

# 10 Planning, construction and development services

Planning, planning approvals, and building and construction regulations and approvals can have a significant impact on building costs. Occupational licensing of building service providers has benefits, but also can have an impact on building costs. Legislation in all of these areas can have anticompetitive effects. This chapter discusses planning and approval, building and construction regulations and approvals, and the regulation of building service providers (architects, engineers, surveyors, valuers, and building and related trades).

## Planning and approval

Planning legislation establishes planning schemes for regulating land use. The schemes typically divide land into zones and set out the uses and developments that do not require a planning permit, those that are allowed subject to permit approval with or without conditions, and those that are prohibited. The legislation generally requires planning approval before development or building commences, which is given at either local or State/Territory level. Approval involves considering aspects of a proposal (including specific site characteristics, the proposed site use, the impact on surrounding occupiers, traffic and design issues) in the context of the general zoning of the land and the applicable planning instruments, with a view to protecting community amenity.

## Legislative restrictions on competition

Legislative restrictions on competition in planning, development and construction services occur in the following ways.

- Planning legislation has the potential to impede the entry of new competitors into a market by limiting or preventing commercial development in an area.
- Competition may be inhibited by (avoidable) delays in planning approval. Such delays may be a result of the regulatory system. The University of Tasmania estimated that delays in development approval may add 5–10 per cent to the cost of development projects and that around one third of

these delays may be attributable to regulatory delays. The study estimated that eliminating regulatory delays would save \$A350–450 million per year (Industry Commission 1995).

- The planning process can allow existing businesses to stop or at least delay the entry of new competitors to the market by objecting to the proposal because they are concerned about commercial competition.
- Most jurisdictions' legislation has traditionally restricted competition by reserving planning approval to government. More recently, New South Wales and Queensland opened up parts of planning approval to private certifiers. In New South Wales, accredited private certifiers may issue certificates for developments that require consent but can be certified as meeting predetermined development standards (referred to as 'complying development'). An accreditation body accredits private certifiers, who must have relevant qualifications or experience, and compulsory insurance. In Queensland, assessable development may require code and/or impact assessment. Private certifiers are able to conduct code assessments, and inspect and certify certain works. They require relevant qualifications, necessary experience or accreditation, and compulsory insurance.

## **Regulating in the public interest**

Planning legislation regulates the use and development of land to achieve broad social, economic and environmental objectives. Such regulation can maximise positive externalities (by conserving historical buildings or applying urban design principles, for example) and minimise negative externalities (such as adverse effects on public health where housing is too close to a hazardous industry). Planning legislation can also increase the provision of desirable public goods, such as open spaces and protected floodways.

Under National Competition Policy (NCP), governments are broadly responsible for balancing objectives in developing planning schemes that are in the public interest. In its role of assessing compliance with NCP legislation review and reform obligations, the National Competition Council looks for appropriate regulatory outcomes. In particular, it looks at whether planning processes minimise opportunities for existing businesses to inappropriately prevent or delay participation by new competitors. Governments can prevent this restriction on competition by, for example, limiting the time available for appealing decisions and ensuring appeal opportunities are open to only those with a legitimate and substantive interest in the potential development. Good regulation principles suggest planning schemes should also be developed with community involvement and be transparent and accessible.

Planning schemes may unnecessarily add to business costs by involving unwarranted delays. The Council considers that planning approval processes should aim to minimise these delays. The Council's NCP assessment also looks for jurisdictions to have considered and, where appropriate, provided for competition between government and private providers in planning approval

processes. It may be inappropriate for private certifiers to be involved in all planning assessments, but a general model would involve differentiating development proposals by the level of assessment required and who may undertake that assessment.

Private certification generally involves a registration scheme, entry requirements and compulsory insurance. The Council accepts that these requirements are usually in the public interest but, as with other occupations with entry restrictions, looks for jurisdictions to have only the minimum entry restrictions necessary to achieve the objectives of the legislation. Other strategies for achieving effective planning approval legislation include simplifying the approval process and reducing duplication with other approval processes. Statutory time limits are one way in which to reduce unnecessary delays.

The Council used these broad principles to assess jurisdictions' review and reform activity against Competition Principles Agreement (CPA) obligations. Where legislative restrictions reflect these principles, the Council assesses the jurisdiction as having met its CPA obligations. Where legislation contains competition restrictions that are not consistent with the principles of effective regulation, the Council assesses NCP compliance against whether public benefit arguments justify the restrictions.

## **Review and reform activity**

The Council has previously assessed Queensland, South Australia, Tasmania, the ACT and the Northern Territory as having met their CPA clause 5 obligations in relation to their NCP reviews of planning and approvals legislation. Table 10.1 details each jurisdiction's review and reform of planning and approval legislation.

### **New South Wales**

New South Wales reformed its development assessment system in 1998 to integrate development consents, provide appropriate assessment and increase competition in compliance functions. It now has a streamlined 'one-stop shop' system for development, building and subdivision approvals under the *Environmental Planning and Assessment Act 1979* (EP&A Act) (removing the need for subsequent local government approvals). Accredited certifiers can compete with councils in the assessment of compliance functions and technical standards. The Independent Pricing and Regulatory Tribunal also reviewed development assessment and related fees, and recommended: deregulating fees subject to competition, regulating fees for noncontestable development assessment, and allowing qualifying consent authorities to set their own fee policies subject to certain conditions. The Government agreed in principle to the tribunal's recommendations.

The New South Wales Government is undertaking a review of planning. A white paper released in February 2001 proposed a new system of planning with the key features of: whole-of-government strategic planning; greater community involvement in planning; greater accessibility to planning information and the availability of a variety of planning tools. The white paper proposed integrating all policies and plans for environmental and land use issues into one instrument for each local government area, one regional strategy for each region and one State planning document (Department of Urban Affairs and Planning 2001).

The New South Wales Government advised the Council in December 2002 that it had not listed the EP&A Act for review under the CPA and therefore did not intend to report on this legislation. It stated that it would continue to provide information on 30 planning and land use reform projects to the Council. The Council advised New South Wales that it accepted that the competition restrictions in the EP&A Act are being examined in the context of other review processes.

New South Wales provided an update on the 30 projects in its 2003 NCP annual report. The nature and status of the projects are detailed in box 10.1.

**Box 10.1:** Planning and land use projects under review by New South Wales under the EP&A Act

1. Develop policy options for integrated approvals system (completed).
2. Review referral processes and concurrences in local planning policies (under way).
3. Extend the guarantee of prompt service to concurrent approvals under the EP&A Act (completed).
4. Review multiple controls on land clearing under the State Environmental Planning Policy (completed).
5. Integration of total catchment management objectives in planning instruments (under way).
6. Examine the feasibility of incorporating plans for river, land and habitat management, environmental protection and forestry reserves into planning instruments under the EP&A Act (under way).
7. Review and reform regulations affecting mining (under way).
8. Review and reform regulations affecting mariculture (completed).
9. Review and reform regulations affecting forestry, including the corporatisation of State Forests (will not proceed).
10. Review EP&A Act s. 90 'heads of consideration' for development consent (completed).
11. Review potential for increasing 'as of right developments' (completed).
12. Consider potential for private certification of building, subdivision waters and sewerage approvals (completed).
13. Integrate building and planning approvals (completed).
14. Examine zoning prohibitions for anticompetitive effects and consider wider adoption of performance standards (under way).
15. Review and reform development without consent for change of use in industrial areas (completed).
16. Consider combining development and re-zoning applications (completed).
17. Review heritage approvals and consider better integration with development approval/ building approval processes (completed).
18. Consider potential for standardising consent conditions, zoning classifications and definitions of performance standards (under way).
19. Conduct stage II review of pollution control Acts to streamline and rationalise licensing procedures (completed).
20. Review water legislation and licensing (completed).
21. Develop framework for coordinated/integrated development approvals conditions and other requirements and advice on the use of the framework (under way).
22. Develop best practice guidelines for coordinated/integrated development approvals system for mining and extractive industry (completed).
23. Develop best practice guidelines for planning focus (completed).
24. Develop best practice guidelines for community consultation (under way).
25. Review endangered species legislation to integrate licences and development approvals (completed).
26. Adopt the reformed Australian Building Code with minimal variation (completed).
27. Convert siting rules to performance standards (completed).
28. Extend and improve performance benchmarking of local councils (completed).
29. Conduct public consultation to improve the operation of current approval rights and the dispute resolution system (under way).
30. Examine the potential for consolidating land, water and related natural resource management legislation into a single statute (completed).

The Council accepts that the wider approach adopted by New South Wales in pursuing the 30 targeted planning and land use reform projects has merit, although it is not clear how these projects incorporate the CPA clause 5 guiding principle. The Council considers that New South Wales made substantial progress in addressing potential restrictions on competition in planning and development processes, but that it has yet to complete some important reform projects. The Council thus assesses New South Wales as not having met its CPA clause 5 obligations in this area.

## Victoria

Victoria completed its review of the *Planning and Environment Act 1987* in early 2001. The review found that Victoria's planning legislation achieved its objective in an effective and efficient manner, and that the competition restrictions identified were in the public interest. The review recommendations aimed to improve the manner in which the Act is administered, to enhance planning effectiveness and efficiency. The Victorian Government is considering its response to the review's recommendations. The majority of the recommendations will be implemented by way of amendments to planning schemes and administrative arrangements; only minor legislative amendments are required, which will be included in the next amendment to the Act anticipated for the 2003 spring session of Parliament. Since the legislative restrictions were found to be in the public interest, the Council assesses Victoria as having met its CPA clause 5 obligations.

## Western Australia

Western Australia listed several planning Acts for review under its NCP program, including the *Town Planning and Development Act 1928*, the *Metropolitan Region Town Planning Scheme Act 1959* and the *Western Australian Planning Commission Act 1985*. The previous Western Australian Government developed the Urban and Regional Planning Bill 2000, which consolidated this legislation. The NCP review examined both the proposed and existing legislation, because the Bill was essentially a consolidation of the existing legislation. The review was almost finalised, but the change of Government in November 2001 meant that it was not submitted to Cabinet.

The current Government re-activated the consolidation of the planning legislation with the release of a position paper in April 2002. The Government received a number of submissions and is developing a new green Bill, which will be called the Planning and Development Bill 2003. The Bill is expected to be released for an eight-week public comment period in late November 2003. The purpose of the Bill is to elicit submissions on the broad proposals contained in the position paper and a number of fresh proposals. Following review and analysis of submissions on the Bill the Government anticipates introducing a consolidated Planning and Development Bill 2003 to Parliament. It is proposed that a reworked joint NCP review of the existing

legislation and the Planning and Development Bill 2003 to Cabinet as soon as the Bill provisions are finalised. The Council assesses Western Australia as not having met its CPA clause 5 obligations because it did not complete its reform activity.

**Table 10.1:** Review and reform of legislation regulating planning and approval

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
New South Wales	<i>Environmental Planning and Assessment Act 1979</i>	Controls on land use, Sets procedures for the issue of planning permits and approval	Legislation is being reviewed in stages. Review of part IV of the Act (integrated development assessment) was completed . Review of plan-making is under way, with a white paper released in February 2001 proposing the integration of all policies and plans for environmental and land use issues into one instrument for each local government area, one regional strategy for each region and one State planning document.	Act was amended in 1997 and 1999 to streamline its approval system and allow accredited certifiers to compete with councils for part of planning approval. Review and reform are part of a wider, whole-of-government approach addressing planning and land use reform. Many reforms have been implemented but a few significant issues are outstanding.	Review and reform incomplete
Victoria	<i>Planning and Environment Act 1987</i>	Controls on land use, sets procedures for the issue of planning permits and approval	Review was completed in 2001. The review found that Victoria's planning legislation achieved its objective in an effective and efficient manner, and that the competition restrictions identified were in the public interest. The review recommendations aimed to improve the manner in which the Act is administered to enhance planning effectiveness and efficiency.		Meets CPA obligations (June 2003)
Queensland	<i>Integrated Planning Act 1997 (which replaced Local Government [Planning and Environment] Act 1990)</i>	Controls on land use, sets procedures for the issue of planning permits and approval	Review was completed in October 1997. It found the Integrated Planning Act merely sets up a planning framework and is far less prescriptive than the Act it replaced. Review reported that the Act does not restrict competition.		Meets CPA obligations (June 2002)

*(continued)*

**Table 10.1** continued

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
Western Australia	<i>Town Planning and Development Act 1928</i> <i>Western Australian Planning Commission Act 1985</i> <i>Metropolitan Region Town Planning Scheme Act 1959</i>	Controls on land use, via town planning schemes	The current Government re-activated the consolidation of the planning legislation with the release of a position paper in April 2002. The Government received submissions on the position paper and is developing the Planning and Development Bill 2003. The Bill is expected to be released for public comment in late November 2003.	Following the review and analysis of submissions on the Bill, the Government anticipates introducing a consolidated Planning and Development Bill 2003 to Parliament.	Review and reform incomplete
South Australia	<i>Development Act 1993</i> and <i>Development Regulations 1993</i>	Controls on land use, sets procedures for the issue of planning permits and approval	Review was completed in July 1999. Its recommendations included: requiring Crown developments to be subject to building rules and fire safety requirements consistent with those for private buildings; allowing private certification of private development; and removing the obligation for planning authorities to obtain independent advice for noncomplying developments.	Reform was implemented in 2001.	Meets CPA obligations (June 2002)
Tasmania	<i>Land Use Planning and Approvals Act 1993</i>	Controls on land use, sets procedures for the issue of planning permits and approval	Review was completed.	Recommended amendments were made through the <i>Land Use Planning and Approvals Amendment Act 2001</i> .	Meets CPA obligations (June 2002)

(continued)

**Table 10.1** continued

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
ACT	<i>Land (Planning and Environment) Act 1991</i> — parts V and VI (grants of land and development approval processes)	Controls on concessional grants of land and development approval processes	Review was completed in May 2000. Its recommendations included improving transparency in the provision of direct grants and considering introducing a notification scheme for developments that are relatively minor and unlikely to be opposed by the Government agency or to require conditions.	The Government issued a formal response to the review, agreeing to most recommendations in principle. An amending Regulation was signed on 25 January 2001.	Meets CPA obligations (June 2002)
Northern Territory	<i>Planning Act</i> (1999 Act replaced 1993 Act)	Controls on land use Sets procedures for the issue of planning permits and approval	Review of 1999 Act was completed in September 2000. The report is not public. The Review concluded that the anticompetitive provisions deliver a net benefit to the community and recommended no amendments to the Act.	The Government endorsed the outcome of the review.	Meets CPA obligations (June 2002)

## **Building regulations and approval**

State and Territory building regulations cover technical provisions governing the way in which builders and developers operate. The regulations aim to ensure buildings meet certain health, safety and amenity objectives. Each State and Territory has enacted building legislation, with associated Regulations containing the administrative provisions to give effect to the legislation.

