTATION

The Committee adopted a policy of open and accessible consultation. Processes implemented were intended to allow as wide a cross-section of the community as possible to participate in debate and submit their comments.

Meetings with Business and Industry Groups

The Committee met with:

- Canberra Business Council;
- ACT and Region Chamber of Commerce and Industry;
- Independent Competition and Regulatory Commission;
- ACT Chamber of Women in Business;
- Home Based Business Association (ACT Capital Region) Inc;
- CREEDA Business Centre, Downer;
- Canberra Small Business Council;
- ACT Housing Industry Association;
- Motor Traders' Association ACT Limited;
- Phillip Traders' Association;
- National Federation of Independent Businesses; and
- Small and Micro Business Advisory Council.

Meetings with Individual Businesses

- ISO Business Management;
- Uhlmann Communications;
- Kevin Chapman Real Estate;
- Tom's Trash Paks (O'Connor);
- Mr Graeme Camage, Property Developer;
- Thyme Out Café;
- Farrer Traders Group;
- Mr Tony Di Marco, Commercial Landlord;
- Mr Carl Ryman, Real Estate Agent;
- Mr Joe Notaris, Property Developer; and
- Hackett Community Association.

Public Meetings and Workshops

The Committee conducted seven (7) public meetings at:

Date	Venue	Time of Day
7 May 2002	Pilgrim House Civic	Morning
8 May 200	Tuggeranong Community Centre	Afternoon and Evening
13 May 2002	Western District Rugby Union Club	Afternoon and Evening
14 May 2002	Southern Cross Club, Woden	Afternoon and Evening

Attendances were disappointing at all venues with some sessions (Macquarie and Woden afternoon sessions) attracting no attendance. These particular sessions were adversely affected by the sudden onset of cold rainy weather.

A number of persons and organisations registering for meetings did not attend. Follow-up by the Secretariat indicated that while regulation is a general topic of interest to most businesses it is not necessarily a current priority. One Tuggeranong business proprietor commented that “ it’s probably a problem (regulation), but not a problem this week”. This supports anecdotal evidence provided to the Committee from professional advisors within the business community that proprietors are too busy running their business to participate in anything other than their problem of the moment.

Only eight business operators attended during the public meeting program. Nonetheless, a number of issues were raised by persons who would not otherwise have been able to participate in the review. In this regard at least, the intention of the Committee in extending opportunities to all business owners to participate was met.

A series of planned workshops to address specific cross-border and regional shopping centre needs did not proceed due to illness amongst key industry participants. These workshops were replaced by a series of workplace and shopping centre visits by Secretariat staff.

Public Hearings

Given the disappointing response by both industry and community to the public meetings convened by the Secretariat, the Committee did not consider that an additional round of public hearings was warranted.

Contact with Interstate Government Agencies

The Secretariat made contact and discussed regulatory issues with:

- Office of Regulatory Review, Productivity Commission (Commonwealth);
- Small Business Development Corporation, Western Australia;
- Department of State Development, Queensland;
- NSW Premier's Department, Cross-Border Anomalies Committee; and
- Department of Industry and Trade, South Australia.

120 Assistance Provided by Officers of ACT Government Agencies

The Committee and Secretariat drew heavily upon the knowledge and experience of ACT Public Service officers in researching aspects of this Report. The cooperation and practical advice and assistance offered by these officers is much appreciated.

The Committee would particularly like to acknowledge the assistance provided by:

- **ACT Department of Justice and Community Safety**
- Mr Tony Brown, Director/Registrar, Office of Fair Trading
- Mr Roger Sharp, Acting Manager, Registration Unit, Office of Fair Trading
- Mr Peter Quinton, Director, General Law Group
- Mr Arthur Hoyle, General Law Group
- **ACT Department of Urban Services**
- Ms Rozzi Smith, Manager, HelpSHOP
- Mr David Snell, Manager, Procedures and Leasing, Planning and Land Management
- Mr Gary Luck, Senior Project Officer, Policy Coordination
- Mr Gordon Elliott, Manager, Corporate Budgets
- Mr Daniel Walters, Contaminated Sites Officer, Environment ACT
- Mr Tim Atkinson, Senior Legislation Officer, Land Information and Building Services, Planning and Land Management
- **ACT Treasury**
- Mr Dan Stewart, Acting Manager, Economic Analysis
- Mr Bob Venables, Manager, ACT Government Procurement Board Secretariat

- **ACT Workcover**
- Ms Marie Mannion, Manager, Regulatory Leadership
- **ACT Chief Minister's Department**
- Ms Jenny Paul, Program Manager, BusinessACT
- Ms Sally Readshaw, Policy Officer
- **ACT Department of Education, Youth and Family Services**
- Mr Paul Fennell, Manager, Purchasing (Training and Adult Education)
- Ms Lindsay Ferguson, Senior Policy Officer, Policy and Coordination
- **ACT Department of Health and Community Care**
- Mr John Woollard, General Manager, Health Protection Service
- Mr Jean-Paul Donda, Cash Flow Manager, Financial Management

VOLUNTARY CODES OF PRACTICE

This list includes all guideline and standards documents currently in use within ACT agencies for which the Committee could not identify a specific statutory requirement and/or power for enforcement. Guidelines and standards for which statutory backing exists are included within the legislation listings in Appendix 5.

It is evident that agencies use a range of non-enforceable codes of practice, guidelines and/or management plans as either administrative or educative tools. On occasion, these non-enforceable documents are used as a condition in government contracts/agreements/permits with business operators to ensure compliance. The Committee does not condone this ad-hoc approach to enforcement.

For this reason, the Committee has had difficulty in assessing into which category to place the many standards and guidelines issued by Planning and Land Management and Environment ACT. A large number of codes are in use within both organisations.

While in some cases a statutory link for the existence of these codes can be established it is noted that only in a very few cases is there any statutory provision for the enforcement of these codes. The issue of whether these codes should be formalised is discussed in Chapter 9.

The Committee has identified the following codes that fall within this category:

DEPARTMENT OF HEALTH AND COMMUNITY CARE

- *Post-Exposure Management Guidelines* (issued by the Health Protection Service)

This is a 'best practice' clinical guideline.

DEPARTMENT OF TREASURY

- *ACT Gaming Industry Voluntary Code of Practice* - developed by the ACT gaming industry

This Code will become mandatory by graduated commencements starting in September 2002.

DEPARTMENT OF URBAN SERVICES

Environment ACT

The *Animal Welfare Act 1992* provides for the following non-enforceable codes of practice:

- Animals in pounds and shelters
- Bird welfare
- Cattle welfare
- Cat welfare - code of practice

- Code of practice - dog welfare
- Code of practice - Horse welfare
- Goat welfare
- Humane control of the fox
- Kangaroo control
- Pet grooming
- Pet shops
- Saleyards
- Sheep welfare
- Slaughtering livestock
- Welfare of animals - poultry
- Welfare of farmed deer
- Welfare of greyhounds

It is noted that the Animal Welfare Advisory Committee has recently recommended to the Minister for Urban Services that consideration should be given to making elements of these codes mandatory. The Business Regulation Review Committee strongly supports this recommendation.

- *Code of Practice for the Humane Destruction of Kangaroos in the ACT.* This is used as a condition in permits to kill native animals issued in accordance with the *Nature Conservation Act 1980*.
- *ACT Commercial Waste Industry Code of Practice* - a mechanism for dealing with unresolved waste collection noise complaints (Environment Management Authority).
- *Bush Friendly Nurseries Scheme* - administered by ACT Parks and Conservation Service to discourage sales of identified plant species.
- *Australian Alps Cooperative Management Program Memorandum of Understanding.* This is a bilateral agreement of governments with interests in the Snowy Mountains catchment. Codes are in place under this agreement relating to:
 - Snow Camping;
 - River Users;
 - Huts Code;
 - Bushwalking;
 - Mountain Biking;
 - Horse Riding; and
 - Car-Based Camping.
- *Mountain Bike Riders Code for Bushland and Forest Area in the ACT.*

- *Erosion and Sediment Control During Development Guideline.*

This voluntary guideline is generally made a condition to an agreement to undertake work on disturbed land greater than 3 hectares. The Department has reserved the right to withdraw from the agreement and insist upon the applicant making formal application to the Environment Protection Authority for an environment protection authorisation in case of default. This guideline is noteworthy in that it represents an attempt by the agency to reduce the red-tape burden of a formal approval process for parties prepared to comply.

Policy Coordination

- *ACT Arts Funding Program.*

ArtsACT is responsible for administering the ACT Arts Funding Program through which funding is provided to local arts organisations and artists to support infrastructure, projects and activities. The administrative arrangements and general terms and conditions of funding are set out in an information booklet *ACT Arts Funding Program* that is revised and updated annually.

Planning and Land Management (PALM)

PALM is responsible for administration and management of the Territory Plan and for compliance with Commonwealth agreement provisions relating to the use of Territory lands.

The Territory Plan is intended to ensure, in a manner not inconsistent with the National Capital Plan (a Commonwealth code administered by the National Capital Authority), that the planning and development of the Territory provides an ecologically sustainable, healthy, attractive, safe and efficient environment in which to live and work.

The Territory, its Executive, a Minister or a Territory Authority shall not do or approve of any act that is inconsistent with the Plan.

The following Planning Guidelines have been adopted by PALM for the purposes of guiding planning decisions including consideration of development and land use proposals and are contained in the Register of Planning Guidelines supporting the Territory Plan.

- *ACT Crime Prevention & Urban Design Resource Manual, 2000*
- *ACT Environment & Health Wastewater Reuse Guidelines, April 1997*
- *ACT House Energy Rating Scheme Guidelines for Quality ACT Residences, September 2001*
- *ACT Parking & Vehicular Access Guidelines, October 2000*
- *Belconnen Lake Shore Master Plan, December 1998*
- *Belconnen Town Centre Master Plan, December 1998*

- *Building Our City*, September 2001
- *Canberra Landscape Guidelines*, 1991-93 *
- *Subdivision Implementation Plans for Land Development projects Under Deed of Agreement – Guidelines for Submission*
- *Driveways, Pathways & Landscape Works for Land Development Projects Under Deed of Agreement – Guidelines for Final Certificate Approval, Bond Reduction*
- *Civic West Pedestrian Links - Master Plan*, September 2001
- *Conder 9/Banks 3 Development Control Plan*, June 2000
- *Designing for High Quality & Sustainability*, June 2001
- *Development Control Plan for Calwell Sections 754 & 756*, June 2000
- *Energy Guidelines*, 1993
- *Environmental Flow Guidelines*, May 1999
- *Floodplain Protection Guidelines*, December 1995
- *Guidelines for the Assessment of Development Proposals for Local Centres*, July 1997
- *Guidelines for Residential Development in the Forrest/Red Hill/Deakin/Griffith Historic Areas*, November 1994
- *Guidelines for Redevelopment in Area B2 Kingston/Griffith*, May 1994
- *Gungahlin Telecommunications Master Plan*, February 2000
- *Kambah Local Centre Master Plan*, September 2001
- *Land Capability Assessment Guidelines*, December 1999
- *Location Guidelines for Community & Recreation Facilities*, February 1998
- *Macgregor Local Centre Master Plan*, September 2001
- *Noise Management Guidelines (Draft)*, March 1996
- *On-site Stormwater Detention Policy (Interim)*, October 1996
- *Residential Areas (Lansdown Guidelines)*, November 1994
- *Temporary Care Accommodation*, September 1997
- *Tuggeranong Lakeshore Master Plan*, February 2001
- *Water Sensitive Urban Design Guidelines* (to be introduced from November 2002)
- *Woden Master Plan (Draft)* 2002
- *Yarralumla Brickworks South Canberra Policy Plan*, October 1988

City Management

The following Standards are utilised by the Department of Urban Services in government contract clauses and may also be made conditions of Development Approvals under the *Land (Planning & Environment) Act 1991*:

- *Basic Specification for Roads Hydraulic Services and Landscaping*; #
 - *Design Standards for Urban Infrastructure*;
 - *Guidelines on Engineering Practices (GEEP) Roads & Bridges*; *
 - *Guidelines on Engineering Practices (GEEP) Public Lighting*; *
 - *Standard Engineering Practice Manual - Urban Stormwater, Edition 1*; *
 - *Standard Specification for Urban Infrastructure Works*;
 - *Standard Requirements for Documentation: Requirements of City Management for Works as Executed Quality Records*; and
 - *Temporary Traffic Management Plans* (to ensure road user safety during roadworks).
- # to be superseded in September 2002 by *Standard Specification for Urban Infrastructure Work*,
- * to be superseded in September 2002 by *Design Standards for Urban Infrastructure*

ACTEW

The following standards are applied in relation to works involving, adjacent to or affecting public utilities infrastructure:

- *Water and Sewerage Service and Installation Rules*
- *Building over or near ACTEW Corporation water and sewer pipes*
- Standards used in *Approval & Design processes by Infrastructure Policy Agencies Document No. 8002*, April 2000
- *ACT Code for Residential Development*, 1993
- *Gross Pollutant Trap Guidelines*, April 1992
- *Underground Services in a Shared Trench Agreement*, 1996
- *Community Safety Guidelines*, 1999

ACT LEGISLATION AFFECTING BUSINESS ACTIVITY

This listing summarises existing ACT legislation (as at 30 June 2002) that the Committee considers has the intention or significant affect of regulating business activity within the ACT.

Where appropriate, guidelines, codes of practice and other standards provided for and issued under this legislation are noted.

DEPARTMENT OF HEALTH AND COMMUNITY CARE

Health Protection Service

Drugs of Dependence Act 1989

- Drugs of Dependence Regulations 1993

Food Act 2001

- Food Regulations 2002
Food Standards Code (National)

Poisons Act 1933

- Poisons Regulations 1933

Poisons & Drugs Act 1978

- Poisons & Drugs Regulations 1993

Public Health Act 1997

- Public Health Regulations 2000
ACT Health Care Facilities Code of Practice 2001
Cooling Towers and Warm Water Storage Systems Code of Practice
Drinking Water Quality Code of Practice
Infection Control Code of Practice (Draft)
Public Health (Hairdressing) Code of Practice 2000
Swimming/Spa Pools Code of Practice

Radiation Act 1983

- Radiation Regulations 2002

Smoke-free Areas (Enclosed Public Places) Act 1994

- Smoke-free Areas (Enclosed Public Places) Regulations 1994

Tobacco Act 1927

- Tobacco Regulations 1991
- Tobacco Regulations Amendment 2001

Registration Boards

Chiropractors & Osteopaths Act 1983

Dental Technicians & Dental Prosthetists Registration Act 1988

Dentists Act 1931

Medical Practitioners Act 1930

- Medical Practitioners (Advertising) Regulations 1985

Nurses Act 1988

Optometrists Act 1956

Pharmacy Act 1931

Physiotherapists Act 1977

Podiatrists Act 1994

Psychologists Act 1994

Veterinary Surgeons Act 1965

CHIEF MINISTER'S DEPARTMENT

Boxing Control Act 1972

Canberra Tourism & Events Corporation Act 1997

Mutual Recognition (Australian Capital Territory) Act 1992

DEPARTMENT OF EDUCATION, YOUTH AND FAMILY SERVICES

Board of Senior Secondary Studies Act 1997

Building & Construction Industry Training Levy Act 1999

- Building & Construction Industry Training Levy Regulations 2001

Children and Young People Act 1999

ACT Centre Based Children's Services Conditions for Approvals in Principle and Licences

ACT Family Day Care Conditions for Approvals in Principle and Licences

ACT Independent Preschools Conditions for Approvals in Principle and Licences

ACT Playschools Conditions for Approval in Principle and Licences

ACT School Age Care Conditions for Approvals in Principle and Licences

Vocational Education & Training Act 1995

- Vocational Education & Training Regulations 1998
 - Australian Quality Training Framework (national)
 - Standards for Registered Training Organisations (national)
 - Standard for State & Territory Registering/Course Accrediting Bodies (national)

DEPARTMENT OF JUSTICE AND COMMUNITY SAFETY***Associations Incorporation Act 1991***

- Associations Incorporation Regulations 1991

Auctioneers Act 1959***Business Names Act 1963***

- Business Names Regulations 1966

Co-operative Societies Act 1939

- Co-operative Societies Regulations 1945

Commercial Arbitration Act 1986***Common Carriers Act 1902******Conveyancing Act 1919******Conveyancing & Law of Property Act 1898******Corporations Act 2001 (Commonwealth)***

- Corporations Rules 2001

Discrimination Act 1991***Drugs of Dependence Act 1989***

- Drugs of Dependence Regulations 1993

Electronic Transactions Act 2002***Firearms Act 1996***

- Firearms Regulations 1997

Innkeepers Liability Act 1902***Land (Planning & Environment) Act 1991***

- Land (Planning & Environment) Regulations 1992

Leases (Commercial & Retail) Act 2001

- Leases (Commercial and Retail) Regulations 2002

ACT Commercial & Retail Leases Code

Legal Practitioners Act 1970

Mediation Act 1997

Mercantile Law Act 1962

Partnership Act 1963

Pawnbrokers Act 1902

Sale of Goods Act 1954

Trustee Act 1925

Trustee Companies Act 1947

Office of Fair Trading

Agents Act 1968

Agents Regulations 1985

Classification (Publications, Films and Computer Games) (Enforcement) Act 1995

- Classification (Publications, Films and Computer Games) (Enforcement) Regulations 1995

Consumer Credit (Administration) Act 1996

- Consumer Credit (Administration) Regulations 1996

Consumer Credit Act 1995

- Consumer Credit Regulations 1996

Credit Act 1985

- Credit Regulations 1985

Door to Door Trading Act 1991

Eggs (Labelling & Sale) Act 2002

Fair Trading (Consumer Affairs) Act 1973

Fair Trading (Fuel Prices) Act 1993

Fair Trading Act 1992

- Fair Trading Regulations 1995
 - Access Control Industry Code
 - ACT Fitness Industry Code
 - Bodyguard Industry Code
 - Cash Transit Industry Code
 - Crowd Marshals Industry Code
 - Guard and Patrol Services Industry Code
 - Motor Vehicle Service & Repair Industry Code of Practice

Lay-by Sales Agreements Act 1963***Liquor Act 1975***

- Liquor Regulations 1979
 - Licensing Standards Manual

Prostitution Act 1992

- Prostitution Regulations 1993

Sale of Motor Vehicles Act 1977

- Sale of Motor Vehicles Regulations 1977

Second-hand Dealers Act 1906

- Second-hand Dealers Regulations 2002

Trade Measurement (Administration) Act 1991***Trade Measurement Act 1991***

- Trade Measurement (Measuring Instruments) Regulations 1991
- Trade Measurement (Miscellaneous) Regulations 1991
- Trade Measurement (Prepacked Articles) Regulations 1991
- Trade Measurement (Weighbridges) Regulations 1991

Trading Stamps Act 1972**DEPARTMENT OF TREASURY*****ACTEW/AGL Partnership Facilitation Act 2000******Bank Mergers Act 1997***

Betting (ACTTAB Limited) Act 1964

Casino Control Act 1988

- Casino Control Regulations 1992

Competition Policy Reform Act 1996

Duties Act 1999

Gambling & Racing Control Act 1999

Games & Wages & Betting-houses Act 1901

Gaming & Betting Act 1906

Gaming Machine Act 1987

- Gaming Machine Regulations 1987

Government Procurement Act 2001

- Procurement Guidelines 2002

Interactive Gambling Act 1998

- Interactive Gambling Regulations 1998

Payroll Tax Act 1987

Pool Betting Act 1964

Race & Sports Bookmaking Act 2001

- Race & Sports Bookmaking Regulations 2001

Racing Act 1999

Taxation Administration Act 1999

Territory Owned Corporations Act 1990

Unlawful Games Act 1984

Utilities Act 2000

- Utilities Networks (Public Safety) Regulations 2001
 - Contestable Work Accreditation Code
 - Consumer Protection Code
 - Dam Safety Code
 - Electricity Capital Contributions Code
 - Electricity Distribution Supply Standards Code

Electricity Network Boundary Code
Electricity Network Use of System Code
Electricity Service and Installation Rules Code
Electricity Supplier of Last Resort
Emergency Planning Code
Franchise Customer Metering Code
Gas Capital Contributions Code
Gas General Metering Code
Gas Network Boundary Code
Gas Safety and Operating Plan Code
Management of Electricity Networks Assets Code
Water Boundary Code
Water Metering Code
Water and Sewerage Network Code
Water and Sewerage Service & Installation Code
Water Supply & Sewerage Service Standards Code

DEPARTMENT OF URBAN SERVICES

ACTION Authority Act 2001

Collections Act 1959

Hawkers Act 1936

Road Transport (Dimensions & Mass) Act 1990

- Road Transport (Dimensions & Mass) Regulations 2000

Road Transport (Driver Licensing) Act 1999

- Road Transport (Driver Licensing) Regulations 2000
Code of Practice for Accredited Driving Instructors

Road Transport (General) Act 1999

- Road Transport (General) Regulations 2000
- Road Transport (Hire Vehicle Services) Regulations 2000
- Road Transport (Offences) Regulations 2001

Road Transport (Public Passenger Services) Act 2001

- Road Transport (Public Passenger Services) Regulations 2002
 - Taxi Network Performance Standards
 - Service Standards for Accredited Bus Operators
 - Service Standards for Accredited Taxi Network Providers
 - Service Standards for Accredited Taxi Service Operators
 - Taximeter Standards
 - Taxi Security Camera Standards (to be introduced September 2002)

Road Transport (Safety & Traffic Management) Act 1999

- Road Transport (Safety & Traffic Management) Regulations 2000
 - Parking Authority Guidelines
 - Parking of Heavy Vehicles in Residential Areas

Road Transport (Vehicle & Registration) Act 1999

- Road Transport (Vehicle Registration) Regulations 2000
 - Inspection Manual for Light Vehicles
 - Inspection Manual for Heavy Vehicles

Roads & Public Places Act 1937

Code of Practice for Placement of Moveable Signs in Public Places

Environment ACT

Animal Diseases Act 1993

- Animal Diseases (Bees) Regulations 2000

Animal Welfare Act 1992

- Animal Welfare Regulations 2001
 - Australian Code of Practice for the Care and Use of Animals for Scientific Purposes
 - Model Code of Practice for the Welfare of Animals: Domestic Poultry (National)

Clinical Waste Act 1990

Domestic Animals Act 2000

Environment Protection Act 1997

- Environment Protection Regulations 1997
 - ACT Bushfire Fuel Management Plan
 - ACT Environment Standard: Assessment and Classification of Liquid and Non-Liquid Wastes
 - ACT Forests Code of Forest Practice
 - ACT Forests Silviculture Manual

Fertilisers Act 1904***Fisheries Act 2000***

- Fisheries Regulations 2001

Lakes Act 1976***Nature Conservation Act 1980***

- Nature Conservation Regulations 1982

Plant Diseases Act 1934

- Plant Diseases Regulations 1938

Stock Act 1991***Tree Protection (Interim Scheme) Act 2001******Water Resources Act 1998***

Environmental Flow Guidelines

Planning and Land Management (PALM)***Architects Act 1959******ACT (Planning and Land Management) Act 1988 (Commonwealth)***

National Capital Plan

Building Act 1972

- Building Regulations 1972
 - Building Code of Australia
 - Development Control Code for Best Practice Waste Management in the ACT
 - Waste Management Plans for demolition of all class of buildings & alterations
 - AS 1100 Technical Drawing
 - AS 2601 The Demolition of Structures

Community Title Act 2001

- Community Title Regulations 2002

Construction Practitioners Registration Act 1998

- Construction Practitioners Registration Regulations 1998

Electricity Safety Act 1971

- Electricity Safety Regulations 1971
 - AS/NZS 3000 Electrical Installations
 - ASD/NZS 3017 Electrical Installations – Testing Devices
 - AS 3820 Essential Safety Requirements for Low Voltage Electrical Equipment

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Gas Safety Act 2000

- Gas Safety Regulations 2001
 - AS 3814/AG 501 Industrial and Commercial Gas-fired Appliances
 - AS 5601/AG 601 Gas Installations

Land (Planning & Environment) Act 1991

- Land (Planning & Environment) Regulations 1992
 - The Territory Plan
 - Authority Guidelines pursuant to Schedule 2 of the Land (Planning and Environment) Regulations 1992:
 - Bush Fire Fuel Management Plan for Canberra Nature Park, 30 January 2002;
 - Exemption of Public Transport Infrastructure - Applying to the Installation or removal of Bus Stops (inc markers, pads or seats) within a Road Corridor and the Erection or Removal of a Bus Shelter (other than in the Civic Centre area, a town centre area or a group centre area), May 2000;
 - Guideline for Broadband Cabling or Ducting Reticulation, April 2000; and
 - Guideline for the Replacement of Mercury Vapour Lights with High and Low pressure Sodium, October 1997

Plans of Management -

- Belconnen's Urban Parks & Sportsgrounds and Lake Ginninderra
- Canberra Urban Parks and Lakes
- Inner Canberra Parks and Sportsgrounds
- Tuggeranong Urban Parks and Sportsgrounds
- Weston/Woden Creeks Urban Parks & Sportsgrounds

Plumbers, Drainers & Gasfitters Board Act 1982***Surveyors Act 2001***

ACT Survey Practice Directions

Unit Titles Act 2001

- Unit Titles Regulations 2001

Utilities (Telecommunications Installations) Act 2001***Utilities Act 2000***

(part 5 only, the remainder of Act administered by Department of Treasury and Department of Justice & Community Safety)

- Utilities Networks (Public Safety) Regulations 2001

Waste Minimisation Act 2001

- Waste Minimisation Regulations 2001

Water & Sewerage Act 2000

- Water & Sewerage Regulations 2001

AS 1172 Water Closets of 6/3 L Capacity

AS 2845.3 Water Supply – Backflow Prevention Devices – Field Testing and Maintenance

AS 3500 National Plumbing and Drainage Code

Standards Australia MP 52 manual of Authorisation Procedures for Plumbing and Drainage Products

ACT WorkCover***Annual Leave Act 1973******Dangerous Goods Act 1975***

- Dangerous Goods Regulations 1978

Fuels Control Act 1979***Holidays Act 1958******Long Service Leave Act 1976******Long Service Leave (Building & Construction Industry) Act 1981***

- Long Service Leave (Building & Construction Industry) Regulations 1984

Long Service Leave (Contract Cleaning Industry) Act 1999

Machinery Act 1949

- Boilers and Pressure Vessels Regulations 1954
- Machinery Regulations 1950

Occupational Health & Safety Act 1989

- Occupational Health & Safety (Certification of Plant Users and Operators) Regulations 2000
- Occupational Health & Safety (Manual Handling) Regulations 1997
- Occupational Health & Safety Regulations 1991