Building approvals involve inspection and approval at specific stages of the construction process, in accordance with the relevant State or Territory building legislation. Building certifiers, who may be employed by government authorities or privately employed, generally undertake the inspection and approval.

There has been a high level of coordination across governments in this area. The Australian Building Codes Board and its predecessor, the Australian Uniform Building Regulations Co-ordinating Council, developed a model Building Act and the Building Code of Australia. Consequently, there is a high degree of commonality in the legislation.

The Australian Building Codes Board sets national standards such as the Building Code of Australia, so it has national standard-setting obligations under the CPA. These obligations require standards-setting bodies to show that an appropriate regulatory impact statement has been conducted for the national standards that it sets.

### **Legislative restrictions on competition**

Building regulations may restrict competition by specifying a standard of product that suits a particular raw material, production method or production plant (ABCB 1997). Imposing a particular standard can increase costs and reduce the scope for innovation. More broadly, building regulations affect business costs. The former Industry Commission estimated in 1995 that reform of government building regulations could lead to an annual saving of around \$A350 million, equivalent to some 1.5 per cent of total building activity (then valued at around \$A25 billion) each year (IC 1995, p. 134). This estimate was based on lowering stringent standards without reducing safety or amenity.

A significant change since the Industry Commission's 1995 report is that all jurisdictions' legislation now provides for (but does not necessarily mandate) the incorporation of the Building Code of Australia. This performance-based code, introduced in 1996, contains technical provisions for the design and construction of buildings and other structures, covering matters such as structure, fire resistance, access, fire-fighting equipment, mechanical

ventilation, lift installations and aspects of health and safety. The code is designed to achieve cost savings in building and construction by allowing flexibility and innovation in the use of materials, forms of construction and design.

Building regulations continue to vary across jurisdictions for a number of reasons.

- Although the Building Code of Australia is the main incorporated document in the State and Territory building regulations, there may be other relevant documents such as planning codes.
- Jurisdictions have the opportunity to introduce some regional variations to account for climate and the building environment.
- Local governments may make laws that have the same power as a building regulation but apply only within the local government area.

Introducing competition in building approvals pre-dates the NCP. A recommendation of the 1991 Building Regulation Review Taskforce (quoted in Department of Infrastructure, Energy and Resources 1999) was that State and Territory governments make legislative and administrative provisions for private certification. As well, the model Building Act developed by the Australian Uniform Building Regulations Co-ordinating Council in 1991 includes provisions for removing the local government monopoly in the technical assessment and administration of building regulations.

Private certification was introduced first by Victoria in 1994 and more recently by other States and Territories. Suitably qualified and appropriately insured private certifiers are now able to provide building approvals in most jurisdictions. Private certification has led to the establishment of competitive markets for these services, with the private sector now accounting for a large proportion of total inspection/approval activity.

## **Regulating in the public interest**

Building regulations have benefits in terms of public health, safety and amenity. The Industry Commission found that most aspects of building regulations meet the public interest test, although some regulations and the way in which they are applied are unnecessarily stringent, reduce the competitiveness of the industry and serve no safety or other public interest objective (IC 1995, p. 134).

The new Building Code of Australia appears to have reduced building sector costs. One recent review, while noting that it is difficult to quantify the benefits from the new code, estimated that its adoption would lead to savings of 0.5–3 per cent of capital costs (ABCB 2000). This review supported simplifying State-based exceptions in the code and ultimately replacing State-based Acts and regulations with a truly national system.

The Council considers that many aspects of building regulations and approvals are, in principle, justified in the public interest. In assessing NCP compliance — that is, whether restrictions on competition provide a net community benefit and are needed to restrict competition to achieve the objective of the legislation — the Council looks for the following outcomes:

- Governments should ideally adopt the Building Code of Australia and minimise variations from that code. While the code permits State-based variations, excessive variations can increase costs. Where significant State-based variations exist, the Council looks for jurisdictions to have provided a public benefit case for these variations.
- Building approval processes should aim to minimise unwarranted delays. The Council's assessment looks for jurisdictions to have considered introducing competition in the building approval and certification processes, given the likelihood that competition would reduce approval times.
- Governments should have only the minimum necessary entry restrictions to private building certification to achieve the objectives of the legislation. Private building certification typically involves a registration scheme, entry requirements and compulsory insurance. The Council accepts that these requirements are generally in the public interest.

## **Review and reform activity**

NCP reviews of legislation in the building area have tended to focus more on building certification and occupational licensing than on building regulations. All States and Territories, however, have adopted the Building Code of Australia with regional variations (ABCB 1999).

New South Wales, South Australia, Tasmania and the ACT completed NCP reviews of aspects of their building legislation and have met their CPA clause 5 obligations. The Council also assessed Victoria's building regulations as meeting CPA clause 5 obligations in 2001. There are still some outstanding building approvals issues. Table 10.2 details the progress of each jurisdiction's review and reform of its building regulations and approval legislation.

### **Victoria**

The *Building Act 1993* allows competing public and private agents to certify building work. A private building surveyor may issue building permits, carry out inspections of building and building work, and issue occupancy permits and temporary approvals. Private building surveyors must meet entry requirements (qualifications and experience), be registered, have professional

indemnity insurance and not act as a building surveyor if there is a conflict of interest.

Victoria completed its review of the Act in 1999. The Government considered the review in conjunction with its assessment of the *Architects Act 1991*, partly to consider opportunities to integrate Victoria's building and architects legislation.

Victoria is considering its response to the review of architects legislation, focusing on the Victorian review but also accounting for the Inter-Governmental Working Party's response to the Productivity Commission inquiry into Architects Acts and the government and industry working group initiated by the Australian Procurement and Construction Ministerial Council. Legislative amendments are planned for the 2003 spring session of Parliament, with related Regulation changes to follow. The Council assesses Victoria as not having met its CPA clause 5 obligations because it did not complete its reform activity in this area.

## Queensland

Queensland's review of the *Building Act 1975*, which dealt with provisions related to the regulation of building certifiers, was completed in June 2002. The Government accepted all but one of the review's recommendations (relating to the ability of local governments to recover auditing costs where a private certifier approves development). The *Plumbing and Drainage Act 2002* assented to on 13 December 2002, implemented the recommendations. The Council assesses Queensland as having met its CPA clause 5 obligations in this area.

## Western Australia

Western Australia reported that new legislation is being drafted to replace the *Local Government (Miscellaneous Provisions) Act 1960* and the Building Regulations 1989. The new legislation will establish building regulations and specify building approval procedures. Western Australia advised that responsibility for the administration of the Act and Regulations had been transferred to the Department of Housing and Works in May 2003, which delayed the drafting of the new legislation. A recent change in Ministerial responsibilities in June 2003 created further delays in approval of the new legislation. The Government advised that the new legislation will be examined under gatekeeping legislation. The Council assesses Western Australia as not having met its CPA clause 5 obligations because it did not complete the reform process.

## The Northern Territory

After completing a review of its *Building Act*, in July 2002 the Government:

- endorsed the review recommendations ss. 21, 41 and 46 of the Act be repealed, because they are redundant or anticompetitive in nature;
- endorsed the review recommendations that 14 other anticompetitive sections be retained because it is in the public interest to mandate standards of building practitioners, building products and practices; and
- directed that the general review of the Act consider 'other issues' raised in the NCP review.

An amendment Bill was prepared to repeal ss. 21, 41 and 46 of the Act. The *Building Amendment Act 2003* was assented to on 7 July 2003.

A general review of the *Building Act* is under way and the Territory's gatekeeping process for new legislation will ensure any resulting amendments will meet the CPA tests. This general review will address 'other issues' referred to in the NCP review.

The Council assesses the Northern Territory as having met its CPA clause 5 obligations.

**Table 10.2:** Review and reform activity of legislation regulating building

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
New South Wales	<i>Environmental Planning and Assessment Act 1979</i> <i>Local Government Act 1993</i>	Building regulations, building approval procedures, accreditation of building certifiers	Review of assessment procedures in both Acts was completed.	The Acts were amended in 1997 and 1999 to simplify development procedures and allow accredited certifiers to certify development. The State adopted the 1996 Building Code of Australia.	Meets CPA obligations (June 2001)
Victoria	<i>Building Act 1993</i>	Building regulations, building approval procedures, accreditation of building surveyors	Review was completed in 1998. It focused on occupational regulation of building practitioners, including building surveyors. The Government considered the review in conjunction with its assessment of the <i>Architects Act 1991</i> , in part, to enable consideration of any opportunities to integrate Victoria's building and architectural legislation	The Government is considering the review report.	Building regulations — meets CPA obligations (June 2001) Building approvals — review and reform incomplete
Queensland	<i>Building Act 1975</i> and Standard Building Law and Building Regulation 1991	Building regulations, building approval procedures, accreditation of building certifiers	Review completed in June 2002. The Government accepted all but one of the review's recommendations (the exception related to the ability of local governments to recover auditing costs where a private certifier approves development).	The review's recommendations were implemented in the <i>Plumbing and Drainage Act 2002</i> , which amended the <i>Building Act 1975</i> as per the review recommendations.	Meets CPA obligations (June 2003)
Western Australia	<i>Local Government (Miscellaneous Provisions) Act 1960</i> and Building Regulations 1989	Building regulations, building approval procedures	New legislation is currently being drafted to replace the Acts. However, responsibility for the administration of the Act and regulations was transferred to the Department of Housing and Works in May 2003. During the transfer, drafting was postponed.	Drafting of the new legislation is under way.	Review and reform incomplete

*(continued)*

Table 10.2 continued

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
South Australia	<i>Development Act 1993 and Development Regulations 1993</i>	Building regulations, building approval procedures and accreditation of building certifiers	Review was completed in July 1999. Its recommendations included: requiring Crown developments to be subject to building rules and fire safety requirements consistent with those for private buildings; allowing private certification of private development; and removing the obligation for planning authorities to obtain independent advice for noncomplying developments.	Majority of recommendations were implemented. A public interest justification was provided where recommendations were not accepted.	Meets CPA obligations (June 2002)
Tasmania	<i>Local Government (Building and Miscellaneous Provisions) Act 1993 (part III subdivisions)</i>			Legislation was replaced by the <i>Building Act 2000</i> , which was assessed under the gatekeeping requirements.	Meets CPA obligations (June 2001)
	<i>Local Government (Building and Miscellaneous Provisions) Act 1993 (health issues)</i>			Relevant provisions were transferred to the <i>Public Health Act 1997</i> , which was assessed under the gatekeeping requirements.	Meets CPA obligations (June 2001)
	<i>Local Government (Building and Miscellaneous Provisions) Act 1993 (except health issues and part III)</i>	Building regulations, building approval procedures		Building provisions were replaced by the <i>Building Act 2000</i> , which was assessed under the gatekeeping requirements.	Meets CPA obligations (June 2001)
	<i>Building Act 2000</i>	Building regulations, building approval procedures, accreditation of building certifiers	The regulatory impact statement on the Act was released in August 1999. The new Act provides a framework for regulation of the building industry. Details of the framework are being developed in consultation with the building industry.	The Act received Royal Assent in December 2000, and is expected to commence in 2003, following the completion of industry consultation.	Meets CPA obligations (June 2001)

(continued)

**Table 10.2** continued

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	
ACT	<i>Building Act 1972</i>	Building regulations, building approval procedures, building practitioners licensing	Targeted public review was completed in August 2000. Review focused on the regulation of building occupations and did not review building regulations. Public benefits for building regulations cover amenity, the safety and health of people who use buildings, and community expectations.		Meets CPA obligations (June 2002)
	<i>Construction Practitioners Registration Act 1998</i>	Registration, entry requirements, disciplinary processes, business conduct (professional indemnity insurance with approved insurer, no conflict of interest)	This legislation introduced private certification of building work. Review was completed in November 2000.		Meets CPA obligations (June 2002)
Northern Territory	<i>Building Act</i>	Building regulations, building approval procedures, building practitioners licensing	A review was undertaken in 1999 and endorsed in July 2002. The review recommended that: ss. 21, 41 and 46 of the Act be repealed because they are redundant or anticompetitive; other anticompetitive provisions of the Act be retained because they can be justified under clause 5(1) of the CPA; and 'other issues' raised in the NCP review be considered during the general review of the Act.	<i>The Building Amendment Act 2003</i> gives effect to the review recommendations in full. The Bill was assented to on 7 July 2003.	Meets CPA obligations (June 2003)

## Service providers

A number of professions, occupations and trades service the construction and planning industry. Architects, engineers, surveyors, builders and valuers are just some of the building industry workforce. Key restrictions in legislation regulating these vocations include licensing requirements, entry requirements (rules or standards governing who may provide services), the reservation of practice (where only certified practitioners are allowed to perform certain areas of practice), ownership and other commercial restrictions. A Council staff paper sets out how these measures restrict competition and explores issues raised by professional regulation (Deighton-Smith, Harris and Pearson 2001). It also highlights principles for regulating professions and occupations, including the desirability of:

- regulatory objectives being clearly identified;
- links between specific restrictions and the reduction of harms being identifiable;
- regulations and other rules of conduct being transparent and public;
- restrictions being consistently applied, with a presumption against 'grandfather clauses';
- enforcement actions being open, accountable and consistent;
- regulatory bodies having broad representation, with strong community involvement; and
- regulation being the minimum necessary to achieve the government's objectives.