ACT Construction Industry Amenities Code of Practice

ACT First Aid in the Workplace Code of Practice

ACT Manual Handling Code of Practice

Code of Practice for the ACT Sex Industry

Code of Practice for Steel Construction

Exposure Standards for Atmospheric Contaminants in the Occupational Environment

Management of Human Immunodeficiency Virus, Hepatitis B Virus and Hepatitis C Virus Infected Health Care Workers (administered by Health Protection Service)

National Code of Practice on Asbestos [NOHSC: 2002 (1988)] & Guidance Notes on Asbestos

National Code of Practice for Health Care Workers & Other People at Risk of the Transmission of Human Immunodeficiency Virus and Hepatitis B in the Workplace

National Code of Practice for the Labelling of Workplace Substances

National Code of Practice for the Preparation of Material Safety Data Sheets

National Code of Practice for the Prevention of Occupational Overuse Syndrome

National Model Regulations for the Control of Workplace Hazardous Substances and the National Code of Practice for the Control of Workplace Hazardous Substances

National Standard for the Control of Inorganic Lead at Work and Code of Practice for the Control and Safe Use of Inorganic Lead at Work

National Standard for Limiting Occupational Exposure to Ionising Radiation

National Standard for Occupational Noise and National Code of Practice for Noise Management and Protection of Hearing at Work

National Standard for Plant

National Standard for Synthetic Mineral Fibres and National Code of Practice for the Safe use of Synthetic Mineral Fibres

Safe Demolition Work – ACT Code of Practice 3rd Ed. Revised

Safe Working on Roofs Part 1 - ACT Code of Practice

Safe Working on Roofs Part 2 - ACT Code of Practice

Safe Working in a Confined Place AS 2865 –1995 [NOHSC: 1009 (1994)]

Smoke Free Workplaces Code of Practice

Parental Leave (Private Sector Employees) Act 1992

Scaffolding & Lifts Act 1912

- Scaffolding & Lifts Regulations 1950

Standard Time and Summer Time Act 1972

Truck Act 1900

Workers Compensation Act 1951

- Workers Compensation Regulations 2002
- Workers Compensation Rules 2002

Workers' Compensation Supplementation Fund Act 1980

COMPLETED LEGISLATION REVIEWS

The ACT Government has recently completed a review of all legislation that could be construed as having or having the capacity to affect levels of competition. These Acts were principally reviewed to determine whether any anti-competitive elements contained within them were unnecessarily restrictive.

An extract listing of those Acts having a significant impact upon ACT business activities follows. Specific details of these reviews may be obtained by contacting the agency responsible for administering each Act. Appendix 4 (ACT Legislation Affecting Business Activity) notes the administrative responsibilities of each agency.

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Name of Legislation	Status of Review	Action Taken
ACTION Authority Act 2001	New Legislation.	New Authority established.
Agents Act 1968	Review completed.	Act retained.
Air Pollution Act 1984	Review not required.	Repealed by Environment Protection Act 1997.
Animal Diseases Act 1993	Review completed in conjunction with Pounds Act 1928 & Stock Act 1991.	Act retained.
Animal Welfare Act 1992	Review completed.	Act retained.
Annual Holidays Act 1973	Review not required.	Act renamed Annual Leave Act 1973.
Annual Leave Act 1973	Review not required.	Act retained.
Apiaries Act 1928	Review completed.	Act repealed and replaced by the Animal Diseases Act 1993.
Architects Act 1959	National review completed in August 2000.	Act to be amended 2002/2003
Auctioneers Act 1959	Review completed.	Act to be repealed.
Bank Mergers Act 1997	Review not required.	No further action.
Betting (ACTTAB Limited) Act 1964 and Betting (Corporatisation) (Consequential Provisions) Act 1996	Review completed.	Amendments to be incorporated into the Race and Sports Bookmaking Act 2001 by the end of 2002.
Board of Senior Secondary Studies Act 1997	Review completed.	Act retained.
Bookmakers Act 1985	Review completed.	Act repealed and functions incorporated into Race and Sports Bookmaking Act 2001.

Name of Legislation	Status of Review	Action Taken
Boxing Control Act 1993	National review completed in 1999. ACT review being undertaken.	Act to be amended to reflect relevant changes in NSW. ACT review to be completed in late 2002.
Building Act 1972	Review completed as part of review of the Electricity Act 1971 (electricians licensing) and the Plumbers, Drainers and Gasfitters Board Act 1982.	Act to be amended 2002/2003.
Building and Services Act 1924	Review completed.	Repealed and replaced by provisions of the Utilities Act 2000 and the Utilities (Telecommunications Installations) Act 2001.
Buildings (Design & Siting) Act 1964	Review completed.	Act repealed by Land (Planning and Environment) (Amendment) Act 1996.
Business Franchise (Liquor) Act 1993	Review not required.	No further action.
Business Franchise (Tobacco and Petroleum Products) Act 1984	Review not required.	No further action.
Business Franchise ('X' Videos) Act 1990	Review completed.	Act repealed in 1996.
Business Names Act 1963	Review completed	Act retained.
Casino Control Act 1988	Review completed.	Amendments introduced. Exclusivity of the casino licence will not extend beyond the current licence period. The prohibition on gaming machines at the Casino will remain.
Chiropractors and Osteopaths Act 1983	Review completed.	Health Professionals Bill 2002 to be introduced into Assembly in September 2002.
Clinical Waste Act 1990	Review completed May 2002	Act retained.
Collections Act 1959	Review completed in conjunction with April 2000 review of Hawkers Act 1936.	Act to be amended 2002/2003.
Commercial Arbitration Act 1986	Review completed.	No decision on reforms yet announced.
Companies (Registered Societies) Ordinance 1990	Review not required.	Registered Societies model legislation adopted nationally.

APPENDIX 6 COMPLETED LEGISLATION REVIEWS

Name of Legislation	Status of Review	Action Taken
Companies Auditors and Liquidators Disciplinary Board Ordinance 1982	Review completed.	Registered Societies model legislation adopted nationally.
Construction Practitioners Registration Act 1998	New legislation.	Amendments to be introduced 2002/2003.
Consumer Credit (Administration) Act 1996	Review completed.	Act retained.
Consumer Credit Act 1995	National review completed in 2001.	ACT to duplicate model legislation being developed by Queensland.
Co-operative Societies Act 1939	Review completed.	Act amended to reflect a consistent national approach.
Dangerous Goods Act 1975 (New South Wales) in its application in the Territory	Review undertaken.	The Legislative Assembly Standing Committee on Legal Affairs commenced a review of the Act in December 2001.
Dangerous Goods Act 1984	Review undertaken.	See Occupational Health and Safety Act.
Dental Technicians and Dental Prosthetists Registration Act 1988	Review completed.	Health Professionals Bill 2002 to be introduced into Assembly in September 2002.
Dentists Act 1931	Review completed.	Health Professionals Bill 2002 to be introduced into Assembly in September 2002.
Domestic Animals Act 2000	New legislation	Act commenced in 2000.
Door-to-Door Trading Act 1991	Review completed.	Act retained.
Education Act 1937, Schools Authority Act 1976, Public Instruction Act 1880 & Free Education Act 1906	Review completed.	Amended Bill to be introduced in December 2002.
Education Services for Overseas Students (Registration and Regulation of Providers) Act 1994	Review completed.	Act repealed.
Electricity Act 1971 (renamed the Electricity Safety Act 1971)- electricians licensing: Part 2 of 2	Review completed in conjunction with 2000 review of Plumbers, Drainers and Gasfitters Board Act 1982.	See Building Act 1972.
Energy & Water Act 1988	Review completed.	Act repealed by the Utilities Act 2002.

Name of Legislation	Status of Review	Action Taken
Environment Protection Act 1997	New legislation.	Act retained.
Fair Trading (Consumer Affairs) Act 1973 (previously Consumer Affairs Act 1973)	Review completed.	Amendments included in Fair Trading (Amendment) Act 2001.
Fair Trading (Fuel Prices) Act 1993	Review completed in 1999.	Act retained.
Fair Trading (Petroleum Retail Marketing) Act 1995	Review completed.	Act repealed.
Fair Trading Act 1992	Review completed.	Amendments included in Fair Trading (Amendment) Act 2001.
Fertilisers Act 1904 (NSW) in its application in the Territory	Review completed.	Act to be retained.
Financial Institutions (Application of Laws) Act 1992	Review not required.	Repealed by Financial Sector Reform (ACT) Act 1999.
Financial Institutions (Supervisory Authority) Act 1992	Review not required.	Repealed by Financial Sector Reform (ACT) Act 1999.
Financial Institutions Duty Act 1987	National review completed in 1997.	Act amended to reflect a consistent national approach.
Fisheries Act 2000	New legislation.	Act replaced the Fishing Act 1967.
Fishing Act 1967	Review completed.	Act repealed and replaced by the Fisheries Act 2000.
Food Act 1992	National review completed in 2000.	Act amended.
Freedom of Information Act 1989	Review completed.	Act retained.
Gaming Machine Act 1987	Review completed.	Exposure draft in preparation. Act amendments anticipated 2003.
Gas Act 1992	Review completed.	Repealed.
Gas Levy Act 1991	Review undertaken.	Act repealed in 1998.
Gas Safety Act 2000	New legislation.	Act introduced 2001.
Gas Supply Act 1998	Review completed.	Repealed and replaced by Gas Safety Act 2000 and Utilities Act 2000.
Hawkers Act 1936	Review completed in conjunction with Collections Act 1959.	Amendments to be introduced 2002/2003.

APPENDIX 6 COMPLETED LEGISLATION REVIEWS

Name of Legislation	Status of Review	Action Taken
Health Act 1993	Review completed.	Act retained.
Health Records (Privacy and Access) Act 1997	Review completed.	Act retained.
Hotel School Act 1996	Review not required.	Act retained.
Land (Planning and Environment) Act 1991-Parts V and VI	Review completed.	Act amended in 2001.
Landlord and Tenant Act 1899 (New South Wales) in its application in the Territory	Review completed.	Act repealed by Residential Tenancies Act 1997.
Landlord and Tenant Act 1949	Review completed.	Act repealed by Residential Tenancies Act 1997.
Law Reform (Manufacturers Warranties) Act 1977	Review completed.	Repealed by the Fair Trading (Amendment) Act 2001.
Lay-by Sales Agreements Act 1963	Review completed.	Act retained.
Legal Practitioners Act 1970	ACT review overtaken by national review.	Review of the Legal Practitioners Act 1970 has ceased. Further review and reform activity will occur at a national level.
Liquor Act 1975 (except subsections 42E(2) and 42E(4))	Review completed.	Act retained. Minor amendments included in the Justice and Community Safety Legislation Amendment Act 2001.
Litter Act 1977	Review completed in conjunction with review of the Roads and Public Places Act 1937.	Act retained.
Long Service Leave (Building & Construction Industry) Act 1981	Review completed.	Legislation for restructuring the Board is in preparation.
Long Service Leave Act 1976	Review not required.	Act retained.
Machinery Act 1949	Review completed.	Act replaced by Occupational Health and Safety (Amendment) Act 1997.
Meat Act 1931	National review completed in 2000.	Act repealed by Food Act 2001.
Mediation Act 1997	Review completed.	Act retained.

Name of Legislation	Status of Review	Action Taken
Medical Practitioners Act 1930	Review completed.	Health Professionals Bill 2002 to be introduced into Assembly in September 2002.
Medical Records (Access and Privacy) Act 1997	Reviewed in conjunction with Health Records (Access & Privacy) Act 1997.	Act retained.
Medical Services (Fees) Act 1984	Review not required.	Act retained.
Mercantile Law Act 1962	Review completed in 1999.	Amendments to be introduced 2002/2003.
Milk Authority Act 1971	Review completed in 1998.	Act repealed in 2000.
Motor Omnibus Services Act 1955	Review completed.	Repealed and replaced by the Road Transport (Public Passenger Services) Act 2001.
Motor Traffic Act 1936 - taxi and hire car provisions: part 2 of 2	Review completed.	Amendments incorporated into Road Transport (Public Passenger Services) Amendment Act 2002. Further reform is the subject of a review by the Independent Competition and Regulatory Commission.
Motor Vehicles (Dimensions and Mass) Act 1990	Review not required.	Act superceded by national road transport reforms.
Noise Control Act 1988	Review completed.	Act repealed by Environment Protection Act 1997.
Nurses Act 1988	Review completed.	Health Professionals Bill 2002 to be introduced into Assembly in September 2002.
Occupational Health and Safety Act 1989	Reviewed in conjunction with Dangerous Goods Act 1984, the Scaffolding and Lifts Act 1957 and the Machinery Act 1949.	The ACT OH&S Council will report to Government shortly. Amendments to legislation likely to be drafted in late 2002.
Optometrists Act 1956	Review completed.	Health Professionals Bill 2002 to be introduced into Assembly in September 2002.
Parental Leave (Private Sector Employees) Act 1992	Review not required.	Act retained.
Partnership Act 1963	Review completed . in 2000	Amendments included in Justice and Community Safety Legislation Amendment Bill (No. 2) 2000.

APPENDIX 6 COMPLETED LEGISLATION REVIEWS

Name of Legislation	Status of Review	Action Taken
Payroll Tax Act 1987	Review completed.	Act retained.
Pesticides Act 1989	Review completed.	Act repealed and replaced by the Environment Protection Act 1997.
Pharmacy Act 1931	National review completed in 2000.	Act amended in 2001.
Physiotherapists Act 1977	Review completed.	Health Professionals Bill 2002 to be introduced into Assembly in September 2002.
Plant Diseases Act 1934	Review completed in conjunction with the Land (Planning and Environment) Act 1991 (pest plant and animal provisions).	Amendments to be introduced 2002/2003.
Plumbers, Drainers and Gasfitters Board Act 1982	Review completed in conjunction with review of the Electricity Act 1971 and Building Act 1972.	See Building Act 1972.
Podiatrists Act 1994	Review completed.	Health Professionals Bill 2002 to be introduced into Assembly in September 2002.
Pool Betting Act 1964	Reviewed as part of the gambling legislation review.	Act amendments will be introduced in 2003.
Printing and Newspapers Act 1961	Review completed in 1999.	Act repealed.
Prostitution Act 1992	Review completed in August 2000.	Act retained.
Psychologists Act 1994	Review completed.	Health Professionals Bill 2002 to be introduced into Assembly in September 2002.
Public Health Act 1997	Review completed.	Act amended in 2000. Further reforms to be introduced as the Public Health Act 1928 is progressively repealed.
Race and Sports Bookmaking Act 2001	Review completed as part of review of Bookmakers Act 1985.	Act replaced the Bookmakers Act 1985. Amendments will be completed by late 2002.
Racecourses Act 1935	Review completed.	Act repealed and provisions incorporated into Racing Act 1999.
Racing Act 1999	New legislation.	Act commenced in June 2001.

Name of Legislation	Status of Review	Action Taken
Radiation Act 1983	National review completed.	Final report being considered by the Australian Health Ministers Advisory Council.
Registration of Interests in Goods Act 1990	Review completed in 2000.	Act repealed by the Sale of Motor Vehicles Amendment Bill 2000.
Road Transport (Driver Licensing) Act 1999	Review completed.	Act amended in relation to a system of accreditation for private driving instructors
Road Transport (Public Passenger Services) Act 2001	New legislation.	Act introduced 2002.
Roads and Public Places Act 1937	Review completed in conjunction with review of the Litter Act 1977.	Act retained.
Sale of Goods Act 1954	Review completed in July 2000.	Amended by the Fair Trading (Amendment) Act 2001
Sale of Motor Vehicles Act 1977	Review completed in July 2000.	Minor amendments included in Justice and Community Safety Legislation Amendment Act 2001.
Scaffolding and Lifts Act 1957	Review completed.	Act replaced by Occupational Health and Safety (Amendment) Act 1997.
Scaffolding and Lifts Act, 1912-1948 (New South Wales) in its application in the Territory	Review completed.	Act repealed and replaced by Occupational Health and Safety (Amendment) Act 1997.
Second-hand Dealers and Collectors Act 1906 (New South Wales) in its application in the Territory	Review completed in 2000.	Amendments included in Justice and Community Safety Legislation (Amendment) Act 2001.
Smoke-free Areas (Enclosed Public Places) Act 1994	Review completed.	Act retained.
Stock Act 1991	Review completed in conjunction with the Animal Diseases Act 1993 and the Pounds Act 1928.	Act retained
Surveyors Act 1967	Review completed.	A new Surveyors Act 2001 commenced in July 2001.
Surveyors Act 2001	New legislation.	Replaced the Surveyors Act 1967.
Territory Owned Corporations Act 1990	Review completed in 1998.	Act retained.

Name of Legislation	Status of Review	Action Taken
Theatres and Public Halls Act 1928	Review completed.	Act repealed in 2001.
Tobacco Act 1927	Review completed.	Act retained.
Trading Hours Act 1962	Intra-departmental review completed.	Act repealed.
Trading Stamps Act 1972	Review completed.	Act retained.
Tree Protection (Interim Scheme) Act 2001	New legislation.	Act introduced 2001.
Trustee Companies Act 1947	National review completed.	Act will be repealed by proposed uniform trustee companies legislation drafted for consideration by the Standing Committee of Attorneys-General.
Unit Titles Act 1970	Review completed.	Repealed and replaced by Unit Titles Act 2000.
Unlawful Games Act 1984	Review completed as part of the gambling legislation review.	Act retained.
Utilities (Telecommunications Installations) Act 2001	New legislation	Act introduced 2001.
Utilities Act 2000	New legislation.	Act amended or repealed a number of other electricity, gas or water and sewerage-related Acts including the Electricity Supply Act 1997, the Electricity Act 1971, the Energy and Water Act 1988, the Essential Services (Continuity of Supply) Act 1992, the Gas Supply Act 1998 and the Water Rates Act 1959.
Veterinary Surgeons Act 1965	Review completed.	Act to be amended in late 2002.
Vocational Education and Training Act 1995	Review completed.	Act retained.
Waste Minimisation Act 2001	New legislation.	Act introduced 2001.
Water and Sewerage Act 2000	New legislation.	Replaced provisions of the repealed Energy and Water Act 1998.
Water Pollution Act 1984	Review completed.	Act repealed by the Environment Protection Act 1997.
Workers' Compensation Act 1951	Review completed.	Act amended in 2001.

ACT LICENCES AND PERMITS

This listing summarises the number and type of business related licences, permits, registrations, certificates, authorisations, approvals, accreditation and inspections allowed for under ACT legislation.

Where appropriate, the level or basis of fees charged for the 2002/2003 financial year is noted.

DEPARTMENT OF HEALTH & COMMUNITY CARE

Health Protection Service

Licence/permit/registration/authorisation etc	Fee
Drugs of Dependence Act 1989	
Section 6	
Application for licence to manufacture	no fee
Section 20	
Application for licence to wholesale drug of dependence	no fee
Section 33	
Authorisation to possess & use drug of dependence in research/education	no fee
Section 43	
Authorisation to use drug of dependence in First Aid Kit	no fee
Section 150	
Approval to conduct treatment centre	no fee
Food Act 2001	
Section 91	
Food business registration	\$50–low priority \$100–medium priority \$150–high priority
Poisons Act 1933	
Section 14	
Licence to sell poisons	\$30
Poisons & Drugs Act 1978	
Section 14	
Licence to manufacture/sell Schedule 7 poisons	no fee
Section 21	
Licence renewal to manufacture/sell Schedule 7 poisons	no fee
Public Health Act 1997	
Section 29+33	
Health Care Facilities licence	\$200–dental premises \$500–less than 200 beds & accredited \$1000–greater than or equal to 200 beds & accredited \$750–non-accredited premises

Section 29	
Hairdressing licence	\$100
Infection Control licence	\$100
Boarding House Licence	\$100
Drinking water utility licence	\$60,000
Section 56F	
Cooling tower registration	\$200
<i>Radiation Act 1983</i>	
Section 28	
Application for licence to use radioactive material or irradiating apparatus	\$153.70
Section 48	
Application for registration of irradiating apparatus	\$153.70
Section 31	
Renewal of licence to use radioactive material or irradiating apparatus	\$153.70
Section 50	
Renewal for registration of irradiating apparatus	\$153.70
<i>Smoke-free (Enclosed Public Places) Act 1994</i>	
Section 7	
Application fee for restaurants	\$400
Application fee for licensed premises	\$300- \leq 599 m ² \$400- \leq 2999 m ² \$500- \geq 10,000 m ²
Section 8	
Fee payable upon granting of exemption certificate for licensed premises	\$400- \leq 299 m ² \$500- \leq 599 m ² \$600- \leq 999 m ² \$700- \leq 2999 m ² \$800- \leq 5999 m ² \$900- \leq 9999 m ² \$1000 \geq 10000 m ²
Section 9	
Annual fees for restaurants	\$300
Annual fees for licensed premises	\$400- \leq 299 m ² \$500- \leq 599 m ² \$600- \leq 999 m ² \$700- \leq 2999 m ² \$800- \leq 5999 m ² \$900- \leq 9999 m ² \$1000 \geq 10000 m ²
<i>Tobacco Act 1927</i>	
Section 61	
Tobacco licence (both retailers & wholesalers)	\$200

Registration Boards

Chiropractors & Osteopaths Act 1983

Section 165(2)(b) Initial registration	\$340
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Section 19 Mutual recognition fee	\$340
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Section 26(1) Annual registration fee	\$280
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Section 28(2)(b) Restoration of registration	\$280
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Dentists Act 1931

Section 12(2) Interim registration	\$20
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Section 18(2)(b) Initial registration	\$200
Initial registration – Specialist	\$100

Section 21 Mutual recognition fee	\$190
Mutual recognition fee – Specialists	\$90

Section 35(1) Annual renewal – Dentist	\$190
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Section 35(2) Annual renewal – Specialist	\$90
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Section 38(1)(b) Re-registration – Dentist	\$200
Re-registration – Specialist	\$100

Section 46(1)(b) Initial registration – Hygienists	\$100
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Section 49 Mutual recognition fee – Hygienists	\$90
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Section 59(1) Annual renewal – Hygienists	\$90
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Section 61(1)(b) Re-registration – Hygienists	\$100
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Dental Technicians & Dental Prosthetists Registration Act 1988

Section 25(b) Initial registration	\$140
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Section 34(1) Annual renewal	\$140
Re-registration fee	\$100

Mutual Recognition Act 1992

Mutual recognition fee	\$140
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Medical Practitioners Act 1930

Section 19(2)(b) pursuant to section 9, 10 & 12, excludes subsection 12 (8) Initial registration to practice	\$250
Section 19(2)(b) pursuant to subsection 12 (8) Temporary registration	\$200
Section 22 Mutual recognition fee	\$200
Section 26(3) Annual registration	\$200
Section 34(2)(b) Re-registration	\$200

Nurses Act 1988

Sections 21(2)(b) & 45(2)(b) Initial registration for registered/enrolled nurses	\$80
Sections 24 & 48 Mutual recognition for registered/enrolled nurses	\$80
Sections 34 & 58 Annual registration for registered/enrolled nurses	\$80
Sections 36(1) & 60(1) Re-registration of registered/enrolled nurses	\$80
Sections 15(2) & 39(2) Interim registration of registered/enrolled nurses	\$80

Optometrists Act 1956

Section 11(2) Interim registration as an Optometrist	\$20
Section 17(2)(b) Initial registration as an Optometrist	\$240
Section 20 Mutual recognition fee	\$240
Section 28(1) Annual registration	\$200
Section 30(2)(b) Restoration of registration	\$200

Pharmacy Act 1931

Sections 9 & 11 Initial registration as a Pharmacist	\$175
Section 12(2) Interim registration	\$20
Section 21 Mutual recognition fee	\$175
Section 28(1) Annual registration	\$140
Section 30(2)(b) Restoration of registration	\$140

Physiotherapists Act 1977

Section 11(2) Interim registration as a Physiotherapist	\$20
Section 17(2)(b) Initial registration as a Physiotherapist	\$110
Section 20 Mutual recognition	\$110
Section 25(1) Annual registration	\$110
Section 27(1) Re-registration	\$110

Podiatrists Act 1994

Section 11(2) Interim registration as a Podiatrist	\$20
Section 17(2)(b) Initial registration as a Podiatrist	\$250
Section 20 Mutual recognition	\$185
Section 27(1) Annual registration	\$170
Section 29(1)(b) Re-registration	\$170

Psychologists Act 1994

Section 11(2) Interim registration as a Psychologist	\$20
Section 17(2)(b) Initial registration as a Psychologist	\$165
Initial registration as post-graduate student	\$50
Section 20 Mutual recognition fee	\$110
Mutual recognition post-graduate student	\$55
Section 25(1) Annual registration	\$110
Annual registration post-graduate student	\$55
Section 27(b) Re-registration	\$110

Veterinary Surgeons Act 1965

Section 13(2) Interim registration as a Veterinary Surgeon	\$20
Section 19(2)(b) Initial registration as a Veterinary Surgeon	\$150
Section 22 Mutual recognition	\$150

Section 36(1)	
Annual registration –Veterinary Surgeons	\$150
Section 37(1)	
Annual registration – Specialists	\$100
Section 39(1)(b)	
Re-registration	\$150

CHIEF MINISTER’S DEPARTMENT

Boxing Control Act 1972

Section 6	
Application to Conduct a Boxing Contest	No fee

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DEPARTMENT OF EDUCATION, YOUTH AND FAMILY SERVICES

Children & Young People Act 1999

Sections 338(2)(d) & 345(2)(e)	
Approval in principle/Licence for providing childcare – centre based children’s services	No fees
Approval in Principle/Licence for providing childcare – school age care	
Approval in Principle/Licence for providing childcare – family day care	
Approval in Principle/Licence for providing childcare - playschools	
Approval in Principle/Licence for providing childcare – independent pre-schools	

Vocational Education & Training Act 1995

Section 16	
Accreditation of degree/diploma/advanced diploma	\$4,050
Accreditation of certificate courses (I-IV)	\$1,990
Concurrent accreditation – higher education	\$1,240
Accreditation for additions/extensions to provider scope	\$168
Concurrent authority to conduct higher education	\$4,050
Section 18	
Registration as a training organisation	\$1,240
Registration as quality endorsed training organisation	\$11,280
Quality information kit	\$55
Application fee for degree courses	\$1,075
Registration of short courses	\$560

DEPARTMENT OF JUSTICE AND COMMUNITY SAFETY***Associations Incorporation Act 1991***

Section 11	
Issue of certificate of incorporation	\$18
Search fee	\$18
Copy of document	\$18
Section 19	
Application for incorporation or amalgamation	\$114
Section 33	
Notice of change to objects, purposes or rules	
Lodged within 1 month of change	\$26
Lodged after 1 month of change	\$52
Section 37	
Reservation of association name	\$26
Section 59	
Notice of change of public officer, or committee	
Lodged within 1 month of change	No fee
Lodged after 1 month of change	\$26
Section 79	
Lodgement of annual statement of particulars by association	
Lodged within 6 months of end of association's financial year	\$26
Lodged after 6 months	\$52
<i>Auctioneers Act 1959</i>	
Section 5	
Auctioneers Licence	\$94
Section 7	
Renewal of licence	\$94
<i>Business Names Act 1963</i>	
Section 7	
Registration of Business Name	\$114
Section 9(3)	
Minister's consent to Business Name	\$29
Section 11	
Renewal of Business Name (three yearly)	\$93
Section 12	
Change of particulars lodgement fee	
Lodged within time allowed	\$6
Lodged within one month after	\$16
Lodged more than one month after	\$35
Section 22	
Search fee	\$6
Copy or extract fee	\$13