## Architects

### Review and reform activity

Individual States and Territories are responsible for the various legislative instruments regulating architects. The Productivity Commission completed a national review of architects legislation on behalf of all States and Territories except Victoria (PC 2000d), finding that the costs of current regulation outweigh the benefits. It found no net community benefit from the registration of architects and recommended repeal of the various architects Acts in all jurisdictions (with an appropriate notification period of, say, two years to consult with domestic and overseas consumers on the changes). The Productivity Commission found:

*Statutory certification restricts competition to some degree, imposing costs on consumers, architects and non-architects. As the practice of architecture is not restricted by Architects Acts, such costs are unlikely to be large. Nonetheless, evidence suggests they are positive.*

*... On balance, in the Commission's assessment, the costs of current regulation outweigh its benefits because claimed benefits of Architects Acts could be achieved more effectively by a self-regulating profession and other existing legislation. (PC 2000d, pp. xiv–xv)*

The Productivity Commission highlighted two possible grounds for intervention in the building design market: spillover effects (where building design affects neighbours and possibly the wider community) and asymmetric information (where consumers have less information than the provider of the building design does). It noted that the harms caused by poor quality architecture could be more effectively addressed through other regulatory mechanisms, particularly fair trading legislation and building codes. The Productivity Commission stated:

*Self-regulation would involve the repeal of Architects Acts but, importantly, this would not leave the profession and the services it provides unregulated. Architects and other providers of building design are subject to a range of regulations designed to address consumer protection and spillovers related to the building industry, and the business community in general. In many cases, these general laws were not in place when Architects Acts were first introduced. (PC 2000d, p. xxxvi)*

The Productivity Commission's alternative approach was to apply the following principles to those States and Territories that require registration of all building practitioners who act as principals (including all building design practitioners):

- that architects be incorporated under general building practitioners boards which have broad representation (including industry-wide and consumer representation);
- that there be no restrictions on the practice of building design and architecture;
- that the use of a title such as 'registered architect' be restricted to those registered, but that there be no restrictions on the use of the generic title 'architect' and its derivatives;
- that only principals (persons, not companies) to contracts be required to be registered;
- that there be provision for accessible, transparent and independently administered consumer complaints procedures, and transparent and independent disciplinary procedures; and

- that there be scope for contestability of certification (that is, that architects with different levels of qualifications and experience be eligible for registration).

A working party, with a representative from each State and Territory, was established to develop a national response to the review. This group presented its proposed response to Heads of Government for consideration, recommending the adoption of the alternative approach via amendment of existing legislation to remove elements deemed to be anticompetitive and not in the public interest.

The working party recommended that:

- regulatory boards be constituted with broad industry-wide and consumer representation;
- legislation providing for the regulation of architects not include restriction on practice;
- restriction on the use of the titles ‘architect’ and ‘registered architect’ remain;
- where an organisation offers the services of an architect, an architect must supervise and be responsible for those services;
- complaints and disciplinary procedures be made more transparent and provide avenues for appeal; and
- architectural boards be encouraged to identify (and implement) means of broadening certification channels.

The joint response provided a framework that State and Territory governments adopted and the Australian Procurement and Construction Ministerial Council endorsed. Consequently the framework establishes the basis for the Council’s assessment of jurisdiction’s compliance in this area. Table 10.3 details each jurisdiction’s review and reform of legislation regulating architects.

## New South Wales

New South Wales advised that on 21 May 2003 it introduced the Architects Bill 2003, which provides for the repeal of the *Architects Act 1921* and the implementation of the nationally agreed framework, including:

- the introduction of the concept of a registered architect to replace the concepts of ‘chartered architect’ and ‘nonchartered’ architect that the *Architects Act 1921* uses;
- the removal of the requirement that at least one third of the directors of a corporation or company offering architectural services be chartered architects;

- the introduction of a new system for making complaints against and disciplining architects who are found guilty of unsatisfactory professional conduct or professional misconduct;
- the inclusion in the membership of the Board of Architects of New South Wales (to be renamed the NSW Architects Registration Board) of community, consumer and industry representatives;
- the establishment by the Regulations of codes of professional conduct for architects;
- the extension of the ability of the board to fund its own activities by imposing and recovering fees for the services that it provides; and
- the extension of the board's role in accrediting courses of study for architecture and promoting discussion on architectural issues in the community.

The Bill was passed by the Legislative Assembly on 27 May 2003 and is before the Legislative Council. The Council assesses New South Wales as not having met its CPA clause 5 obligations because it did not complete its reform activity.

## Victoria

As stated, Victoria did not participate in the Productivity Commission review, having already subjected its Architects Act and subordinate legislation to independent NCP review in 1998-99. The review undertaken in 1998-99 also addressed Victoria's Building Act and its subordinate legislation, partly to consider opportunities to integrate Victoria's building and architects legislation. When the Government decides its response, implementation of recommendations of the joint architects and building legislation review will be undertaken concurrently.

Victoria advised that legislative amendments are planned for the 2003 spring session of Parliament, with related Regulation changes to follow. The Council assesses Victoria as not having met its CPA clause 5 obligations because it did not complete the reform process.

## Queensland

Queensland advised the Council that it implemented the national working party's recommendations in the *Architects Act 2002*, which commenced on 1 January 2003. The context in Queensland is now as follows:

- the inclusion of broad building industry and consumer representation on the Board of Architects of Queensland;
- no substantive restrictions on the practice of architecture;

- provisions for only registered architects to use the title ‘architect’ or ‘registered architect’, although no longer any general restriction on the use of derivatives;
- no longer a requirement for company registration for architects responsible for services provided by the company;
- independent and transparent disciplinary processes, conducted via the Queensland Building Tribunal; and
- encouragement of architects boards to identify means of broadening current certification channels.

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

## Western Australia

Western Australia endorsed the legislative review of its *Architects Act 1921* in December 2001. Cabinet approved the drafting of amendments to the Act in March 2002 in response to the review. The Architects Bill 2003 is in keeping with all of the review recommendations.

- Membership of the Architect’s board will be broadened to include industry, consumer and educational representatives.
- The Bill does not include restrictions on practice, it protects title only.
- The title ‘architect’ will be restricted to registered persons only, but derivatives that describe a recognised competency are permitted (for example, landscape architect or architectural draftsman).
- Organisations that offer the services of an architect must have adequate arrangements to ensure an architect supervises, controls and is ultimately responsible for the architectural work provided.
- Complaints and disciplinary procedures will be modified, with the introduction of an informal conciliation and inquiry process, and the provision of avenues for appeal.
- Requirements for registration will be moved to the Regulations and refer to a national-standard setting body, the Architects Accreditation Council of Australia, which is developing a broader system of certification that accounts for different combinations of qualifications and experience.

The public consultation period for the Architects Bill 2003 closed on 4 April 2003. The major change arising from the public consultation period is the composition of the Architect’s Board will half consist of registered architects to provide the necessary architectural understanding for the board to carry out its functions. A final draft Bill is being prepared for introduction to Parliament

during the 2003 spring session. Accordingly, the Council assesses Western Australia as not having met its CPA clause 5 obligations because it did not complete the reform process.

## South Australia

South Australia advised the Council that the relevant Minister will be asked to endorse the State review's recommendations where they are critical to addressing competition policy. A Bill to amend the *Architects Act 1939* will then be prepared and introduced to Parliament. The Government has not yet introduced the Bill. Accordingly, the Council assesses South Australia as not having met its CPA clause 5 obligations because it did not complete the reform process.

## Tasmania

Tasmania reported that the *Building Act 2000* which commenced in 2003, dealt with most recommendations arising from the review of the *Architects Act 1929*. It expects to amend the *Architects Act* during 2003-04 to account for the remaining recommendations.

The Council assesses Tasmania as not having met its CPA clause 5 obligations because it did not complete the reform process.

## The ACT

The ACT advised that it is assessing the feasibility of licensing architects under the proposed Construction Occupations Licensing Act. The proposed reforms are consistent with the recommendations of the Productivity Commission's review and the Australian Procurement and Construction Council's national principles for the harmonisation of Architects Acts. The ACT Government advised that consultation with the Royal Australian Institute of Architects and the Architects Board failed to gain agreement on the proposed new Act. Accordingly, a rewrite of the *Architects Act 1959* is to be undertaken to incorporate the Productivity Commission's recommendations and the national harmonisation principles. The Council assesses the ACT as not having met its CPA clause 5 obligations because it did not complete the reform process.

## Northern Territory

The Northern Territory advised that its Architects Amendment Bill 2003 has been drafted and is about to be presented to Cabinet. The significant amendments in the draft Bill are:

- provision for complaints by consumers through a new complaint process;

- five Architects Board members instead of three, including two nonarchitects;
- simplified rules relating to architectural companies and partnerships; and
- simplified requirements for the education and training of architects, in accordance with the standards set by the Australian Accreditation Council of Australia.

The Northern Territory advised that the Bill will be introduced into the Legislative Assembly after Cabinet approval. The Council assesses the Northern Territory as not having met its CPA clause 5 obligations because it did not complete the reform process.

**Table 10.3:** Review and reform of legislation regulating architects

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
New South Wales	<i>Architects Act 1921</i>	Registration, entry requirements, reservation of title, disciplinary processes, business restrictions	Productivity Commission review was completed in August 2000 and recommended the repeal of the Act. Previous State review was commenced but not completed.	On 21 May 2003, Government introduced the Architects Bill 2003, which provides for the repeal of the <i>Architects Act 1921</i> and the implementation of reforms agreed under the national working group response to the review. This Bill was passed by the Legislative Assembly on 27 May 2003 and is before the Legislative Council.	Review and reform incomplete
Victoria	<i>Architects Act 1991</i>	Registration, entry requirements, reservation of title, disciplinary processes, business restrictions (ownership provisions that at least two thirds of company directors must be registered architects)	Review was completed in February 1999. It recommended retaining title restriction and registration requirements, and reducing business restrictions (including reducing the ownership provision that at least one director or partner must be a registered architect).	Legislative amendments are planned for the spring 2003 session of Parliament, with related Regulation to follow.	Review and reform incomplete
Queensland	<i>Architects Act 1985</i>	Registration, entry requirements, reservation of title, disciplinary processes, business restrictions, business licensing	Productivity Commission review was completed in August 2000 and recommended the repeal of the Act.	The recommendations of the working group were implemented by the <i>Architects Act 2002</i> which commenced on 1 January 2003.	Meets CPA obligations (June 2003)

*(continued)*

**Table 10.3** continued

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
Western Australia	<i>Architects Act 1921</i>	Registration, entry requirements, reservation of title, disciplinary processes, business conduct (including Architects Board approval for advertising), business licensing.	Productivity Commission review was completed in August 2000 and recommended the repeal of the Act. The Government endorsed its legislative review of the Act in December 2001, and the Productivity Commission review in February 2002.	Cabinet approval for the drafting of amendments to the Act was granted in March 2002. The public consultation period for the Architects Bill 2003 closed on 4 April 2003, with a final draft Bill being prepared for introduction to Parliament in the 2003 spring session.	Review and reform incomplete
South Australia	<i>Architects Act 1939</i>	Registration, entry requirements, reservation of title, disciplinary processes, business conduct (including accuracy of advertising, ownership), business licensing, advertising restrictions	Productivity Commission review was completed in August 2000 and recommended the repeal of the Act. Previous State review was completed.	South Australia advised the Council that the Bill was likely be prepared by June 2003. As at 30 June 2003 it had not been introduced.	Review and reform incomplete
Tasmania	<i>Architects Act 1929</i>	Registration, entry requirements, reservation of title, disciplinary processes, business restrictions, business licensing	Productivity Commission review was completed in August 2000 and recommended the repeal of the Act.	Majority of the recommendations from the review were dealt with in the <i>Building Act 2000</i> , which commenced in 2003. The Act will be amended during 2003-04 to account for the remaining recommendations.	Review and reform incomplete

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<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
ACT	<i>Architects Act 1959</i>	Registration, entry requirements, reservation of title, disciplinary processes	Productivity Commission review was completed in August 2000 and recommended the repeal of the Act.	Consultation with the Royal Australian Institute of Architects and the Architects Board failed to gain agreement on their inclusion in the proposed new <i>Construction Occupations Licensing Act</i> . As a result, a rewrite of the <i>Architects Act 1959</i> is to be undertaken that will incorporate recommendations from the Productivity Commission's review and the Australian Procurement and Construction Council's national harmonisation principles.	Review and reform incomplete

*(continued)*

**Table 10.3** continued

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
Northern Territory	<i>Architects Act</i>	Registration, entry requirements, reservation of title, disciplinary processes	Productivity Commission review was completed in August 2000 and recommended the repeal of the Act. Previously completed Northern Territory review has been put on hold.	Amendment Bill has been drafted and will be introduced to the Legislative Assembly after Cabinet approval.	Review and reform incomplete

## Engineers

Queensland is the only State that legislates for the registration of all professional engineers. Queensland's *Professional Engineers Act 1988* includes restrictions on entry, a requirement to register, the reservation of title and practice, a disciplinary process, commercial restrictions and business licensing. Several jurisdictions require professional engineers to be registered for specific areas of work, such as building work (Victoria and South Australia) and certification (New South Wales and the Northern Territory). Generally, jurisdictions use the National Professional Engineers Register (managed by the Institution of Engineers, Australia) as the benchmark criteria for qualifications and experience required to practice as a professional engineer. Jurisdictions also rely on quality standards (such as building codes) to protect the public from harm.