Co-operative Societies Act 1939

Registration as a Co-operative	\$800
Registration to operate in ACT if registered interstate	\$400

Firearms Act 1996

Section 19	
Firearms Dealers Licence (5 years)	\$750
Collectors Licence (5 years)	\$75
Section 45	
Firearms permit	\$25

Pawnbrokers Act 1902

Section 6	
Pawnbrokers Licence	\$94

Office of Fair Trading

Agents Act 1968

Section 41	
Registration of a Real Estate Agent	\$76
Registration of a Stock and Station Agent	\$76
Registration of a Business Agent	\$76
Section 41A	
Renewal of each of above registrations	\$76
Section 53	
Real Estate Agent Licence	\$76
Stock & Station Agent Licence	\$76
Business Agent Licence	\$76
Section 53	
Real Estate Agent Licence (person)	\$76
Stock & Station Agent Licence (person)	\$76
Business Agent Licence (person)	\$76
Company Licence for first licence type	\$323
Each subsequent licence	\$76
Travel agent licence	\$371
Each additional place of business	\$156
Employment agent licence	\$371
Each additional place of business	\$156

Classification (Publications, Films and Computer Games) (Enforcement) Act 1995

Section 54C	
Issue licence to copy X film	\$10,250
Licence to sell X film	\$10,250
Licence to copy and sell X film	\$20,500

Consumer Credit (Administration) Act 1996

Section 12	
Registration as credit provider	\$1,059
Each additional place of business	\$514
Section 16	
Renewal of registration	\$1,059
Each additional place of business	\$514
Section 43	
Registration as finance broker	\$1,059
Each additional place of business	\$514
Section 47	
Renewal of registration	\$1,059
Each additional place of business	\$514

Fair Trading Act 1992

Clause 15 (3)	
Motor Vehicle Service & Repair Industry – Code of Practice	
Annual registration of motor vehicle repair principal	
1-5 employees	\$195
6-20 employees	\$241
21 or more employees	\$282
Clause 18(3) of the Security Industry Codes of Practice X 5	
Registration of security employees - 1 code	\$82.50
Registration each additional code	\$6.60
Later registration – 1 or more codes	\$33
Police check	\$36
Certification	\$38.50
Registration of security principals – 1 code	\$666
Registration each additional code	\$51
Later registration for each additional code	\$72
Police check – per RIP & company	\$36
Certification	\$72
Registration of security contractors – 1 code	\$154
Later registration for 1 or more codes	\$36
Police check	\$36
Certification	\$36

Liquor Act 1975

Section 45	
Issue of new General liquor licence	\$1,734
Section 46	
Issue of new ON liquor licence	\$1,409
Section 47	
Issue of new OFF liquor licence	\$1,409

Section 48	
Issue of new CLUB liquor licence	\$1,409
Section 49	
Issue of new SPECIAL liquor licence	\$2,114
Sections 59-61	
Renewal of liquor licence	
Purchases less than \$100,000	\$807
Purchases \$100,000 or more	\$2,148
Sections 63-65	
Transfer of liquor licence	\$1,058
Sections 106-114	
Liquor permit	
Purchases up to \$2,000	\$32
Purchases more than \$2,000	\$105
<i>Prostitution Act 1992</i>	
Section 7	
Initial registration of brothels & escort agencies	\$205
Annual renewal of registration	\$103
<i>Sale of Motor Vehicles Act 1977</i>	
Section 14	
Motor Vehicle Dealers Licence	
Each place of business	\$388
Annual renewal each place of business	\$336
<i>Second-hand Dealers Act 1906</i>	
Section 3	
Second Hand Dealers Licence	\$94
<i>Trade Measurement Act 1991</i>	
Section 44	
Servicing Licence – Measuring Instruments for Trade Use	\$258
Application fee	\$67
Annual renewal of licence	\$258
Public Weighbridge Licence	\$195
Application fee	\$67
Certificate of suitability	\$71
Annual renewal of licence	\$195
Renewal of certificate of suitability	\$71

DEPARTMENT OF TREASURY

Betting (ACTTAB Limited) Act 1964

Section 4	
Exclusive licence to provide totaliser betting services	**

Casino Control Act 1988

Section 45	
Exclusive casino licence	**

Gaming Machine Act 1987

Section 14	
Application new Gaming Machine Licence	\$1,538

** Gaming machine licences are issued in perpetuity, licencees however are subject to a taxation regime based on the gross profits from gaming machine operations.

Section 22	
Gaming machine variation (per machine)	\$26

Section 34A	
Approved technician	\$100

Section 34C	
Approved attendant	\$110

Section 45	
Inter-club linked jackpot permit	\$2,050
Inter-club linked jackpot variation	\$513

Race & Sports Bookmaking Act 2001

Section 6	
Race Bookmakers Licence	\$150

Race bookmakers pay an annual licence renewal fee.
All licencees pay taxes based on turnover.

Section 12	
Race Bookmakers Agent Licence	\$150
Licence for second & each subsequent agent	\$20

Section 25	
Sports Bookmaker Licences	\$650
Syndicate, plus \$150 for each member	\$500
Corporation, plus \$150 for each director	\$500

Section 34	
Sports Bookmaker Agent's Licences	\$150

Utilities Act 2000

Section 37	
Licence for electricity distribution & connection services	
Licence for electricity supply services	
Licence for gas transmission services	
Licence for gas distribution & connection services	
Licence for gas supply services	
Licence for sewerage & water supply services	
Licence application lodgement fee (deductable from licence fee)	\$1,500
Licence fee for new entrants	\$4000

In addition to the mentioned licence fees, there is a range of fixed and variable fees based on the licensee's percentage of market share.

DEPARTMENT OF URBAN SERVICES

Collections Act 1959

Section 3

Licence to conduct a Charitable Collection in the ACT no fee

Hawkers Act 1936

Section 10 A(1)

Hawkers permit–no vehicle–1 month	\$15
Hawkers permit–no vehicle–6 months	\$90
Hawkers permit–vehicle 0-2 tonnes–1 month	\$57.60
Hawkers permit–vehicle 0-2 tonnes–6 months	\$345.60
Hawkers permit–vehicle over 2 tonnes–1 month	\$85.80
Hawkers permit–vehicle over 2 tonnes 6 months	\$514.80

Section 11+12

Hawkers Licence–no vehicle–1 month	\$9
Hawkers Licence–no vehicle–1 year	\$108
Hawkers Licence–vehicle 0-2 tonnes–1 month	\$14.90
Hawkers Licence–vehicle 0-2 tonnes–1 year	\$178.80
Hawkers Licence–vehicle over 2 tonnes–1 month	\$23.50
Hawkers Licence–vehicle over 2 tonnes–1 year	\$282

Road Transport (General) Act 1999

Section 29

Road Transport (Dimensions & Mass) Act 1990

Permit Bridge Application Fees:

(a) Single Permit Application (Category 1) (Where bridge calculation, vehicle inspection/route survey not required)	\$56.55
(b) Single Permit Application (Category 2) (Where bridge calculation, vehicle inspection/route survey required)	\$124.65
(c) Annual Permit Application (Category 1) (Where bridge calculation, vehicle inspection/route survey not required)	\$853.10
(d) Annual Permit Application (Category 2) (Where bridge calculation, vehicle inspection/route survey required)	\$1,879.10
(e) Additional permit application, annual permit- Category 1 - held (bridge calculations, vehicle inspection or route survey is required)	\$68.10

Section 120 (1) & (5)

Issue/renewal of licence to use motor vehicle as private hire car	\$496
Additional fee payable where licence to use motor vehicle as a private hire car is issued/renewed for a period of less than 12 months	\$25

Section 121(2)

Transfer of licence to use motor vehicle as private hire car	\$49
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Section 126 (1) & (4)

Issue/renewal of licence to use motor vehicle as a restricted hire vehicle	\$142
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Section 152(4)	
Notice to transport authority of person using, controlling & management of private hire car, or restricted hire vehicle	\$50
<i>Road Transport (General) Regulations 2000</i>	
Regulation Sections 14 & 138 & Section 9 of Act	
Certified extract from licence records	\$43.55
Search of records (statement licence details)	\$16.50
<i>Road Transport (Public Passenger Services) Act 2001</i>	
Section 41(1)	
Transfer of restricted taxi licence	\$49
<i>Road Transport (Public Passenger Services) Regulations 2002</i>	
Regulation 7	
Application for bus accreditation – 5 or less vehicles	\$200
Application for bus accreditation – 6 or more vehicles	\$400
Sub-regulation 7(1)	
Application for taxi network provider accreditation	\$600
Application for taxi service operator accreditation	\$50
Sub-regulation 10 (1)	
Accredited bus operator, per bus in excess of 1	\$55 per bus
Fixed fee for bus operators, 5 or less vehicles	\$150
Fixed fee for bus operators, 6 or more vehicles	\$300
Annual taxi network provider accreditation (per vehicle)	\$100
Annual taxi service operator accreditation (per vehicle)	\$350
Sub-regulation 16 (1)	
replacement certificate of accreditation	\$15
Sub-regulation 82 (b)	
Restricted taxi licence for a WAT (annual instalments for 6 years)	\$1,000
Sub-regulation 83 (1)	
Application for restricted taxi licence for a WAT	\$50
Sub-regulation 90 (1)	
Issue of replacement licence	\$15
<i>Road Transport (Safety & Traffic Management) Act 1999</i>	
Section 5A	
Permit for speed/reliability test	\$176
<i>Road Transport (Safety & Traffic Management) Regulations 2000</i>	
Regulation 100	
Annual loading zone parking permit, 30 minutes	\$389
Annual loading zone parking permit, 20 minutes	\$260
Annual loading zone parking permit, 10 minutes	\$124
Medical parking permit for use in CBD	\$648
Medical parking permit for use in other paid parking areas	\$260
Medical parking permit for use in unpaid parking areas	\$51
Government parking permit	\$30.20

Road Transport (Vehicle & Registration) Act 1999

Road Transport (Vehicle Registration) Regulations 2000

Regulation 88	
Trader's Plates – motor vehicles	\$264
Traders plates – motor bikes & trailers	\$131
Regulation 100	
Transfer traders plates	\$20.50

Roads & Public Places Act 1937

Section 9A

Permits to place culverts etc, & to interfere with surfaces of public places:

Road Carriageway Opening Permits - Concrete Pavement Charge plus \$189.15 charge per square metre	\$323.80
Road Carriageway Opening Permits - Block Pavement charge plus \$190.15 charge per square metre	
Road Carriageway Opening Permits Asphaltic Concrete Pavement 25mm charge plus \$75.65 charge per square metre	\$323.80
Road Carriageway Opening Permits Asphaltic Concrete Pavement 50mm charge plus \$127.80 charge per square metre	\$323.80
Road Carriageway Opening Permits Gravel Pavement, charge plus \$56.20 charge per square metre	\$323.80
Road Carriageway Opening Permits Non Paved (Earth Formation), charge plus \$57.25 charge per square metre	\$323.80
Road Carriageway Opening Permits Permit/Administration for all applications	\$128.85
Footpaths, Driveways, & Gutter Opening Permits Concrete Pavement 75mm, charge plus \$51.00 charge per square metre	\$323.80
Footpaths, Driveways, & Gutter Opening Permits Concrete Pavement 100mm, charge plus \$56.20 charge per square metre	\$323.80
Footpaths, Driveways, & Gutter Opening Permits Concrete Pavement 150mm, charge plus \$100.20 charge per square metre	\$323.80
Footpaths, Driveways, & Gutter Opening Permits Block Pavement, charge plus \$65.00 charge per square metre	\$323.80
Footpaths, Driveways, & Gutter Opening Permits - Gravel Pavement, charge plus \$63.35 charge per square metre	\$323.8
Footpaths, Driveways, & Gutter Opening Permits Kerbs & Gutters all types, charge plus \$69.50 charge per linear metre	\$323.80
Footpaths, Driveways, & Gutter Opening Permits Asphaltic Concrete Pavement 25mm, charge plus \$75.65 charge per square metre	\$323.80
Footpaths, Driveways, and Gutter Opening Permits Permit/Administration for all applications	\$128.85

Section 15E(1) issue and Section 15K(1)	
Licences for the use of unleased land:	
Within major commercial areas – per square metre per week (use of air space over unleased land - half the rate noted)	\$3.15
In other commercial sites - per square metre per week	\$2.10
In residential sites - per quarter	\$28.80
Use of air space over unleased land (half the rate noted for unleased land)	
Section 15E(1) issue and Section 15K(1)	
Outdoor café permit: prime area - per square meter per annum	\$31.30
Outdoor café permit: secondary area - per square metre per annum	\$26.10
Outdoor café permit: tertiary area - per square metre per annum	\$20.90

Environment ACT

Animal Welfare Act 1992

Section 53	
Circus Permit	\$56.55
Section 54	
Trapping permit	\$5.20

Clinical Waste Act 1990

Section 19	
Licence to carry on the Business of Transporting Clinical Waste	
See Dangerous Goods	

Environment Protection Act 1997

Environmental protection requirements impose statutory obligations on business activities in the ACT, mainly upon the industrial and development sectors. As will be seen, a diverse range of business activities that have environmental impacts are included in the regulatory regime. In practice, applicants seek authorisations/approvals to carry out the intended activity although it should be noted that not all the listed activities are conducted in the ACT at this time and only apply to specific industries. These environmental requirements are replicated in other Australian jurisdictions.