Queensland completed its review of the *Professional Engineers Act 1988*. An independent consultant conducted the review, under the auspices of a steering committee of department officers, a consumer representative and a professional engineer. The Government accepted the review in its entirety.

The review recommended the continued regulation of the profession but removing anticompetitive legislative elements that could not be justified on public interest grounds. The review identified co-regulation as the preferred approach to the continued regulation of professional engineers — that is, joint administration by the engineering profession and a statutory governing body. Under the proposed approach, the profession would take responsibility for assessing applicants for registration and the Government would administer the legislation, including accrediting professional bodies and taking disciplinary action where misconduct is identified. The existing business licensing of units and associated professional indemnity insurance requirements would remain.

The legislative amendments required to meet the recommendations were extensive in nature, so the Queensland Government decided to incorporate the amendments in a new Act, the *Professional Engineers Act 2002*, which repealed the 1988 Act. The 2002 Act provides that only registered professional engineers may provide professional engineering services. It meets NCP obligations by no longer requiring the registration of engineering companies and engineering units, thereby freeing up the manner by which the business of engineering services may be conducted. It achieves the preferred approach of co-regulation through the proposed adoption (through the promulgation of regulations under the Act) of professional standards for the national registration of engineers and the accreditation of professional associations for assessing applications. The State will set standards for registration, professional associations will assess applicants for registration against the set standards, and the board will register those applicants who have been assessed as meeting professional standards.

The *Professional Engineers Act 2002* commenced operation on 1 January 2003. The Act implements the findings of the NCP review of the previous legislation, consistent with the implementation in the *Architects Act 2002* of the

recommendations relating to the Productivity Commission's review of legislation regulating architecture. The Council assesses Queensland as having met its CPA clause 5 obligations (table 10.4).

**Table 10.4:** Review and reform of legislation regulating engineers

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
Queensland	<i>Professional Engineers Act 1988</i>	Restrictions on entry, registration, reservation of title and practice, disciplinary process, commercial restrictions and business licensing	The outcome of this review was support for the continued regulation of the profession, but removal of anticompetitive elements that could not be justified on public interest grounds. The review identified co-regulation as a preferred approach for the regulation of professional engineers — that is, joint administration by the engineering profession and a statutory governing body.	The required amendments to existing legislation to meet the recommendations were extensive, so the Queensland Government incorporated the amendments in a new Act, the <i>Professional Engineers Act 2002</i> , which repealed the 1988 Act. The new Act commenced on 1 January 2003.	Meets CPA obligations (June 2003)

## Surveyors

Cadastral (land and property) surveyors have an important role in affirming property rights. Each State and Territory requires surveyors to be licensed and registered with the jurisdiction's surveyors' board. Legislation regulating surveyors includes entry standards, the reservation of title and a requirement to register. There are also disciplinary processes, reserved areas of practice and business conduct restrictions in all jurisdictions.

The regulation of surveyors aims to maintain the integrity of the land tenure system supporting the land and property markets. Accordingly, the Council considers that public benefit arguments support, in principle, the licensing and registration of cadastral surveyors.

## Review and reform activity

In its 2001 NCP assessment, the Council assessed the ACT as having met its CPA obligations in this area because it had completed a review of the *Surveyors Act 1967* and passed a new Act. The Council also assessed Western Australia as having met its CPA obligations in relation to the *Strata Titles Act 1985*. In its 2002 NCP assessment, the Council assessed the Northern Territory as having met its CPA obligations in this area. Table 10.5 details each jurisdiction's review and reform of legislation regulating surveyors.

### New South Wales

The review of the *Surveyors Act 1929* was completed in August 2001. It recommended that the Government clarify the objects of the Act and retain the system of registration of surveyors and the Board of Surveyors. It also recommended that current standards and requirements be substantially retained but subject to ongoing review; that the Government consider deregulating restrictions on the naming and ownership of surveying companies and on advertising; and that the Government change the Surveyors (Practice) Regulation 2001 to make it less prescriptive about the methods of surveying.

The *Surveyors Act 2002*, assented to on 29 October 2002, repealed the 1929 Act and removed the restrictions on the naming and ownership of surveying companies and on advertising. The Act retained the system of registration of surveyors, as recommended by the review. The review found that a net public benefit from maintaining this system to ensure the integrity of the State cadastre (register of land boundaries). The Council assesses New South Wales as having met its CPA clause 5 obligations in this area.

## Victoria

Victoria's review of the *Surveyors Act 1978* was completed in July 1997. It recommended:

- retaining restrictions on entry;
- altering the composition of the Surveyors Board so it is not dominated by surveyors;
- changing entry requirements to
  - allow surveyors to gain practical training through course work as an alternative to training under a supervising surveyor; and
  - specify integrity criteria;
- reducing some commercial restrictions that
  - require surveyors or related professions to form a majority of members/directors of a company engaging in cadastral survey work; and
  - allow the Surveyors Board to set fees; and
- reducing barriers to the interstate mobility of surveyors.

The Victorian Government substantially accepted the recommendations of the review. It advised the Council that the Land Surveying Bill 2001 was introduced to Parliament in May 2001 to effect the recommendations. The Bill lapsed in November 2002 following the calling of an election and the consequent proroguing of Parliament. The Government reported that re-introduction of the Bill is part of its legislative priorities and program.

Victoria also reported that the Surveyors Board implemented the recommendation that surveyors be allowed to gain practical training through course work as an alternative to training under a supervising surveyor. In relation to the recommendations to reduce barriers to the interstate mobility of surveyors, Victoria reported that the Surveyors Board is investigating costless interstate licensing through the Reciprocal Surveyors Boards of Australia & New Zealand. The Council assesses Victoria as not having met its CPA clause 5 obligations because it did not complete the reform process.

## Queensland

Queensland completed a review of the *Surveyors Act 1977* in 1997. The review supported retaining the licensing system for cadastral surveyors. The Government accepted this recommendation, considering that licensing helps maintain the stability and integrity, and public confidence in, the land title system. The review recommended removing a number of restrictions on competition — namely, business name approval, fee setting by the Surveyors

Board of Queensland and the requirement that the majority of directors of bodies corporate must be registered surveyors. The review also supported retaining the requirement that consulting surveyors (those surveyors providing surveying services for a fee) hold insurance.

The Government endorsed the review recommendations. The Government noted in relation to business name approvals that the *Business Names Act 1962* provides a satisfactory alternate means of assessing and approving business names. The Government also noted that the existing provision for the board to set fees has not been used by the board for many years.

The Government consulted with the Surveyors Board of Queensland before and during the preparation of the draft Bill. An exposure draft of the Bill was released in August 2002, complemented by presentations at a number of seminars around the State. Written responses were received from surveying industry groups and individual surveyors. The draft Bill was modified to address issues raised during the consultation process. As a result, the Surveyors Bill 2003 was introduced to Parliament on 27 May 2003 and is scheduled for debate in August 2003. The bill retains the current model for regulating surveyors, and removes three restrictions that the NCP review identified and did not support. The Council assesses Queensland as not having met its CPA clause 5 obligations because it did not complete the reform process.

## Western Australia

The Western Australian review of the *Licensed Surveyors Act 1909* and the *Strata Titles Act 1985* was completed in 1998. The review recommended:

- broadening the make-up of the Land Surveyors Licensing Board to include consumer representation; and
- replacing the requirement for licensed surveyors to be of good fame and character with provisions determining eligibility to practise. A more detailed rule, prohibiting the granting of a licence to an applicant who has a criminal record of offences involving business fraud or dishonest business practices, should be enacted.

The review recommended retaining the following restrictions:

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

- the provision for a surveyor whose licence or practising certificate has been suspended or cancelled, or restricted with special conditions, to apply to the board for the alteration or removal of those conditions. The potential of the board to discriminate unfairly between surveyors charged with similar offences, and therefore to unnecessarily restrict the availability of surveying services in the marketplace, was seen to be outweighed by the potential benefit of restoring the full range of business opportunities to affected surveyors;
- the requirement that licensed surveyors either purchase professional indemnity insurance cover or show proof of existing cover (under an employee–employer subcontracting arrangement), as a condition of the annual renewal of the practising certificate. The review found that the restriction addresses a specific commercial failure in the provision of surveying services, thereby contributing to improved performance in the industry and reducing the incidents of severe financial loss suffered by users of surveying services.

These reforms are being implemented in the *Acts Amendment and Repeal (Competition Policy) Bill 2002* which is before Parliament. The Standing Committee on Uniform Legislation and General Purposes recommended in its report on 10 June 2003 that the Bill be passed without amendment. The Council assesses Western Australia as not having met its CPA clause 5 obligations because it did not complete the reform process.

## South Australia

The *Survey Act 1992* contains competition restrictions that relate to the licensing, registration, entry requirements, reservation of title (and derivatives), reservation of practice, disciplinary processes, business conduct (including ownership restrictions) and business licensing of surveyors. A review was completed in 1999 and the report was released in 2002. The review recommended removing restrictions on companies and partnerships, and adding new provisions to make it an offence for any person to exert undue influence over a licensed surveyor to provide a service in an inappropriate or unprofessional manner. A draft Bill containing these reforms was prepared for introduction to Parliament in 2003. The Government has not yet introduced the Bill. The Council assesses South Australia as not having met its CPA clause 5 obligations because it did not complete the reform process.

## Tasmania

The Tasmanian review of the *Land Surveyors Act 1909* was completed in July 1999. It recommended retaining the restrictions relating to registration, annual licensing, disciplinary processes, experience and minimum standards. It also recommended replacing the requirement for two years of supervised training with an appropriate course of postgraduate training, developing less prescriptive and more output-focused standards, and removing restrictions on the number of graduates under supervision and on the power of the board to set fees.

The Tasmanian Government released its response to the review recommendations, proposing an alternative, less restrictive, competency-based co-regulation model. The model involves a single public register of all surveyors, with mandatory registration of land surveyors, voluntary registration of surveyors in noncadastral disciplines and voluntary registration of multidisciplinary competency certification for all registered surveyors. The Government would not be directly involved in the assessment of competency: rather, an accredited professional organisation would assess professional competency.

In November 2002, Tasmania passed the *Surveyors Act 2002* which implemented deregulation of the surveying profession to a greater extent than envisaged by the review. The Council assesses Tasmania as having met its CPA clause 5 obligations.

**Table 10.5:** Review and reform of legislation regulating surveyors

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
New South Wales	<i>Surveyors Act 1929</i>	Licensing, registration, entry requirements (qualification, exam, two years experience, age at least 21 years, good fame and character), reservation of title and practice, disciplinary processes, business conduct (regulation of the making of surveys and advertising)	Review was completed in August 2001. It recommended clarifying the objects of the Act and retaining the system of registration and the Board of Surveyors; substantially retaining current standards and requirements subject to ongoing review; considering removing restrictions on naming and ownership of surveying companies and on advertising; and possibly changing the Surveyors (Practice) Regulation 2001 to make it less prescriptive about the methods of surveying.	The <i>Surveyors Act 2002</i> received assent on 29 October 2002. The Act repealed the <i>Surveyors Act 1929</i> and removed the restrictions on to the naming and ownership of surveying companies and on advertising. The Act retained the system of registration of surveyors, as recommended by the review. The review found a net public benefit from maintaining this system to ensure the integrity of the State cadastre (register of land boundaries).	Meets CPA obligations (June 2003)
Victoria	<i>Surveyors Act 1978</i>	Licensing, registration, entry requirements (education, experience, integrity criteria), reservation of title and practice, disciplinary processes, business conduct (ownership restrictions, fees)	Review was completed in 1997. Its recommendations included: retaining restrictions on entry; making integrity criteria specific; reducing some commercial restrictions, such as the requirement for surveyors or related professions to form a majority of members/directors of a companies engaging in cadastral survey work; removing the power of the regulatory body to set fees for surveying services; and reducing barriers to the interstate mobility of surveyors.	The Victorian Government substantially accepted the recommendations of the review. The Land Surveying Bill 2001 was introduced to Parliament in May 2001 but lapsed in November 2002 following the calling of an election. The Victorian Government reported that progression of the Bill is a consideration of the Government's legislative priorities and program.	Review and reform incomplete

*(continued)*

Table 10.5 continued

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
Queensland	<i>Surveyors Act 1977</i>	Licensing, registration, entry requirements (education, experience, good fame and character), reservation of title and practice, disciplinary processes, business conduct (including business name approval, fee setting, professional indemnity insurance, ownership restrictions)	Review was completed in November 1997. The review supported retaining the licensing system for cadastral surveyors. The Government accepted this recommendation. The review also recommended removing a number of restrictions on competition. An exposure draft of the Bill was released in August 2002. Written responses were received from surveying industry groups and a individual surveyors.	The Surveyors Bill 2003 was introduced to Parliament on 27 May 2003 and scheduled for debate in August 2003. The Bill retains the current model for regulation of surveyors, and removes three restrictions that the public benefit test identified and did not support. Whilst the NCP review recommendations relating to business name approval were accepted, the Government noted that the <i>Business Names Act 1962</i> provides an alternate means of assessing and approving them. The Government also noted that the existing provision for the board to set fees has not been used for many years	Review and reform incomplete
Western Australia	<i>Licensed Surveyors Act 1909</i>	Licensing, entry requirements (competency [education and experience], age, good fame and character, continuing professional development), reservation of title and practice, disciplinary processes, business conduct (including professional indemnity insurance)	Review, in conjunction with the review of the <i>Strata Titles Act 1985</i> , was completed in 1998. Its recommendations included re-composing the board, clarifying entry standards and retaining restrictions on professional indemnity insurance.	The Government endorsed the review recommendations. Reforms are being implemented in the Acts Amendment and Repeal (Competition Policy) Bill 2002 which is before Parliament.	Review and reform incomplete