Section 47	
Applications for Authorisation:	
To manufacture, sale, store, supply, transport, use, service or dispose of an ozone depleting or other substance	\$164.50
To extract materials from waterways - 0 to 30,000 cubic metres per annum	\$329.05
To extract materials from waterways >30,000 cubic metres per annum	\$1,099.40
To extract materials from land >30,000 tonnes per annum	\$1,099.40
Commercial incineration	\$1,649.60
Sterilisation of clinical waste	\$1,585.65

APPENDIX 7 ACT LICENCES AND PERMITS

Conduct of crematorium	\$164.50
Operation of commercial landfill	\$1,649.60
To accept soil on land	\$164.50
To transport controlled waste	\$329.05
Provision of regulated waste for transport	\$164.50
Transportation of regulated waste	\$329.05
Section 47	
Sewerage treatment–discharge to land/water (100-50K persons)	\$329.05
Sewage treatment–discharge to land/water (>50,000 persons per day)	\$1,099.40
Treatment, handling or storage of contaminated soil	\$164.50
Treatment of more than 10,000 cubic metres of contaminated soil	\$164.50
To operate a facility designed to milk > 800 animals per day	\$1,099.40
To process milk or products > 30,000 kilolitres per annum	\$1,099.40
Processing of agricultural crops > 30,000 tonnes per annum	\$1,099.40
Commercial aquaculture or mariculture	\$329.05
Operation of a stock feedlot 200–1,200 tonnes live animal weight	\$329.05
Operation of a stock feedlot >1,200 tonnes live animal weight	\$1,099.40
Keeping of poultry live birds 180 to 375 tonnes	\$329.05
Keeping of poultry live birds > 375 tonnes	\$1,099.40
Operation of a commercial stock yard	\$164.50
Operation of an abattoir–live animals weighing > 3,000 kilo per day	\$329.05
Commercial cleaning or carbonisation of wool	\$329.05
Tanning animal skins or fellmongery – 0 to 10,000 tonnes per annum	\$329.05
Tanning animal skins or fellmongery-> 10,000 tonnes per annum	\$1,099.40
Outdoor concert activities	\$164.50
Management of a concert venue – EPIC	\$549.10
Management of a concert venue – others	\$164.50
Electricity generation plant – 0- 450 gigawatts per hour	\$549.10
Electricity generation plant – > 450 gigawatts per hour	\$1,649.60
Motor racing events	\$164.50
Management of motor racing event	\$164.50
Commercial use of chemical products	\$164.50
Storage of petroleum products > 500 cubic metres	\$1,649.60
Production of petroleum products	\$1,649.60
Waste oil recovery – processing 20–1,000 tonnes per annum	\$329.05
Waste oil recovery – processing >1,000 per annum	\$1,099.40
Helicopter facilities	\$329.05

Logging operations > 5,000 tonnes per annum	\$1,099.40
Commercial production of alcohol – 100 - 21,000 kilolitres per annum	\$329.05
Commercial production of alcohol – > 21,000 kilolitres per annum	\$1,099.40
Application of biosolid products >500 to 3,000 tonnes per annum	\$329.05
Application of biosolid products > 3,000 tonnes per annum	\$1,099.40
Composting >200 tonnes of animal waste or > 5000 tonnes of plant waste per year	\$1,099.40
Wood or timber milling - > 30,000 cubic metres per annum	\$1,099.40
Manufacturing in furnaces or kilns - > 100 tonnes & < 10,000 tonnes per annum	\$1,099.40
Commercial preservation of wood < 10,000 cubic metres per year	\$1,099.40
Forestry activities	\$1,649.60
Production of concrete or concrete products, facility designed to produce - 7,000 to 13,000 cubic metres per annum	\$329.05
Production of concrete or concrete products, facility designed to produce > 13,000 cubic metres per annum	\$1,099.40
Production of bituminous road building materials > 30,000 tonnes per annum	\$1,099.40
Crushing, grinding or separating of materials 10,000 to 30,000 tonnes per annum	\$329.05
Crushing, grinding or separating of materials > 30,000 tonnes per annum	\$1,099.40
Major land development/construction	\$164.50
Management of municipal service	\$1,649.60
Wastewater recycling activities	\$164.50
Commercial collection of waste	\$164.50
Section 53(3)(a)	
Annual renewal of Authorisations to:	
Manufacture, sale, store, supply, transport, use, service or dispose of an ozone depleting or other substance	\$164,50
Extract materials from waterways - 0 to 30,000 cubic metres per annum	\$497.75
Extract materials from waterways - >30,000 to 50,000 cubic metres	\$1,493.45
Extract materials from waterways - >50,000 to 100,000 cubic metres	\$4,978.25
Extract materials from waterways - >100,000 to 500,000 cubic metres	\$13,441.35
Extract materials from waterways - >500,000 to 2 million cubic metres	\$33,354.55
Extract materials from waterways - > 2 million cubic metres	\$59,739.55
Extract materials from land – 0 to 30,000 tonnes	\$497.75

APPENDIX 7 ACT LICENCES AND PERMITS

Extract materials from land – >30,000 to 50,000 tonnes	\$1,493.45
Extract materials from land – >50,000 to 100,000 tonnes	\$4,978.25
Extract materials from land – >100,000 to 500,000 tonnes	\$13,441.35
Extract materials from land – >500,000 to 2 million tonnes	\$33,354.55
Extract materials from land – >2 million tonnes	\$59,739.55
Commercial incineration – 0 to 1,000 tonnes	\$2,489.10
Commercial incineration – >1,000 tonnes	\$6,471.70
Commercial incineration – municipal waste	\$6,471.70
Sterilisation clinical waste	\$3,116
Conduct of crematorium	\$164.50
Operation of commercial landfill - >5,000 to 20,000 tonnes received	\$2,787.75
Operation of commercial landfill - >20,000 to 100,000 tonnes received	\$3,584.30
Operation of commercial landfill - >100,000 tonnes received	\$4,380.85
Acceptance of soil on land	\$164.50
Transport of controlled waste – 0 to 3 vehicles	\$398.25
Transport of controlled waste – >3 to 7 vehicles	\$796.50
Transport of controlled waste – >7 to 11 vehicles	\$1,194.75
Transport of controlled waste – >11 vehicles	\$1,593.05
Provision of regulated waste for transport	\$164.50
Transportation of regulated waste	\$1,593.05
Sewerage treatment – discharge 0 to 20 megalitres	\$497.75
Sewerage treatment – discharge >20 to 100 megalitres	\$796.50
Sewerage treatment – discharge >100 to 1,000 megalitres	\$2,489.10
Sewerage treatment – discharge >1,000 to 5,000 megalitres	\$6471.70
Sewerage treatment – discharge >5,000 to 10,000 megalitres	\$16,428.30
Sewerage treatment – discharge >10,000 to 20,000 megalitres	\$29,869.75
Sewerage treatment – discharge >20,000 to 30,000 megalitres	\$41,817.65
Sewerage treatment – discharge >30,000 to 40,000 megalitres	\$55,756.90
Sewerage treatment – discharge >40,000 megalitres	\$263,849.70
Treatment, handling or storage of contaminated soil	\$4,978.25
Treatment, handling or storage of >10,000 cubic metres contaminated soil	\$4,978.25
Milking 0 to 800 animals per day	\$497.75
Milking >800 to 1,600 animals per day	\$1,493.45
Milking >1,600 animals per day	\$4,978.25
Process milk or products – 0 to 30,000 kilolitres	\$497.75
Process milk or products – >30,000 to 100,000 kilolitres	\$1,493.45
Process milk or products – >100,000 kilolitres	\$4978.25

Process agricultural crops – 0 to 30,000 tonnes	\$497.75
Process agricultural crops – >30,000 to 100,000 tonnes	\$1,493.45
Process agricultural crops – >100,000 to 250,000 tonnes	\$4,987.25
Process agricultural crops – >250,000 tonnes	\$13,441.35
Commercial aquaculture (waste discharge to waterway) – 0 to 2 hectares	\$497.75
Commercial aquaculture – (waste discharge to waterway) >2 to 10 hectares	\$1,493.45
Commercial aquaculture – (waste discharge to waterway) >10 hectares	\$4,978.25
Commercial aquaculture – (no waste discharged to waterway)	\$164.50
Operation of stock feedlot – live animals 0 to 200 tonnes	\$164.50
Operation of stock feedlot – live animals >200 to 500 tonnes	\$497.75
Operation of stock feedlot – live animals >500 to 2,500 tonnes	\$1,493.45
Operation of stock feedlot – live animals >2,500 tonnes	\$4,978.25
Keeping poultry live birds weight – 0 to 180 tonnes	\$164.50
Keeping poultry live birds weight – >180 to 375 tonnes	\$497.75
Keeping poultry live birds weight – >375 to 1,000 tonnes	\$1,493.45
Keeping poultry live birds weight – >1,000 tonnes	\$4,978.25
Commercial saleyard – live animals 0 to 10,000 tonnes	\$164.50
Commercial saleyard – live animals >10,000 to 25,000 tonnes	\$497.75
Commercial saleyard – live animals >25,000 to 60,000 tonnes	\$1,493.45
Commercial saleyard – live animals >60,000 tonnes	\$4,978.75
Abattoir – live animals processed 0 to 30,000 tonnes	\$497.75
Abattoir – live animals processed >30,000 tonnes	\$1,493.45
Commercial cleaning/carbonisation wool	\$497.75
Tanning/fellmongering – processed 0 to 10,000 tonnes	\$497.75
Tanning/fellmongering – processed >10,000 tonnes	\$1,496.45
Outdoor concert activities	\$164.50
Management concert venue – EPIC	\$549.10
Management concert venue – others	\$164.50
Electricity generation – 0 to 450 gigawatt hours	\$2,489.10
Electricity generation – >450 to 1,000 gigawatt hours	\$6,471.70
Electricity generation – >1,000 to 4,000 gigawatt hours	\$16,428.30
Electricity generation – >4,000 gigawatt hours	\$41,817.65

APPENDIX 7 ACT LICENCES AND PERMITS

Motor racing event	\$164.50
Management of motor racing events	\$164.50
Commercial use chemical products	\$164.50
Storage petroleum products - >500 to 5,000 cubic metres	\$796.50
Storage petroleum products - >5,000 to 100,000 cubic metres	\$2,489.10
Storage petroleum products - >100,000 cubic metres	\$6,471.70
Production of petroleum products – 0 to 100 tonnes	\$164.50
Production of petroleum products – >100 to 10,000 tonnes	\$2,489.10
Production of petroleum products – >10,000 to 200,000 tonnes	\$6,471.70
Production of petroleum products – >200,000 to 500,000 tonnes	\$16,428.30
Production of petroleum products – >500,000 tonnes	\$65,713.50
Waste oil recovery – 20 to 1,000 tonnes processed	\$2,489.10
Waste oil recovery – >1,000 tonnes processed	\$6,471.70
Helicopter facilities – 0 to 1,500 flights pa	\$497.75
Helicopter facilities – >1,500 to 5,000 flights per annum	\$1,493.45
Helicopter facilities – >5,000 flights per annum	\$4,978.25
Logging operations - forest plantation 0 to 1,000 hectares	\$497.75
Logging operations - forest plantation >1,000 to 5,000 hectares	\$1,493.45
Logging operations - forest plantation >5,000 to 10,000 hectares	\$2,986.95
Logging operations - forest plantation >10,000 hectares	\$7,336.40
Commercial production alcoholic beverages–0 to 21,000 kilolitres	\$497.75
Commercial production alcoholic beverages – >21,000 to 70,000 kilolitres	\$1,493.45
Commercial production alcoholic beverages – >70,000 to 175,000 kilolitres	\$4,978.25
Commercial production alcoholic beverages–>175,000 kilolitres	\$13,441.35
Application of biosolid products - >500 to 3,000 tonnes	\$1,493.45
Application of biosolid products - >3,000 tonnes	\$4,978.25
Composting activities - 0 to 200 tonnes animal waste	\$497.75
Composting activities - >200 tonnes animal waste	\$1,493.45
Composting activities – 0 to 5,000 tonnes plant waste	\$497.75
Composting activities – >5,000 tonnes plant waste	\$1,493.45
Wood/timber milling – 0 to 30,000 cubic metres produced	\$497.75
Wood/timber milling – >30,000 to 70,000 cubic metres produced	\$1,493.45
Wood/timber milling – >70,000 to 200,000 cubic metres produced	\$4,978.25
Wood/timber milling – >200,000 cubic metres produced	\$13,441.35