(continued)

**Table 10.5** continued

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
Western Australia (continued)	<i>Strata Titles Act 1985</i>	Provision for only licensed surveyors to 'certify' a strata plan, survey-strata plan or notice of resolution where a strata company is requesting a conversion from a strata scheme to a survey-strata scheme	Review, in conjunction with the review of <i>Licensed Surveyors Act 1909</i> , was completed in 1998. It concluded that the restrictions are in the public interest and should be retained.	The Government endorsed the review recommendation.	Meets CPA obligations (June 2001)
South Australia	<i>Survey Act 1992</i>	Licensing, registration, entry requirements (education, experience, fit and proper person test), reservation of title (and derivatives), reservation of practice, disciplinary processes, business conduct (including ownership restrictions), business licensing	Review was completed in 1999 the report was released in 2002. It recommended removing restrictions on companies and partnerships and adding new provisions to make it an offence for any person to exert undue influence over a licensed surveyor to provide a service in an inappropriate or unprofessional manner.	A draft Bill containing these reforms was prepared for introduction to Parliament in 2003. As at 30 June 2003, the Government had not introduced the Bill.	Review and reform incomplete

*(continued)*

**Table 10.5** continued

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
Tasmania	<i>Land Surveyors Act 1909</i>	Licensing, registration, entry requirements, reservation of practice, disciplinary processes, business conduct (number of supervised graduates, discretionary power for surveyors board to publish and enforce a scale of fees, survey practice standards)	Review was completed in July 1999 and the report was released in December 2000. It recommended retaining the following restrictions: registration, annual licensing, disciplinary processes, experience (but replacing two years of supervised training with an appropriate course of postgraduate training) and minimum standards (but less prescriptive and more output focused). The review recommended removing the following restrictions: the number of graduates under supervision and the board's power to set fees.	Tasmania passed the <i>Surveyors Act 2002</i> to implement deregulation of the surveying profession to a greater extent than envisaged by the review.	Meets CPA obligations (June 2003)
ACT	<i>Surveyors Act 1967</i> <i>Surveyors Act 2001</i>	Licensing, entry restrictions (educational prerequisites), reservation of title and practice, ability of board (made up of mostly surveyors) to make regulations and undertake disciplinary processes	Review report was released in December 1998. Recommendations included: retaining registration; having less rigorous entry standards; and abolishing the board in favour of a chief surveyor.	The Government accepted all recommendations but deferred considering the removal of compulsory postgraduate entry requirements until all jurisdictions completed their reviews of surveyors legislation. The new Act gives powers to a commissioner for surveys (not a chief surveyor). A new <i>Surveyors Act 2001</i> was passed in February 2001.	Meets CPA obligations (June 2001)

*(continued)*

**Table 10.5** continued

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
Northern Territory	<i>Licensed Surveyors Act</i>	Licensing, registration, entry requirements (education, experience, possibly exams, fit and proper person test), reservation of title and practice, disciplinary processes, business conduct (including practice standards), business licensing	Review was completed in October 1999 but the report is not yet released. Review concluded that potentially anticompetitive provisions could be justified under the CPA.	The Government endorsed the review outcomes in February 2000.	Meets CPA obligations (June 2002)

## Valuers

Valuers assess the value of properties, especially in property transactions where a purchase is being made with a loan from a financial institution. Five jurisdictions license land valuers: New South Wales, Queensland, Western Australia, South Australia and Tasmania. Occupational licensing for valuers includes entry requirements, registration requirements, the reservation of title, reserved areas of practice, disciplinary processes and business conduct regulations. Queensland also restricts advertising (which must not be false or misleading, directly or indirectly injure the professional reputation of another valuer, or damage the profession).

All governments have recognised the questions that arise where professions and occupations are licensed in some but not all jurisdictions, along with the implications for mutual recognition. Governments thus established a working party — the Vocational Education, Employment and Training Committee Working Party on Mutual Recognition — in the early 1990s to determine whether occupations that were registered in some but not all jurisdictions should be deregistered or fully registered in all jurisdictions.

This working party examined valuers legislation. It noted that consumer protection is the objective of the legislation, but that the majority of valuers' clients are banks, legal practitioners, finance companies and other financial intermediaries (who seek a valuation as part of the loan assessment process). These consumers employ their own staff for valuations or have a panel of valuers on whom to call. In addition, members of the public who use valuation services tend to carry out these transactions through other professionals, institutions or the courts, which are well-informed consumers. Consequently the public interest evidence supporting the registration of valuers did not persuade the working party, which recommended abolishing registration (VEETAC 1993). At the time, valuers were registered in all jurisdictions except the ACT and the Northern Territory. Table 10.6 details each jurisdiction's review and reform of legislation regulating land valuation.

## Review and reform activity

### New South Wales

New South Wales completed a review of the *Valuers Registration Act 1975* in 2000. While the review found that the impact of existing restrictions on competition was not significant, it recommended replacing the current registration scheme with a negative licensing regime. The proposed scheme involves core legislation that would provide for qualification and practice requirements and disciplinary action. The criterion of 'good character' would be replaced with the requirement of not having been convicted of an offence involving dishonesty and not having been prohibited from acting as a land

valuer in any Australian jurisdiction. Continuing professional development and professional indemnity insurance would not be compulsory conditions for carrying on business as a valuer.

In April 2000, the Government approved the review's recommendations, subject to further consultation. The consultation process found, contrary to assumptions of the original review, that an increasing number of consumers are dealing directly with valuers and that valuers are experiencing difficulty in obtaining professional indemnity insurance due to instability in the insurance industry. There was evidence that introducing a negative licensing scheme would considerably increase the risk of financial losses to consumers if incorrect valuations were given. The margin of benefits from reduced regulation under a negative licensing scheme would not offset these risks.

As a result, the Government decided in May 2002 to retain the existing positive licensing scheme as the regulatory option providing the greatest net public benefit. Such a system provides consumers with the protection of knowing that a valuer possesses the necessary qualifications to practise and has not been disqualified. The Government also approved reforms to improve the efficiency of the existing scheme and to reduce the regulatory burden on valuers. These include the introduction of a single licence arrangement to replace the current system of five licences; the creation of a more flexible system of qualification and competency standards; and the introduction of three-year registration periods to replace annual renewals.

The Valuers Bill 2003 was introduced to Parliament on 29 April 2003, passed without alteration on 20 May 2003 and assented to on 28 May 2003. The *Valuers Act 2003* repealed the *Valuers Registration Act 1975*. The Council assesses New South Wales as having met its CPA clause 5 obligations.

## Queensland

Queensland completed a review of the *Valuers Registration Act 1992* in October 1999. The review found that deregulation is likely to deliver a net public benefit in the medium to long term, but poses a risk to infrequent users of valuers in the short term. The review recommended retaining registration (with a further review in three years) and removing other geographic and price control restrictions. The Government endorsed the review recommendations in February 2000 and introduced amending legislation to Parliament in March 2001. The amendments include a recomposition of the board, a reduction in practical experience requirements (from five to three years), and a new requirement for continuing professional development for registration renewal.

Queensland advised that proclamation and implementation of changes to the Act and Regulations were completed by 1 May 2002. The amending legislation provided for:

- broadening the membership of the Valuers Registration Board to include two business and community representatives in addition to three registered valuers;

- the introducing of competency-based renewal for the registration of valuers and the listing of specialist retail valuers in addition to the existing requirements for first-time registration (suitable academic or demonstrated adequate experience for registration as a valuer, or demonstrated experience for listing as a specialist retail valuer); and
- removing the anticompetitive restriction on trading that the board might have placed on a specialist retail valuer.

The Council assesses Queensland as having met its CPA clause 5 obligations.

## Western Australia

The Department of Consumer and Employment Protection reviewed the *Land Valuers Licensing Act 1978* in 1999. It recommended revoking the required registration of land valuers and abolishing the Land Valuers Licensing Board. The review was not finalised at the time, pending the outcomes of the Gunning Committee of Inquiry (concerning the operations of the boards and committees in the Fair Trading portfolio) and the Temby Royal Commission into the Finance Broking Industry.

The Gunning Committee was commissioned in April 2000 and published its final report on 1 September 2000. The Temby Royal Commission was commissioned on 11 June 2001 to investigate whether unlawful or improper activities or practices relating to the finance broking industry have occurred since 1 January 1994. It considered the conduct of finance brokers, borrowers and those who provide services to them and to lenders, including (but not limited to) advisers, accountants, auditors, bankers, lawyers and valuers. The Royal Commission's final report (published on 21 December 2001) found that:

*Valuers perform a necessary social role. They must be, and are, trained. It would be a bad thing if anybody, irrespective of skill or character, could adopt the title and carry out the functions of a land valuer. It follows that land valuers should be licensed, as happens presently under the Land Valuers Licensing Act 1978. That Act should be retained, along with the Land Valuers Licensing Board.*

The Government endorsed the Royal Commission's findings, which constituted a public interest argument to support the licensing of land valuers. The NCP review was updated to reflect this endorsement and the amended NCP review was endorsed by Cabinet on 4 August 2003. The review found that the following restrictions were in the public interest and should be retained:

- the requirement for land valuers to be licensed;
- the criteria for licensing;
- the power to discipline land valuers;
- the power to set maximum remuneration received by valuers;

- the power to prescribe fees for licensing and other administration services; and
- the power to prescribe a code of conduct.

In light of the review's recommendations, and the Government's response, no further legislative action is required. Accordingly, the Council assesses Western Australia as having met its CPA clause 5 obligations.

An intra-agency committee review of the *Valuation of Land Act 1987* was completed. Public consultation involved submissions following release of an information paper. The review recommended defining the eligibility for the position of Valuer-General less narrowly (dropping the requirement to be eligible for membership of the Australian Property Institute), removing the restriction that any person making valuation for rating and taxing purposes must be licensed under Land Valuers Licensing Act, and encouraging a greater flow of information for the purposes of making valuations

The review recommended retaining the following restrictions in the Act, on the basis of furthering the public interest.

- The Valuer-General cannot engage any person who is employed by or is a member of any rating agency or taxing authority under contract as a valuer. This restriction separates valuation activities from the rating and taxing functions of the Government.
- Any person employed in the administration of the Act is prohibited from engaging in any private valuation work without the written consent of the Valuer-General. Without this restriction, unfair competitive advantages might accrue to employees of the Valuer-General's office.
- Rating and taxing authorities must obtain the Valuer-General's approval to undertake valuation activities for rating and taxing purposes, and the Valuer-General may attach conditions to this approval. This restriction separates valuation from rating and taxing activities and also allows the Valuer-General to maintain consistency in valuation practices over time.
- The Valuer-General's Office has information-gathering powers that exceed those available to private valuers. The office does not use the information to provide commercial services, however, so the restriction conveys no competitive advantage to the office over private valuers. Further, such information is regarded as critical for core valuation activities of the office. To reduce the chances of competitive advantages arising in the future, a legislative requirement was introduced for the Valuer-General to advise the Minister regularly of the types of information collected under the Act, and for the Minister to authorise for the release of information to the public when the Minister considers that it is in the public interest to do so.
- The Valuer-General has immunity for any act or omission carried out in good faith and relating to activities under the Act. The limited protection against claims of negligence in performing statutory activities does not

protect the Valuer-General against liabilities incurred in performing nonstatutory activities that are the private sector also undertakes. The Valuer-General purchases relevant insurances at commercial rates and enjoys no competitive advantage from this provision. Given the advantage of the limited statutory immunity, however, assessed the review restriction as providing a net public benefit.

- Fees may be levied on members of the public, including private valuers, for copies of or extracts from valuation rolls. This restriction provides a small public benefit through cost recovery, while imposing no significant costs on the public or on private valuers who wish to obtain information from the valuation roll.

Amendments are being progressed via the Acts Amendment and Repeal (Competition Policy) Bill 2002 which is currently being considered by Parliament. The amendments implement the recommendations of the review, including:

- removing the restriction that the Valuer-General shall be qualified for membership of the Australian Institute of Valuers as a fellow or associate. The amended section will require only that a person appointed as Valuer General shall be able to demonstrate a high level of qualifications and experience in the valuation of land;
- removing the restriction that any person engaged as a valuer by a rating or taxing authority for the purpose of making valuations for rating or taxing purposes, must be licensed under the *Land Valuers Licensing Act 1978* or qualified for membership of the Australian Institute of Valuers as a fellow or associate;
- introducing a legislative requirement for the Valuer-General to advise the Minister regularly of the types of information collected under the Act, and for the Minister to authorise for the release of such information to the public, when the Minister considers that it is in the public interest to do so.

The Council assesses Western Australia as not having met its CPA clause 5 obligations because it did not complete the reform process.

## South Australia

South Australia's *Land Valuers Act 1994* involves negative licensing and disciplinary provisions aimed at ensuring consumer protection. These arrangements work by excluding valuers deemed to have acted illegally or improperly. South Australia's review of the Act found the regulation of land valuers in this way to be justified, with consumers at risk of significant financial loss if valuers are incompetent, negligent or dishonest. The review panel concluded, however, that the required postgraduate qualifications are too onerous and that the Government should examine the current requirements and broaden the number and type of acceptable qualifications (Office of Consumer and Business Affairs 1999). The Government endorsed the review

recommendations and awaits approval of a national training package, which it undertakes to implement. Once the national training package has been endorsed, South Australia will review the prescribed qualifications for valuers with a view to prescribing core competencies rather than qualifications.

The Industry Training Advisory Board (Property Services) recently commenced reviewing the Property Development and Management Training Package. A national industry-driven board, the Industry Training Advisory Board, is conducting the review for the Australian National Training Authority, a Commonwealth statutory authority. The review is to develop competency standards for valuers. The first stage of the review is due to be completed in November 2003 and the second stage (the endorsement and recognition of competencies) is likely to be completed in 2005.