Manufacturing in furnaces & kilns 0 to 10,000 tonnes produced	\$164.50
Manufacturing in furnaces & kilns >10,000 to 30,000 tonnes produced	\$796.50
Manufacturing in furnaces & kilns >30,000 to 50,000 tonnes produced	\$2,489.10
Manufacturing in furnaces & kilns >50,000 to 200,000 tonnes produced	\$6,471.70
Manufacturing in furnaces & kilns >200,000 tonnes produced	\$16,428.30
Commercial preservation of wood – 0 to 5,000 cubic metres processed	\$164.50
Commercial preservation of wood – >5,000 to 10,000 cubic metres	\$1,493.45
Commercial preservation of wood – >10,000 to 30,000 cubic metres	\$4,978.20
Commercial preservation of wood – >30,000 cubic metres	\$13,441.35
Production of concrete & products – 0 to 13,000 cubic metres	\$497.75
Production of concrete & products - >13,000 to 25,000 cubic metres	\$1,493.45
Production of concrete & products - >25,000 to 50,000 cubic metres	\$4,978.20
Production of concrete & products - > 50,000 cubic metres	\$13,441.35
Production of bituminous road building material 0 to 30,000 tonnes	\$1,493.45
Production of bituminous road building material >30,000 to 100,000 tonnes	\$4,978.20
Production of bituminous road building material >100,000 tonnes	\$13,441.35
Crushing, grinding or separating materials, 0 to 10,000 tonnes	\$164.50
Crushing, grinding or separating materials, >10,000 to 30,000 tonnes	\$497.75
Crushing, grinding or separating materials, >30,000 to 100,000 tonnes	\$1,493.45
Crushing, grinding or separating materials, >100,000 to 500,000 tonnes	\$4,978.25
Crushing, grinding or separating materials, >500,000 to 2 million tonnes	\$13,441.35
Crushing, grinding or separating materials, >2 million tonnes	\$33,354.55
Manufacturing in furnaces and kilns	\$164.50
Commercial preservation of wood	\$164.50

APPENDIX 7 ACT LICENCES AND PERMITS

Forestry activities	\$1,649.60
Major land development/construction activities	\$164.50
Management of municipal service on unleased land	\$1,649.60
Wastewater recycling activities	\$164.50
Commercial collection of waste from commercial premises	\$164.50
Section 53 (3)(b)	
The pollutant fee is payable if schedule 2 fees (above) are less than the pollutant fee and are measured as weight in kilograms of pollutant per volume or weight of discharge from the activity:	
Commercial incineration, air – arsenic	\$90.50
Commercial incineration, air – benzene	\$1.25
Commercial incineration, air – benzo[a]pyrenes	\$50.25
Commercial incineration, air – fine particles	\$0.215
Commercial incineration, air – lead	\$18.85
Commercial incineration, air – mercury	\$193.85
Commercial incineration, air – nitrogen oxides	\$0.01
Commercial incineration, air – sulphur oxides	\$0.004
Section 53 (3)(b)	
Sewerage treatment <10,000 megalitres – water, biochemical oxygen demand	\$0.002
Sewerage treatment <10,000 megalitres – water, oil & grease	\$0.184
Sewerage treatment <10,000 megalitres – water, suspended solids	\$0.194
Sewerage treatment <10,000 megalitres – water, total nitrogen	\$0.266
Sewerage treatment <10,000 megalitres – water, total phosphorus	\$5.10
Sewerage treatment >10,000 megalitres – water, biochemical oxygen demand	\$0.002
Sewerage treatment >10,000 megalitres – water, cadmium	\$168.70
Sewerage treatment >10,000 megalitres – water, chromium	\$10.55
Sewerage treatment >10,000 megalitres – water, copper	\$4.25
Sewerage treatment >10,000 megalitres – water, lead	\$16.05
Sewerage treatment >10,000 megalitres – water, mercury	\$452.70
Sewerage treatment >10,000 megalitres – water, oil & grease	\$0.184
Sewerage treatment >10,000 megalitres – water, selenium	\$25.10
Sewerage treatment >10,000 megalitres – water, suspended solids	\$0.194
Sewerage treatment >10,000 megalitres – water, total nitrogen	\$0.266
Sewerage treatment >10,000 megalitres – water, pesticides & PCBs	\$2339.25
Sewerage treatment >10,000 megalitres – water, total phosphorus	\$5.10
Sewerage treatment >10,000 megalitres – water, zinc	\$0.02

Electricity generation - water, salts	\$0.01
Electricity generation –water, suspended solids	\$0.02
Electricity generation – air, nitrous oxides	\$0.194
Storage of petroleum products – air, benzene	\$1.25
Storage of petroleum products – air, volatile organic compounds	\$0.01
Production of petroleum products – air, benzene	\$1.25
Production of petroleum products – air, volatile organic compounds	\$0.01
Recovery of waste petroleum products – water, oils & grease	\$18.85
Recovery of waste petroleum products – air, lead	\$0.01
Recovery of waste petroleum products – air, volatile organic compounds	\$0.184
Manufacture of things in furnaces or kilns – air, coarse particles	\$0.03
Manufacture of things in furnaces or kilns – air, fine particles	\$0.21
Manufacture of things in furnaces or kilns – air, fluoride	\$0.143
Manufacture of things in furnaces or kilns – air, sulphur oxides	\$0.004
Manufacture of things in furnaces or kilns – air, nitrogen oxides	\$0.01
<i>Nature Conservation Act 1980</i>	
Section 28	
Licence to sell non-exempt animals (exceeds 100 animals)	\$165.55
Licence to sell non-exempt animals (exceeds 10 but does not exceed 100)	\$27.20
Licence to sell non-exempt animals (does not exceed 10)	\$15.65
Section 26	
Licence to take a native animal: for scientific/research purposes	No fee
Licence to take a native animal: for commercial purposes	\$165.55
Section 27	
Licence to keep 5 or more native animals	\$10.45
Licence to keep animals for public display	\$171.80
Section 29	
Licence to import into, or export from, the Territory a non-exempt animal for commercial purposes	\$27.15
Section 30	
Licence to sell live fish for commercial purposes	\$165.55
Licence to import into, or export from, the Territory live fish for commercial purposes	\$27.15

Section 42	
Licence to take a native plants/protected native plant/special protection status plant for commercial purposes (exceeds 10 plants)	\$165.55
Licence to take a native plants/protected native plant/special protection status plant for commercial purposes (not exceeding 10)	\$27.15
Licence to take a native plant/a protected native plant/a special protection status plant for scientific or research purposes	No fee

Section 43	
Licence to fell and/or remove native timber	\$50.20

Section 44	
Licence to sell a protected native plant for commercial purposes	\$27.15

Stock Act 1991

Section 24	
Application for registration as non-stock rate payer: large stock	\$33.25
Register stockmarks/brands: small stock	\$15.00
Register stockmarks/brands: large stock	\$33.25

Section 33	
Permits to travel stock	No fee

Water Resources Act 1998

Section 28	
Grant of water allocation (post 1 May 1998 arrangements) per megalitre	\$471.50

Section 35	
Licence to take water fee (up to 6 megalitres [ML])	\$52.25
Licence to take water fee (over 6 ML up to 2000 ML)	\$104.55
Licence to take water fee (over 2000 ML up to 5000 ML)	\$419.20
Licence to take water fee (over 5000 ML up to 10000 ML)	\$1,047.55
Licence to take water fee (over 10000 ML up to 25000 ML)	\$2,096.10
Licence to take water fee (over 25000 ML)	\$5,239.80
Water abstraction licence (urban use) per kilo litre	\$0.10
Water abstraction licence (surface/ground water) per kilo litre	\$0.10

Section 35	
Application for licence to take water	\$104.55

Section 39	
Driller licence application fee (applicant unlicensed elsewhere) 3 years	\$321.85
Driller licence application fee (applicant licensed elsewhere) 3 years	\$20.50

Section 44	
Bore construction permit	\$104.55

Section 47	
Recharge licence application fee	\$209.10
Recharge licence yearly fee	\$104.55

Section 69	
Permit to construct water control structures	\$104.55

Planning and Land Management (PALM)

Architects Act 1959

Section 15 (3)	
Registration as an Architect	\$206

Building Act 1972

Section 15	
Builders Licence Class A - individual	\$157.85
Builders Licence Class B - individual	\$157.85
Builders Licence Class C - individual	\$157.85
Builders Licence Class D – individual	\$157.85
Builders licence assessment for classification each of above – company	\$227.55

Builders licence application for renewal	\$70.70
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Section 17

Builders licence – 1 year	\$340.30
Builders licence - 2 years	\$583.20
Builders licence – 3 years	\$858.95
Builders licences – monthly extensions max period 3 years	\$35.85
Builders licence – application fee for renewal	\$15.00

Section 23A

Owner builders licence application	\$158.35
Owner builders licence application fee	\$64.50

Section 42 (F)

System licences application	\$245.45
System licences renewal	\$245.45
System licences transfer	\$70.70

Construction Practitioners Registration Act 1998

Section 5

Application for registration	\$214
Annual registration	\$106

Electricity Safety Act 1971

Section 45

Electrical licences – application	\$18.55
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Section 52

Electricians licence grade A (5 years)	\$58.65
Electricians licence grade B (5 years)	\$58.65
Electricians licence contractors (1 year)	\$58.60
Electricians licence restricted (5 years)	\$58.65

Land (Planning & Environment) Act 1991

Section 217	
Licence for industrial area lease	\$1,938.25
Licence to occupy unleased Territory land - Application fee for short term commercial use	\$29.70
Whole day short term commercial use	\$74.80
Part day short term commercial use	\$51.25
Section 217	
Licence to use residential nature strip for storage of building materials	\$29.70
Licence to use nature strip for business promotion – plus \$29 per week	\$29.70
Licence to use nature strip plus surcharge	\$29.70
Licence to use unleased territory land other	\$1,938.25
Licence to use room in Legislative Assembly – commercial	\$60.45
Section 226	
Development applications:	
cost of work 0-1,500	\$75
cost of work 1,501-5,000	\$75 plus 0.183% of amount in excess of \$1,500
cost of work 5,001-20,000	\$81.40 plus 0.188% of amount in excess of \$5,000
cost of work 20,001-100,000	\$109.60 plus 0.188% of amount in excess of \$20,000
cost of work 100,001-150,000	\$260 plus 0.15% of amount in excess of \$100,000
cost of work 150,001-250,000	\$335 plus 0.15% of amount in excess of \$150,000
cost of work 250,001-500,000	\$485 plus 0.15% of amount in excess of \$250,000
cost of work 500,001-1,000,000	\$860 plus 0.12% of amount in excess of \$500,000
cost of work 1,000,001-10,000,000	\$1,460 plus 0.075% of amount in excess of \$1M
cost of work > 10,000,000	\$8,210 plus 0.05% of amount in excess of \$10M
Application for a home business	\$391.50
Renewal application for a home business	\$178
Application to use leased land for a prescribed activity, including: a special dwelling; confidential services; and a re-locatable home or temporary residence	
Signs application fee (plus applicable public notification, development and building fees)	\$391.50
Variation of a Unit Title Lease to vary a lease by a single application which affects more than one unit in the same	\$49
Units Plan, for one unit – plus \$300 for each additional unit	\$1,309

For a grant of a new lease for the purpose of effecting a sub-division or consolidation of Territory Land	\$1,309
Subdivision/ Consolidation, for a grant of a new rural lease for the purpose of effecting a consolidation of Territory Land	No fee
Subdivision/ Consolidation, for other leases, for the grant of a new lease for the purpose of effecting a sub-division or consolidation of Territory Land	\$1,309
Mining Activities to carry out mining activities	\$3,875.50
<i>Plumbers, Drainers & Gasfitters Board Act 1982</i>	
Section 24 (2)	
Plumbers, drainers & gas fitters licences:	
Application for certificate of competency	\$86.60
Section 25 (2)	
Licence renewals (5 years) for:	
Journeyman Plumbers	\$206.50
Operative Drainers	\$206.50
Restricted Liquefied Petroleum Gasfitters	\$206.50
Journeyman Gasfitters	\$206.50
Journeyman Sprinkler Fitters	\$206.50
Licence renewals (1 year) for:	
Journeyman Plumbers	\$53.30
Operative Drainers	\$53.30
Restricted Liquefied Petroleum Gasfitters	\$53.30
Journeyman Gasfitters	\$53.30
Journeyman Sprinkler Fitters	\$53.30
Licence renewals (5 years) for:	
Sanitary Plumbers	\$340.80
Water Supply Plumbers	\$340.80
Advanced Sanitary Drainers	\$340.80
Advanced Gasfitters	\$340.80
Gasfitter	\$340.80
Liquefied Petroleum Gasfitters	\$340.80
Restricted Automotive Gasfitters	\$340.80
Sprinkler Fitters	\$340.80
Licence renewals (1 year) for:	
Sanitary Plumbers	\$85.55
Water Supply Plumbers	\$85.55
Advanced Sanitary Drainers	\$85.55
Advanced Gasfitters	\$85.55
Gasfitter	\$85.55
Liquefied Petroleum Gasfitters	\$85.55
Restricted Automotive Gasfitters	\$85.55
Sprinkler Fitters	\$85.55

Surveyors Act 2001

Section 46	
Initial registration as a Surveyor	\$370
Annual registration	\$301
Mutual recognition	\$362

Water & Sewerage Act 2000

Section 45	
Start of work - drainers permit (up to 9 drainage points)	\$101.45
Start of work - minor works permit (cost of work <\$1,000)	\$133.25
Start of work - irrigation permit	\$68.15

In addition to the above, PALM charges a range of administrative fees to cover the costs of amendments to previously lodged applications, additional inspection charges, and withdrawn applications.