The Council assesses South Australia as not having met its CPA clause 5 obligations because it did not complete the reform process.

## Tasmania

Tasmania completed a review of the *Land Valuation Act 1971* and the *Valuers Registration Act 1974* in July 1998. The review recommended tendering all statutory mass valuation work and retaining the role of the Valuer-General. The Valuer-General would be responsible for developing and monitoring valuation standards and information requirements, determining the length of the revaluation cycle, administering valuation lists, coordinating the collection of information, and being the avenue of appeal. The review also recommended greater administrative separation of the Valuer-General and Government Valuation Services, and the abolition of the Valuers Registration Board

The Government accepted the review recommendations and, in December 2001, implemented them in the *Valuation of Land Act 2001* (which repealed the *Land Valuation Act 1971* and the *Land Valuation Amendment (Relocatable Homes) Act 1999*) and the *Land Valuers Act 2001* (which repealed the *Valuers Registration Act 1974*). Tasmania assessed the new Acts under its legislation gatekeeping requirements and the Acts commenced operation in 2002. The Council assesses Tasmania as having met its CPA clause 5 obligations.

**Table 10.6:** Review and reform of legislation regulating land valuers

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
New South Wales	<i>Valuers Registration Act 1975</i>	For real estate valuers: licensing, registration, entry requirements (education, supervised training, good character), disciplinary processes, reservation of practice, provisions that confer functions on the Property Services Council.	Departmental review was completed in 2000, recommending a negative licensing scheme to replace the current system. The consultation process found that introducing a negative licensing scheme would considerably increase the risk of financial losses to consumers if incorrect valuations were given. The margin of benefits from reduced in regulation under a negative licensing scheme would not offset these risks. As a result, the Government decided in May 2002 to retain positive licensing as the regulatory option providing the greatest net public benefit. The Government also approved reforms to improve the efficiency of the existing scheme and to reduce the regulatory burden on valuers.	The Valuers Bill 2003 was introduced to Parliament on 29 April 2003, passed without alteration on 20 May 2003 and assented to on 28 May 2003. The <i>Valuers Act 2003</i> repealed the <i>Valuers Registration Act 1975</i> .	Meets CPA obligations (June 2003)
Queensland	<i>Valuers Registration Act 1992</i> and Regulations	Licensing, registration, entry requirements (education, five years practical experience and exam or certificate of competence, good fame and character, fit and proper persons test), reservation of title and practice, disciplinary processes, business conduct (including advertising)	Department review was completed in October 1999. Review found that deregulation is likely to deliver net public benefit in the medium to long term, but in the short term is a risk to infrequent users of valuers. It recommended retaining registration (with a further review in three years) and removing other geographic and price control restrictions.	Changes to the Act and Regulations were completed by 1 May 2002. The amending legislation provided for broadening the membership of the Valuers Registration Board, introducing competency-based renewal for the registration of valuers and the listing of specialist retail valuers; and removing the anticompetitive restriction on trading for specialist retail valuers.	Meets CPA obligations (June 2003)

*(continued)*

**Table 10.6** continued

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
Western Australia	<i>Land Valuers Licensing Act 1978 and Regulations</i>	Licensing, entry requirements (membership of Institute of Valuers or education and four years experience, and possibly exams), reservation of title and practice, business conduct (including board setting of maximum fees, code of conduct)	The 1999 review of the Act (by the Department of Consumer and Employment Protection) was not finalised pending the findings of the Gunning Inquiry and the Temby Royal Commission into the finance broking industry. The review recommended the discontinuation of licensing and the Land Valuers Licensing Board. The Temby Royal Commission recommended that valuers be licensed. The Government endorsed the findings of the Royal Commission.	The NCP review was updated to reflect this endorsement and the amended NCP review was endorsed by Cabinet on 4 August 2003. The review recommended that the legislative restrictions were in the public interest and should be retained.	Meets CPA obligations (June 2003)
	<i>Valuation of Land Act 1987</i>	Valuer-General powers and activities	Review by an intra-agency committee completed. Public consultation involved submissions following the release of an information paper. The review recommended defining the eligibility for the position of Valuer-General less narrowly (dropping the requirement; removing the restriction that any person making valuation for rating and taxing purposes must be licensed under the Land Valuers Licensing Act; and encouraging a greater flow of information for the purposes of making valuations.	The Government endorsed the review recommendations. Recommendations are being implemented via the Acts Amendment and Repeal (Competition Policy) Bill 2002.	Review and reform incomplete

*(continued)*

**Table 10.6** continued

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
South Australia	<i>Land Valuers Act 1994</i>	Negative licensing, entry requirements (qualifications or membership of various professional associations), reservation of practice, disciplinary processes	Review was completed. It concluded that the current postgraduate qualification requirements are too onerous and that the Government should broaden the acceptable qualifications. The Industry Training Advisory Board (Property Services) recently commenced reviewing the Property Development and Management Training Package. A national industry-driven board, the Industry Training Advisory Board, is conducting the review for the Australian National Training Authority. The review is to develop competency standards for valuers. The first stage of the review is due to be completed in November 2003 and the second stage (the endorsement and recognition of competencies) is likely to be completed in 2005.	The Government endorsed the review recommendations and awaits approval of a national training package, which it undertakes to implement. Once the national training package has been endorsed, South Australia will review the prescribed qualifications for valuers with a view to prescribing core competencies rather than qualifications.	Review and reform incomplete

*(continued)*

**Table 10.6** continued

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
Tasmania	<i>Land Valuation Act 1971</i>	Gives Valuer-General a monopoly on provision of valuation services to local government (for purpose of determining local rates)	Major review was completed in conjunction with the review of the <i>Valuers Registration Act 1974</i> . Review recommended tendering all statutory mass valuation work and retaining the role of the Valuer-General. The Valuer-General would be responsible for developing and monitoring valuation standards and information requirements, determining the length of the revaluation cycle, administering valuation lists, coordinating the collection of information and being the avenue of appeal. Review also recommended a greater administrative separation of the Valuer-General and Government valuation services, and the abolition of the Valuers Registration Board.	<i>Valuation of Land Act 2001</i> , implementing reforms and repealing the <i>Land Valuation Act 1971</i> and the <i>Land Valuation Amendment (Relocatable Homes) Act 1999</i> , was passed in 2001 and commenced operation on 28 June 2002.	Meets CPA obligations (June 2003)
	<i>Valuers Registration Act 1974</i>	Licensing, registration, entry requirements, reservation of title and practice, disciplinary processes, specification of conduct that may result in deregistration	Major review was completed in conjunction with the review of the <i>Land Valuation Act</i> .	<i>Land Valuers Act 2001</i> , implementing reforms and repealing the <i>Valuers Registration Act 1974</i> , was passed in 2001 and commenced operation on 28 June 2002.	Meets CPA obligations (June 2003)

## Building and related trades

Service providers of building and related trades include builders, plumbers, electricians and tradespeople such as painters. Occupational licensing in the building trades can involve entry standards, registration requirements, the reservation of title, reserved areas of practice and disciplinary processes.

All jurisdictions legislate to ensure those who undertake electrical, plumbing, draining and gasfitting work have a minimum level of training and experience to undertake that work. All jurisdictions also license or register builders (or building practitioners). Some jurisdictions provide specific licences for other trades too. Table 10.7 details each jurisdiction's review and reform of legislation regulating building and related trades.

### Electrical workers

All governments require electrical workers to be licensed. All governments also distinguish between types of electrical work and levels of competency. Generally, governments aim to maintain a degree of commonality in basic requirements and qualifications to improve mobility across jurisdiction boundaries. Differences across States and Territories include licence renewal periods, the length of additional experience required for contractors, and the definition of electrical work (Centre for International Economics 2000d).

The regulation of electrical workers (such as electricians) is aimed at protecting public safety. It is designed to address information asymmetry (where consumers tend to lack the information to assess independently whether a tradesperson has the skills to perform the task safely) and negative externalities (where the electrical work may cause harm to third parties).

### Review and reform activity

In previous NCP assessments, the Council has assessed Victoria and Tasmania as having met their CPA obligations in this area.

#### *New South Wales*

The *Home Building Act 1989* (formerly the *Building Services Corporation Act 1989*) regulates the entry of tradespeople into the residential building sector and stipulates the activities for which a licence must be obtained, including electrical work and plumbing.

In September 1996, the Government released a green paper outlining options for the licensing of the building industry. A working group chaired by the Department of Fair Trading was set up to review and consult relevant industry and community stakeholders. The review reported in March 1998 and

recommended reforms to remove unnecessary components of the licensing system, subject to an assessment of the expected impact on the home warranty insurance scheme.

This report considered that much of the need for licensing would be eliminated given the impact of the home warranty insurance scheme. During consultation, however, approved insurers advised that some licensing requirements are needed to underpin the insurance system.

In response to the report, in November 2000 the government announced a comprehensive package of reforms for the home building industry covering licensing, home warranty insurance, dispute resolution and building contracts. An issues paper and draft exposure Bill were released in February 2001 for public comment. The draft Bill proposed retaining the builders licensing system because the home warranty insurance scheme is not yet able to keep out unscrupulous builders. It proposed to tighten existing licensing arrangements and speed up the disciplinary process.

New South Wales passed the *Home Building Legislation Amendment Act 2001* in July 2001, proclaiming various elements on 10 August 2001, 30 November 2001 and 1 January 2002. Remaining parts of the Act commenced during 2002. On 12 March 2002, the New South Wales and Victorian governments announced the harmonisation of the two States' home warranty insurance schemes, with reforms that will provide ongoing protection for home owners. Further changes to home warranty insurance (agreed with Victoria) were implemented in the *Home Building Amendment (Insurance) Act 2002*, which commenced on 1 July 2002. The Council assesses New South Wales as having met its CPA clause 5 obligations.

### *Queensland*

The non-safety and safety aspects of the *Electricity Act 1994* and associated Regulations were reviewed separately. The non safety aspects of Queensland's electricity legislation are discussed in chapter 7, volume 1.

The review of the safety aspects of the Electricity Act was conducted in two parts:

- independent consultants undertook a public benefit test of the safety-related licensing provisions in the legislation, including the issuing of licences, qualifications, the regulation of persons who require a licence, licence classes and type of work, and disciplinary action; and
- an intradepartmental committee considered the nonlicensing safety provisions, including safety and technical standards, electrical installations, cathodic protection systems and the approval of electrical articles.

The review, endorsed by the Government in February 2002, recommended:

- continuing occupational and business licensing for electrical work, in the public interest;
- amending the definition of electrical work to allow greater competition in relation to less dangerous extra-low voltage work;
- broadening the legislation's objectives to include consumer protection provisions based on minimum financial and insurance requirements for contractors;
- addressing administrative arrangements for the licensing system in a consideration of institutional options such as the creation of a new independent electricity safety regulator;
- continuing disciplinary provisions (although the report noted concerns about how effectively the existing disciplinary provisions supported compliance);
- continuing provisions requiring compliance with relevant safety and technical standards, in the public interest; and
- conducting further consultation on the extent of adoption of performance-based provisions relating to safety and technical requirements for electric lines or works, and the safeguarding of persons working on electric lines and electrical installations.

As a result, the Queensland Government passed the *Electrical Safety Act 2002* and Regulations which commenced on 1 October 2002 and addressed the above recommendations.

Three recommendations relating to licensing provisions were referred to an industry working group to consider their implementation. The working group:

- recommended retaining the status quo for existing electrical worker licences, given health and safety reasons and the net benefit to the community.
- acknowledged the existence of alternative competency-based pathways for licence qualifications (which the public benefit text did not acknowledge). The competency-based pathways continue under the *Electrical Safety Regulation 2002*.
- supported the recommendation to reduce ownership restrictions on electrical contracting businesses and made them more consistent across business forms. Amendments to the *Electrical Safety Regulation 2002* are being progressed to remove restrictions on eligibility for an electrical contractor's licence.

The *Electrical Safety Regulation 2002* requires all persons who conduct a business or undertake electrical work to have an electrical contractor's business licence and meet certain business and financial requirements. Previously, such a licence was required only for electrical installation work.

The regulatory impact statement, *Proposed Electrical Safety Regulations under the Electricity Act 1994*, examined potential competition restrictions. It noted inconsistencies in the previous electrical contractor licensing regime — that is, consumers were protected when they engaged an electrician for installation work (such as installing a ceiling fan) but not for electrical repair work (such as repairs to whitegoods).

In examining the competition impact, the regulatory impact statement reconsidered the key community benefits for electrical contractors' licences. Specifically that licensing:

- reduces transaction costs for consumers;
- corrects information asymmetry and information problems;
- protects third parties; and
- enforces obligations to perform, particularly given that the licensing regime includes disciplinary processes.

It concluded that the same arguments applied to contractors performing electrical repair work. Safety benefits to industry and consumers of contractor licence reform were deemed to outweigh costs, such as efficiency and compliance costs, and restrictions on competition. Regulatory amendments made on 28 February 2003 made it easier for businesses applying for an electrical contractor's licence by:

- reducing ownership restrictions by making eligibility requirements consistent for sole traders, partnerships and corporations; and
- broadening the options for a business seeking to meet the business skills requirement. A business may now split the technical and business requirements between two people (for example, a qualified technical person and a qualified business person).

The Council assesses Queensland as having met its CPA clause 5 obligations.

### *Western Australia*

Western Australia's *Electricity Act 1945* and *Electricity (Licensing) Regulations 1991* establish the framework for the occupational regulation of electricians. They provide for licensing and the reservation of practice, and establish entry requirements and disciplinary procedures. A review of the legislation was endorsed by the Expenditure Review Committee of Cabinet. The Western Australian Government indicated that the review concluded that licensing of electricians is in the public interest, but further examination of some provisions is warranted. The Council assesses Western Australia as not having met its CPA clause 5 obligations because it did not complete the reform process.