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ACT WORKCOVER
Dangerous Goods Act 1975
Dangerous Goods Regulations 1978

Section 8	
Licence to keep dangerous goods	\$54.70
Licence to keep dangerous goods - Class 1 explosives	\$54.70
Licence to keep & sell Class 1 explosives	\$126.50
Licence to keep & sell Class 1 explosives & fireworks suitable for retail	\$5,426
Section 10	
Licence to carry dangerous goods – fee each vehicle	\$82
Section 17	
Licence to import explosives	\$71.80
Licence to import & sell explosives	\$143.60
Licence to import & sell explosives & fireworks suitable for retail	\$5,443.10
Permit to import explosives – fee per instance of import	\$71.80
Section 19	
Licence to manufacture explosives	\$670.70
Licence to manufacture explosives for immediate use	\$54.70
Licence to manufacture explosives – safety cartridges	\$54.70
Licence to manufacture & sell explosives	\$742.50
Licence to manufacture explosives – sale of safety cartridges	\$126.50
Licence to manufacture & sell explosives & fireworks	\$6,042
Section 21	
Licence to sell explosives – no safety cartridges or fireworks	\$71.80
Licence to sell explosives & fireworks suitable for retail	\$5,371.30
Licence to sell explosives – only fireworks suitable for retail	\$5,371.30

Regulation 14	
Registered driver of dangerous goods	\$30
Regulation 52	
Shotfirer's permit	\$30
Regulation 53	
Collector's permit	\$30
Regulation 54	
Special public display fireworks permit – aerial shell 75mm or less	\$50
Special public display fireworks permit – aerial shell >75mm	\$200
General public display fireworks permit – aerial shell 75mm or less	\$150
General public display fireworks permit – aerial shell >75mm	\$250
<i>Machinery Act 1949</i>	
<i>Boilers and Pressure Vessels Regulations 1954</i>	
<i>Machinery Regulations 1950</i>	
Regulation 23	
Inspection of locomotive, traction engine/road roller boilers	\$93.25
Inspection of locomotive, traction engine/road roller boilers	\$130.95
Inspection of other boilers	
heating surface not exceeding 2 square metres	\$36.40
heating surface >2 - 5 square metres	\$57.90
Regulation 23	
heating surface >5 – 15 square metres	\$93.25
heating surface >15 – 70 square metres	\$130.95
heating surface >70 – 200 square metres	\$168.60
heating surface >200 – 400 square metres	\$178.10
heating surface >400 square metres	\$214.80
plus each 100 metres that exceeds 400 square metres	\$6.40
Inspection of pressure vessels– steam jacketed pan not exceeding 1 metre	\$31.10
Inspection of pressure vessels– steam jacketed pan exceeds 1 metre	\$36.40
Inspection of pressure vessels – internal capacity not exceeding 150 litres	\$31.10
Inspection of pressure vessels – internal capacity >150 – 1,500 litres	\$36.40
Inspection of pressure vessels – internal capacity >1,500 – 3,000 litres	\$57.90
Regulation 23	
Inspection of pressure vessels –internal capacity >3,000 litres	\$83.70
Other inspections – exempted vessels	\$214.80
<i>Occupational Health & Safety Act 1989</i>	
<i>Occupational Health & Safety (Certification of Plant Users and Operators)</i>	

Regulation 11	
Application of new certificate of competency	\$41.90
Application to vary a certificate of competency	\$41.90
Application to convert existing certificate to certificate of competency	\$31.40
Application for lost/stolen certificate of competency	\$31.40

A person applying for a certificate of competency needs to apply for a 'National OHS Certificate of Competency' which covers the following certificates (33):

Crane & hoist operation:

Tower crane

Derrick crane

Portal boom crane

Bridge & gantry crane

Vehicle loading crane (> 10 metre tonnes)

Non-slewing mobile crane (> 3 tonnes)

Slewing mobile crane (up to 20 tonnes)

Slewing mobile crane (up to 60 tonnes)

Slewing mobile crane (up to 100 tonnes) Concrete placing boom

Boom type elevating work platform

Materials hoist (cantilever platform)

Hoists (personnel & material)

Slewing mobile crane (open/over 100 tonnes)

Scaffolding, dogging & rigging:

Basic scaffolding

Intermediate scaffolding

Advanced scaffolding

Dogging

Basic rigging

Intermediate rigging

Advance rigging

Pressure equipment operation:

Basic boiler operation

Intermediate boiler operation

Advanced boiler operation

Turbine operation

Reciprocating steam engine operation

Loadshifting equipment operation:

Fork lift truck

Order picking fork lift truck

Front end loader

Front end loader/backhoe

Front end loader (skid steer type)

Excavator

Dragline

Regulation 20	
Application for accreditation as an assessor	\$104.80
Assessor accreditation – 3 years	\$628.80
<i>Scaffolding & Lifts Act 1912</i>	
<i>Scaffolding & Lifts Regulations 1950</i>	
Section 6	
Design review of cranes, hoists, lifts etc - plus \$76 per hour	\$38.85
Testing of lifts – plus \$24.60 per hour	\$35.40
Re-testing of lifts (failed inspection) - plus \$65.95 per hour	\$565.95
Notification of intention to commence building, excavation or compressed air work:	
Private dwelling house - each \$1,000 the cost of work exceeds \$265,000	\$9.60
Other work – each \$2,000 the cost of work exceeds \$22,000	\$9.60
Other work – plus \$1.19 each \$1,000 cost of work exceeds \$210,000	\$966.80
Regulation 127	
Application to use suspended crane work box	No fee

In the course of its investigations the Committee examined regulatory practices and regulatory development arrangements in place in interstate jurisdictions.

Of those examined, the Committee sees particular merit in the approach adopted by the Queensland Department of State Development, in their *2000-2001 Red Tape Reduction Taskforce Report*.

Queensland established a Red Tape Reduction Taskforce in 1996. Part of the outcome of that review was a requirement for all agencies to report each year on specific improvements in their regulatory structures or procedures and, importantly, assess the impacts of these changes. The Queensland Minister for State Development issues these reports in a compendium each year.

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In Chapter 6, the Committee discussed the potential benefits to the ACT of adopting a similar approach and recommended that:

“the Government require all ACT agencies to include within their annual reports a summary and analysis of the costs and benefits of regulatory reforms undertaken during the previous year”.

To illustrate how this information may be presented to the Legislative Assembly and the wider community, the following extracts from the most recent Queensland report are reproduced with the kind permission of the Red Tape Reduction Task Force, Queensland Government State Development.

Emergency Services

Emergency Services provides a comprehensive statewide system of emergency and disaster management services that aim to meet the needs of Queensland communities by enhancing public safety.

Direct Lodgement of Building Plans for Approval

Clients, including architects and developers, can present building plans directly to the Queensland Fire and Rescue Service for assessment. The previous process involved:

- clients lodging building plans with the appropriate Local Government;
- Local Government lodging the plans; and
- Local Government forwarding the plans on to the required agencies. Direct lodgement enables the plans to be assessed simultaneously with other agencies. The process ensures a more efficient and effective turn-around-time of the submitted plans.

Impacts on individual businesses/the business community: Direct lodgement has the potential to save the client 2-5 working days. Plans can be finalised within 15 working days (compared to up to 20 days under the previous system) and the report presented directly to the client, not back through Local Governments.

Time saved to business per plan	2-5 working days
16-40 hours x \$50 per hour	\$800-\$2000
Average number of plans per annum	95
Estimated savings to business	\$76,000-\$190,000

Pre-Plan Assessment Meetings

The availability of Queensland Fire and Rescue Service inspection personnel for pre-plan assessment meetings with clients, including architects and developers, ensures concepts can be discussed and agreed upon prior to the formal lodgement of the plans.

Impacts on individual businesses/the business community: This initiative reduces the potential for building development plans to be assessed as non-compliant when formally lodged. There are time savings due to reduced delay in the processing and approval of plans. Time savings can be measured in months should the plans not have to be redesigned, resubmitted and reassessed, leading to substantial savings.

Handbook for Employers of Auxiliary Firefighters

A handbook has been introduced to provide information to employers before they sign the relevant agreement allowing their employees to become auxiliary firefighters.

Impacts on individual businesses/the business community: The handbook provides one point of contact and improves access to information for businesses whose employees are seeking to be auxiliary firefighters.

Health

Queensland Health's aims and objectives include addressing the burden of disease, improving indigenous health and balancing the investment in health.

New Radiation Safety Legislation

One of the goals of the *Radiation Safety Act 1999* and the *Radiation Safety Regulation 1999* is not to limit business. Queensland Health is currently assisting a number of businesses and research institutions to overcome radiation related issues so that they can get underway as smoothly and quickly as possible. Additionally, the move towards a degree of non-regulatory authority based regulation is resulting in the creation of employment and work opportunities (for example, radiation safety officers and "accredited persons").

Radiation Safety and Protection (RSP) Plan Templates

Templates have been produced for businesses that are in possession of radiation sources (radioactive substances, x-ray equipment, laser apparatus or therapy machines) to assist them to develop their RSP Plan.

Impacts on individual businesses/the business community:

Amount of time saved by business per plan	\$500 *
Average number of plans approved during 2000/2001 financial year	375
Estimated savings to business (\$500 x 375)	\$187,500

* (approximate consultant costs to develop a plan – this is a conservative estimate)

Radiation Safety Act 1999 – New Renewal Forms

Substantial changes have been made to the licence renewal forms to assist clients in renewing their licences. If there is no change in circumstance, the licensees are able to tick boxes on the renewal application forms. Renewal applications are processed expeditiously, usually within a few days.

Impacts on individual businesses/the business community:

Time saved to business per licence per annum	1 hour
1 hour x \$50 per hour	\$50
Average number of renewals processed during 2000/2001 financial year	124
Estimated savings to business (\$50 x 124)	\$6,200

Assessment of Radiation Sources and Premises

The *Radiation Safety Act 1999* requires possession licensees to have their radiation sources and premises assessed against the relevant Radiation Safety Standard within the timeframes specified in the *Radiation Safety Regulation 1999*. Where the radiation sources or premises have been assessed as not meeting the standards, Queensland Health has issued improvement notices with negotiated timeframes for repair/replacement of radiation sources or modifications to premises.

Impacts on individual businesses/the business community:

The issuance of improvement notices has permitted businesses to continue operating while maintaining an acceptable level of radiation safety until the modifications to the sources or premises can be made.

Food Safety Standards Seminars

Seminars were held across Queensland to inform food businesses about the new Food Safety Standards. This information was provided free of charge and over 70 seminars were conducted.

Impacts on individual businesses/the business community:

Businesses were provided with access to information about the Food Safety Standards and informed of their obligations under them.

Electronic Funds Transfer

Electronic Funds Transfer (EFT) was introduced as a payment option to businesses supplying Queensland Health with goods and services. 51% of active external suppliers have opted to use EFT.

Impacts on individual businesses/the business community:

Business that opt to be paid through EFT no longer need to bank cheques. This means there is a reduced administrative burden and there is no delay in the clearance of funds for these businesses.

Transport and Main Roads

Queensland Transport is the lead agency responsible for developing and managing the context for land, air and sea transport in Queensland. It provides transport leadership through developing and ensuring implementation of a strategic transport policy agenda, transport planning and stewardship of the entire transport system in Queensland. Main Roads is responsible for working in partnership with other areas of Government and industry to provide an effective road system and to contribute to total transport solutions. In particular, it plans, constructs and operates the state-controlled road network.

RegoEasy – Suite of Vehicle Registration Products

A suite of 3 products for motor dealers, fleets and other commercial clients has been introduced, allowing them to undertake Queensland Transport business at their premises:

- Easy Pay – direct debit of fees and inspection of vehicles by motor dealers;
- Easy Plates – as above, plus issue of registration plates; and
- Easy Business – as above, plus access to a registration on-line system to conduct the full range of services (ie. no need to attend Queensland Transport offices).

Impacts on individual businesses/the business community:

EasyPay

Time saved to business per transaction 2 minutes	
0.033 hour x \$50 per hour	\$1.65
Approximate number of transactions during 2000-2001 4,240	
Estimated savings to business \$7,000	

EasyPlates

Time saved to business per transaction 3.5 minutes	
0.058 hour x \$50 per hour	\$2.90
Approximate number of transactions during 2000-2001 6,900	
Estimated savings to business \$20,000	

EasyBusiness

Time saved to business per transaction 3.5 minutes	
0.058 hours x \$50 per hour	\$2.90
Approximate number of transactions during 2000-2001 267,240	
Estimated savings to business \$775,000	

More than 300 dealers currently take part in the scheme at various levels, however rollout of the EasyPay and EasyPlates schemes is still underway. Dealer participation in the schemes has led to significant dollar savings. This initiative has also led to improved relationships with the motor industry, which has reduced the costs of re-work. In addition, improved compliance has reduced the risk of processing stolen vehicles. The initiative commenced rollout in May 2001.

Commercial Client Relationship Management

Mobile Client Managers have been appointed to service commercial clients (for example, motor dealers and fleet managers) at their premises.

Impacts on individual businesses/the business community:

- single point of contact with Queensland Transport;
- commercial client managers develop a greater understanding of their commercial clients' business and are therefore able to provide a service tailored to their clients' needs;
- availability of a wider range of advisory services and support; and
- generates savings to commercial clients through: -
 - not having to leave their business site to visit Queensland Transport;
 - improvements to business processes and operation;
 - reduced risk of non-compliance with Queensland Transport's requirements; and
 - Queensland Transport's commercial client managers are able to provide a faster and more efficient service to their clients.

ePay: Payment of Registration Renewals on the Internet

ePay provides for the payment of vehicle registration renewals, by direct debit, via Queensland Transport's website. As a first for Australia, the initiative allows immediate on-line application and approval of direct debit.

Impacts on individual businesses/the business community:

- ability to change compulsory third party (CTP) insurers on-line;
- immediate electronic transfer of vehicle registration payments;
- on-line receipt issued and able to be printed; and
- savings to commercial clients through: - not having to write and post cheques; - not having to queue at Customer Service Centres; and - not having to telephone or write to Queensland Transport to change CTP insurers.