### *South Australia*

The *Plumbers, Gas Fitters and Electricians Act 1995* establishes entry requirements for tradespeople and contractors, and provides for registration (for tradespeople), licensing (for contractors) and reservation of practice. The NCP review was completed in February 2003 and recommended retaining the present licensing and registration regimes for plumbing, gas fitting and electrical contractors and workers. The conclusion of the review was that continued regulation under the Act is justified because the benefit from protecting of public health and safety, and against consumer loss, is perceived to exceed the costs of regulation. The review considered alternative form of regulation, including reliance on the common law, general consumer protection legislation, the insurance market and negative licensing, but none was considered to be a satisfactory option.

The review identified certain trivial restrictions on competition and proposed amendments, but these are not required changes for CPA clause 5 compliance. The review report is with the Minister for consideration. If Cabinet endorses the reform recommendations then a Bill to implement the change is expected to be drafted and introduced to in June 2003 or later in the year. Since the reform recommendations do not address CPA requirements, the Council assesses South Australia as having met its CPA clause 5 obligations.

### *The ACT*

The ACT conducted a joint review of the occupational regulation aspects of the *Building Act 1972*, the *Electricity Act 1971* (electricians licensing) and the *Plumbers, Drainers and Gasfitters Board Act 1982*. The review, undertaken by the Allen Consulting Group, involved public consultation following the release of a directions paper. It concluded that the information asymmetries and negative externalities that would result justified the Government's role in ensuring tradespeople have the appropriate skills to undertake building and construction.

The review recommended: replacing legislation with a single new Act for licensing builders, electricians, plumbers, drainers and gasfitters; replacing existing boards with a single registrar (supported by separate advisory panels); making changes to remove duplication and streamline licensing arrangements; and changing the disciplinary system. The review also recommended against requiring the holder of an electrician's or electrical worker's licence to undertake ongoing professional development and hold insurance. It proposed, however, transferring the requirement to hold housing indemnity insurance to a new Act under the oversight of the Department of Justice and Community Safety (Allen Consulting Group 2000b).

The ACT Government accepted 21 of the 22 recommendations and drafted legislation. It did not accept a provision for a peer group to overturn the registrar's decisions on strictly technical matters. The Government's model involves a suitably qualified panel to provide technical advice before the registrar makes a decision. Further, decisions can be appealed through the Administrative Appeals Tribunal. The 2001 ACT elections meant that the

introduction of legislation was postponed until 2002. The ACT Government approved the continuation of legislative drafting in December 2002. The draft *Construction Practitioners Licensing Bill* and regulations were tabled in the Legislative Assembly on 24 June 2003. The Council assesses the ACT as not having met its CPA clause 5 obligations because it did not complete the reform process.

### *The Northern Territory*

The Northern Territory Government commissioned the Centre for International Economics to review the *Electrical Workers and Contractors Act* in 2000. Public consultation during the review, which was completed in October 2000, involved a publicly released issues paper, consultation with stakeholders and requests for submissions. The review recommendations included:

- maintaining licensing, but affording comparable status to other means of signalling competence;
- removing additional experience requirements for contractors. If the restrictions are retained, then the electrical workers and contractors licensing board should articulate their objectives and demonstrate that experience is the best way of achieving these objectives;
- amending the 'fit and proper person' test to signal its criteria;
- removing exemptions for the Power and Water authority from licensing requirements; and
- conducting a more general review of the Act, including reducing duplication in assessment and accreditation, changing the composition of the board, updating the language in the Act and reviewing the level of enforcement.

The Government approved the review recommendations in November 2000. Following a review of the administrative structures supporting the Act, it introduced a Bill to amend the Act in June 2003. The Act was passed by the Legislative Assembly on 14 August 2003 and is before the Administrator for assent. The Council assesses the Northern Territory as having met its CPA clause 5 obligations.

## Plumbers, drainers and gasfitters

Regulation of workers in the plumbing and gasfitting trades is designed to protect public health and safety and the integrity of the water, sewerage and drainage infrastructure. The Labour Ministers Council agreed in 1994 to reforms to plumbing and gasfitting occupational licensing arrangements (Plumbers and Gas-fitters Registration Review Group 1998). These reforms were consistent with Heads of Government decisions on mutual recognition and partially licensed occupations, and with the public and occupational health and safety rationale for licensing. Ministers agreed that licensing of plumbers and

gasfitters should be nationally consistent, based on the core areas of sanitary plumbing, water plumbing, draining (drainage from a building, essentially below-ground drains beyond the building line) and gasfitting. To meet these core areas, Ministers agreed to the following changes to licensing, including:

- in New South Wales, discontinuing the licensing of workers for metal roofing, mechanical services, duct fitting and sprinkler fitting;
- in Victoria, discontinuing the licensing of workers for metal roofing, mechanical services, duct fitting and sprinkler fitting;
- in Tasmania, discontinuing the licensing of workers for metal roofing and mechanical services;
- in the ACT, discontinuing the licensing of workers for sprinkler fitting;
- in South Australia and the Northern Territory, amending the licensing arrangements to allow separate licensing of water plumbers; and
- in Victoria and Tasmania, changing the licensing of mechanical services plumbers to cover unrestricted water plumbing.

Ministers also agreed that all licensing should be based on national core curriculums and any future competency standards; licensing authorities should discontinue assessment or examination; that duplicates training authorities' assessment or examination; formal demonstration of competence be the only criterion for licensing; and all reference to time serving (except the completion of training contracts) should be removed from legislation. They also agreed on reforms for levels of licensing and contractor licensing.

## Review and reform activity

All governments are reviewing legislation regulating plumbers and gasfitters under the NCP. In its 2001 NCP assessment, the Council found Victoria and Western Australia (in relation to plumbers) had met their CPA clause 5 obligations in this area. The previous section on electrical workers noted that the Council had assessed South Australia as meeting its CPA obligations relating to the review and reform of the *Plumbers Gas Fitters and Electricians Act 1995*. In New South Wales, plumbers and gasfitters are regulated under the *Home Building Act 1989* which is assessed above.

### *Queensland*

Independent consultants completed a review of the *Sewerage and Water Supply Act 1949* under the supervision of an interdepartmental committee in June 2002. The Act establishes the occupational regulation framework for plumbers and drainers in Queensland, and provides for licensing, registration and entry requirements.

The review made recommendations about minimum product standards; the licensing of plumbers and drainers; and local government inspectors. The Queensland Government accepted the review's recommendations. The *Sewerage and Water Supply Act 1949* is being replaced by the *Plumbing and Drainage Act*, which was assented to on 13 December 2002 and will commence (with its subordinate legislation) on 1 November 2003. The new Act implements part of the outcomes of the NCP review. Following finalisation of the Standard Plumbing and Drainage Regulation under the new Act, the recommended information program (in conjunction with training on the new legislation) will commence in 2003. The Council assesses Queensland as having met its CPA clause 5 obligations.

### *Western Australia*

In Western Australia, the *Gas Standards Act 1972* and the Gas Standards (Gasfitting and Consumer Gas Installations) Regulations 1999 provide that only a person with the appropriate gas fitters licence may carry out gasfitting work on a consumer's gas installation. The Act and Regulations deal with the licensing of gasfitters, registration, entry requirements (knowledge and skills, fit and proper person's test) and the reservation of practice. A review of the legislation was endorsed by the Expenditure Review Committee of Cabinet. The Western Australian Government indicated that the review concluded that licensing of gas fitters is in the public interest, but further examination of some provisions is warranted. The Council assesses Western Australia as not having met its CPA clause 5 obligations because it did not complete the reform process.

### *Tasmania*

Tasmania completed a review of the *Plumbers and Gas-fitters Registration Act 1951* in October 1998. The Act restricts competition by requiring licensing and registration of plumbers and gasfitters, and specifying entry requirements, the reservation of practice for activities, and disciplinary processes. The review recommendations included reducing areas of reservation of practice; limiting the qualifications and experience required for registration to a demonstration of competence; implementing an appropriately constituted self-certification system; and amalgamating registration and plumbing inspection systems to reduce overlap and reduce the regulatory burden on plumbers.

Tasmania advised the Council that the Government has not yet considered the review's recommendations. Tasmania has proposed new occupational licensing legislation to provide for the licensing and registration arrangements for plumbers, gas fitters and electricians. A discussion paper seeking submissions from industry, local government and other interested parties has been considered. A Cabinet Minute proposing a new occupational licensing scheme has been drafted. It is expected to be forwarded to the Minister for submission to Cabinet before legislation implementing the review recommendations is introduced to Parliament in the 2003 spring session. The Council assesses Tasmania as not having met its CPA clause 5 obligations because it did not complete the reform process.

### *The ACT*

The ACT conducted a review of the *Plumbers, Drainers and Gasfitters Board Act 1982* in conjunction with a review of the occupational regulation aspects of the Building Act and the Electricity Act. This review and the Government's response are discussed in the previous section on electrical workers.

The ACT legislation reserves certain areas of practice for persons qualified to be plumbers. The ACT also requires persons undertaking work as sprinkler fitters to be licensed, despite agreeing in the mid-1990s to abolish the requirement for licensing. Occupational regulation is in the public interest where restrictions directly reduce identified and important harms. The Council accepts that it is appropriate that some plumbing and gas fitting practices are reserved for suitably qualified persons.

Drafting of legislation governing all building trades was halted by the calling of the 2001 election. The ACT Government approved the continuation of legislative drafting in December 2002. The draft Construction Practitioners Licensing Bill and regulations were tabled in the Legislative Assembly on 24 June 2003. The Council assesses the ACT as not having met its CPA clause 5 obligations because it did not complete the reform process..

### *The Northern Territory*

The Northern Territory Government commissioned the Centre for International Economics to review the *Plumber and Drainers Licensing Act* in 2000. Public consultation during the review, which was completed in September 2000, involved a publicly released issues paper, consultation with stakeholders and requests for submissions. The review recommendations included:

- amending the Act to specify its objectives and explicitly recognise the national competency based approach to trades qualifications;
- making widely known the board's options in dealing with complaints;
- maintaining the 'fit and proper person' test power of the board, so long as appeal mechanisms are clear and accessible;
- reviewing membership of the board to establish whether the continued Power and Water Authority membership is desirable; and
- conducting a more general review of the Act, partly to examine the case for compliance certificates and the case for restricted plumbing licences to meet the needs of other trades (Centre for International Economics 2000f).

The Northern Territory Government approved the recommendations of the review report and endorsed the findings of the review in January 2003. The Plumbers and Drainers Licensing Amendment Bill was introduced in June 2003, and was passed by the Legislative Assembly on 12 August 2003. It is currently

before the Administrator for assent. The Council assesses the Northern Territory as having met its CPA clause 5 obligations.

## Builders or building practitioners

The regulation of builders (or building practitioners), as with other related trades, is designed to protect public safety by overcoming information asymmetries and negative externalities. Builders' mistakes can have significant effects, including loss of life if, for example, a building collapses (Allen Consulting Group 2000b).

### Review and reform activity

Legislation covering builders in New South Wales, the ACT and the Northern Territory has been discussed in earlier sections on building regulations and approvals, and specific occupations. This section discusses review and reform progress in the remaining jurisdictions. In its 2002 NCP assessment, the Council considered that Western Australia and Tasmania had met their CPA clause 5 obligations in this area.

#### *Victoria*

Victoria completed a review of the *Building Act 1993* in 1998. Recommendations included: integrating the Act with the *Architects Act*; making companies and partnerships subject to registration requirements; retaining the Minister's power to issue compulsory insurance orders; increasing the use of audits of building surveyors to ensure standards are maintained; repealing exemptions to public sector employees, public authorities and the Crown (while retaining exemptions that exempt certain high security Crown buildings from the requirement to lodge permit documents with the relevant council); and basing the building permit levy on a formula that is cost-reflective and includes incentives for cost-effective administration of legislation.

Victoria advised that legislative amendments are planned for the 2003 spring session of Parliament, with related regulation changes to follow. The Council assesses Victoria as not having met its CPA clause 5 obligations because it did not complete the reform process.

#### *Queensland*

The review of the *Queensland Building Services Authority Act 1991* and the *Queensland Building Services Authority Regulation 1992* was completed in August 2002. The review made the following recommendations:

- *Licensing.* There is a strong argument for setting technical criteria via licensing, mainly because this approach helps to provide a good standard of

consumer protection in an efficient manner. Opportunities to enhance these components have been identified.

- *Financial requirements for licensees.* The requirements should be retained in the short term but modified to raise the threshold for self-assessment (currently \$A250 000) and closely and flexibly attuned to better reflect and manage risk. Formal statutory financial requirements would not be necessary in the long term if private insurance were introduced.
- *Home warranty insurance.*
  - It should be possible to enhance licensing and other regulatory arrangements over time such that home warranty insurance would no longer be necessary.
  - It should be possible at some point to relax the requirement that home warranty insurance be provided by only a public monopoly.
  - Given recent developments in interstate home warranty markets, it would not be sensible to make major changes to the insurance arrangements at this stage.
  - A further review of the potential to introduce competition into the Queensland home warranty insurance scheme should be conducted before mid-2004 when the Building Services Authority is next negotiating reinsurance contracts.
  - Queensland arrangements should be examined for whether they are too generous in terms of the insurance product specified.
  - The current arrangement whereby the Building Services Authority undertakes both insurance and licensing functions creates a conflict of interest between commercial and regulatory functions which necessitates the separation of these functions.
  - An inherent and important conflict of interest arises from the Building Services Authority undertaking licensing, insurance and workmanship functions in relation to home building. Legal separation and full commercialisation of the insurance function would provide a clear public benefit.
  - The Government should seek advice on whether it is necessary to seek an exemption under the *Trade Practices Act 1974* for the public monopoly status of the Building Services Authority insurance scheme.

The *Residential Tenancies and Other Legislation Amendment Act 2003* which amended (in addition to other Acts) the *Queensland Building Services Authority Act 1991* received assent on 2 June 2003. The relevant amendments gave effect to the recommendations of the NCP review relating to reinforcing the independence of the statutory insurance fund and enabling prudential

requirements to be prescribed by regulation. The status of the balance of the reforms recommended by the NCP review is as follows:

- *Licensing.* The existing licensing system is to be retained while adopting more flexible and focused technical requirements and support the Building Services Authority's proposal to streamline licence categories. The existing dispute resolution system will be retained as it is working well.
- *Financial requirements for licensees.* The requirements for licensees to be retained was accepted but further consideration will be given in relation to the recommendations to raise the threshold for self-assessment and other possible adjustments to better reflect and manage risk.
- *Home warranty insurance* A further review of the statutory insurance scheme is to be conducted prior to the end of 2004. The further review is to take into account the findings of the National Review of Home Builders Warranty Insurance and Consumer Affairs conducted by Professor Percy Allan and prepared for the Ministerial Council on Consumer Affairs.

The nature of the cover mandated by the statutory insurance policy is to be reviewed so as to ensure that it provides a satisfactory level of consumer protection while minimising risks to the insurance provider and encouraging responsible behaviour by parties having control of risk factors. This has implications for the no-fault nature of cover for subsidence, provisions allowing early termination of contracts by consumers, the lack of an excess and the low threshold for claims.

Queensland also advised that investigation will be carried out and a report provided on the insurance and regulatory arrangements under the Act, including whether or not there would be advantages in separating the insurance and regulatory functions of the Authority and whether or not it is necessary to seek an exemption under the *Trade Practices Act 1974* for the public monopoly status of the Authority's scheme.

Amendments were made to the Act (commencing operation 4 July 2003) to introduce provisions to:

- require the statutory insurance scheme (including the insurance fund) to be managed by the Authority independently of its other functions and in accordance with actuarially sustainable principles; and
- enable a regulation to require the statutory insurance fund to be managed in accordance with an external standard of fund administration.

The Council assesses Queensland as having met its CPA clause 5 obligations, but notes the review's finding that at some point the requirement that home warranty insurance be provided by a public monopoly should be relaxed. (Statutory monopoly provision of insurance is discussed in chapter 6)

## South Australia

In 2001, South Australia completed a review of the *Building Work Contractors Act 1995*. The Act prescribes licensing, registration, entry requirements, the reservation of practice, disciplinary processes and business conduct restrictions that apply to builders and some tradespeople. The review panel issued a supplementary issues paper in October 2001 for public comment.

South Australia advised that the part of the review dealing with the financial resources requirements for contractors and mandatory building indemnity insurance was omitted from the final report released by the Government. This area was referred back to the review panel for reconsideration in light of the collapse of HIH, one of only two providers of building indemnity insurance in South Australia. A supplementary issues paper, dealing with financial and insurance requirements, was released for public and industry comment. However, this process was overtaken by the commissioning and completion of a national review dealing with the same issues. A national working party is now developing recommendations for a package of nationally consistent reforms to building legislation aimed at reducing building disputes and indemnity insurance claims. It is likely that financial resources and reputation requirements in the Act will be increased rather than decreased as a result of this process. Therefore, the finalisation of the Supplementary Review of the financial resources and building indemnity insurance requirements has been deferred pending completion of the national reform process. The national working party intends to report recommendations to the Ministerial Council for Consumer Affairs by mid-2003 and reforms are expected to be implemented in the second half of 2003.

The final report released by the Government made recommendations relating to reducing the financial reputation requirements for contractors. The changes, which overlap the national review, focus on reducing builder insolvency rates. These recommendations will be considered together with the reform recommendations arising from the national review, which are anticipated to result in a Bill to be introduced to Parliament in the second half of 2003. The Council assesses South Australia as not having met its CPA clause 5 obligations because it did not complete the reform process.

## Other building trades

Queensland's *Queensland Building Services Authority Act 1991* requires licensing for other building trades, such as pest control, painting, insulating and swimming pool construction. The State's progress in reviewing and reforming this Act is discussed earlier in this chapter.

The review of Western Australia's *Painters Registration Act 1961* found that the current system of mandatory licensing is too restrictive and should be removed. The review recommended that the Government develop a certification scheme to allow consumers to readily identify painters who possess particular skills. It proposed negative licensing to support a certification system, whereby persons

who do not adhere to basic standards of commercial conduct are removed from the industry.

Western Australia's review found these changes will reduce business costs but still enable some control of the industry and increased certainty for consumers. The Government endorsed the recommendations of the review. The original legislation review was overtaken by the Gunning Committee of Inquiry, which was commissioned in April 2000 to inquire into the operations of the boards and committees in the Fair Trading portfolio. The final report by the Gunning Committee was published on 1 September 2000. The Minister endorsed the review recommendations subject to a full review of the Act being completed. The full review was scheduled to be with the Minister for Consumer and Employment Protection by the end of July 2003. The Council assesses Western Australia as not having met its CPA clause 5 obligations because it did not complete the reform process.

**Table 10.7:** Review and reform of legislation regulating building trades

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Occupations</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
Commonwealth	<i>Tradesmen's Rights Regulation Act 1946</i>	National recognition of metal and electrical trade skills developed informally	Metal and electrical trades	Review was completed. Its recommendations included repealing the Act. It also recommended that the Commonwealth Government vacate the domestic skills recognition field (and that registered training organisations established under the Australian Recognition Framework undertake skill recognition on a free competition basis) and that the implementation arrangements be given detailed consideration.	The Government accepted the review recommendations. Bill to repeal legislation was passed. The Government is continuing consultations with industry about the new arrangements for domestic skills recognition and migration skills assessment.	Meets CPA obligations (June 2001)
New South Wales	<i>Building Services Corporation Act 1989</i>  <i>Home Building Act 1989</i>	Licensing, registration, entry requirements (qualifications or pass exams, experience, age, character), reservation of practice (building work, electrical wiring work, plumbing and drainage work, roof plumbing work, refrigeration work, air-conditioning work), business conduct (including insurance for building work over \$A5000 from approved private insurer), business licensing	Residential building workers, specialist workers' (plumbing, gasfitting, electrical, refrigeration and air-conditioning workers) and suppliers of kit homes	Review was completed in March 1998, recommending reforms to remove unnecessary components of the licensing system, subject to an assessment of the expected impact on the home warranty insurance scheme. Consultations concluded that some licensing requirements were needed to underpin the insurance system.  The Government released a white paper in February 2001, proposing a tighter licensing system, faster disciplinary process, increased penalties for noncompliance, changes to the insurance scheme, an early intervention dispute resolution system and strategies to raise consumer awareness of available remedies when things go wrong.	The <i>Building Services Corporation Act</i> was renamed the <i>Home Building Act 1989</i> , which privatised compulsory insurance and abolished business licensing.  Further changes to home warranty insurance (agreed with Victoria) were implemented in the <i>Home Building Amendment (Insurance) Act 2002</i> . The Act commenced on 1 July 2002	Meets CPA obligations (June 2003)

*(continued)*

**Table 10.7** continued

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Occupations</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
Victoria	<i>Building Act 1993</i>	Licensing, reservation of title and practice (plumbing: mechanical services, residential and domestic fire sprinklers, roofing [stormwater], sanitary, water supply, draining, gasfitting), registration requirements, permit requirements, business conduct (insurance)	Engineers, quantity surveyors, building surveyors, building practitioners, plumbers, drainers, gasfitters	Review was completed in 1998. It recommended: integrating the Act with the <i>Architects Act</i> ; making companies and partnerships subject to registration requirements; retaining the Minister's power to issue compulsory insurance orders; increasing the use of audits of building surveyors to ensure standards are maintained; repealing exemptions to public sector employees, public authorities and the Crown (except those that exempt certain high-security Crown buildings from the requirement to lodge permit documents with the relevant council); and basing the building permit levy on a formula that is cost-reflective and includes incentives for cost-effective administration of legislation.	The Government advised that legislative amendments are planned for the 2003 spring session of Parliament, with related Regulation changes to follow.	Review and reform incomplete
	Electricity Safety (Installations) Regulations 1999	Licensing (workers and inspectors), registration (electrical contractors), entry requirements (qualifications, also training course for person responsible for business management and administration), business conduct (insurance), prescribed methods for carrying out installation work, standards for the quality of materials, fittings and apparatus	Electrical trade work	New legislation was assessed under Victoria's legislation gatekeeping arrangements.	Act is designed to address information asymmetries. The Government noted that regulations are justified because unskilled workers or inspectors, or the use of inappropriate methods or substandard materials, can result in loss of life, injury, industry downtime and property damage.	Meets CPA obligations (June 2001)

*(continued)*

Table 10.7 continued

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Occupations</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
Victoria (continued)	<i>Building (Plumbing) Act 1998</i>	Licensing, registration	Refrigeration mechanics	New legislation was assessed under Victoria's legislation gatekeeping arrangements.	Act removes exemption of refrigeration mechanics from licensing for registration.	Meets CPA obligations (June 2001)
	<i>Building Control (Plumbers Gasfitters and Drainers) Act 1981</i>		Plumbers, gasfitters, drainers		Act was repealed and replaced by the <i>Building Act 1993</i> .	Meets CPA obligations (June 2001)
	<i>Electric Light and Power Act 1958</i>		Electrical trade work		Act was repealed and replaced by the <i>Electricity Safety Act 1998</i> .	Meets CPA obligations (June 2001)
Queensland	<i>Queensland Building Services Authority Act 1991</i>	Licensing, registration, entry requirements (qualifications and experience, 'fit and proper person test', financial requirements), reservation of practice, disciplinary processes, business conduct (ownership, advertising and sign at building site [whereby workers must state whether licensed, name licensed under and identifying numbers], written contract, compulsory insurance, warranty)	Building work: 90 licence categories in the areas of plumbing, draining, gasfitting, pest control, demolition and residential building and design (such as painting, insulating, swimming pool construction)	Review was completed in August 2002. Several of its recommendations are detailed in the chapter.	The <i>Residential Tenancies and Other Legislation Amendment Act 2003</i> received assent on 2 June 2003. The relevant amendments gave effect to the recommendations of the NCP review for changes to the Act.	Meets CPA obligations (June 2003)

(continued)

**Table 10.7** continued

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Occupations</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
Queensland (continued)	<i>Electricity Act 1994</i> and <i>Electricity Regulation 1994</i>	Licensing, registration, entry requirements (qualifications and experience, also suitable person financial requirements for electrical contractor), disciplinary processes, business conduct (advertising whereby workers must state whether licensed, name licensed under and identifying number, public liability insurance for electrical contractor)	Electrical workers, electrical contractors	The nonsafety and safety aspects of <i>Electricity Act 1994</i> and Regulations were reviewed separately. Independent consultants prepared a public benefit test report under the supervision of an interdepartmental committee. Cabinet endorsed the report's recommendations and an implementation strategy in February 2002.	The <i>Electrical Safety Act 2002</i> and Regulations commenced on 1 October 2002, addressing the safety recommendations. Three other regulatory amendments were made on 28 February 2003.	Meets CPA obligations (June 2003)
	<i>Sewerage and Water Supply Act 1949</i> and Regulations	Licensing, registration, entry requirements (qualifications, prescribed practical experience), reservation of practice, disciplinary processes, provision for the making of plumbing and drainage standards	Plumbers, drainers	Independent consultants completed a review of the Act 1949 under the supervision of an interdepartmental committee in June 2002. The review made recommendations about minimum product standards; the licensing of plumbers and drainers; and local government inspectors. The Queensland Government accepted the review's recommendations.	The 1949 Act was replaced by the <i>Plumbing and Drainage Act 2002</i> which received assented on 13 December 2002 and will commence (with its subordinate legislation) on 1 November 2003. The new Act implements part of the outcomes of the NCP review.	Meets CPA obligations (June 2003)

(continued)

**Table 10.7** continued

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Occupations</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
Western Australia	<i>Country Towns Sewerage Act 1948 and Bylaws</i>  <i>Metropolitan Water Supply, and Drainage Bylaws 1981</i>	Licensing, registration, entry requirements (certificate of knowledge and competence, five years experience, fit and proper persons test, age over 21), the reservation of practice (either licensed or under licensed supervision), disciplinary processes, business conduct	Plumbers	Review was completed.	Plumber licensing provisions were transferred to the Water Services Coordination (Plumbers Licensing) Regulations 2000. Transfer also shifted responsibility for plumber licensing from the Water Corporation to a new Plumbers Licensing Board.	Meets CPA obligations (June 2001)
	<i>Water Services Coordination Act 1995 and Water Services Coordination (Plumbers Licensing) Regulations 2000</i>	Licensing, registration, entry requirements (competency or six years experience and qualification, 'fit and proper persons test'), reservation of practice (either licensed or under licensed supervision), disciplinary processes	Plumbers, tradespersons (under general direction of plumber)	Review recommended retaining restrictions to prevent unlicensed persons from performing plumbing work and maintaining the power of the board to set licence conditions.	The Government endorsed the review recommendations.	Meets CPA obligations (June 2001)

*(continued)*

**Table 10.7** continued

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Occupations</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
Western Australia (continued)	<i>Painters Registration Act 1961</i>	Licensing and registration (for persons carrying on a painting business in their own right and not as employees, and for painting valued greater than \$A200), entry requirements (degree/apprenticeship/experience and exams, age, good character), reservation of title and practice, disciplinary processes, business licensing	Painters	Review was completed in 1998, concluding that the system of mandatory licensing is too restrictive and should be removed. The review recommended that a certification scheme be developed to allow consumers to readily identify painters who possess particular skills. It also recommended negative licensing to support a certification system, allowing for the removal from the industry of persons who do not adhere to basic standards of commercial conduct.	The original legislation review was overtaken by the Gunning Committee of Inquiry, which was commissioned in April 2000 to conduct an inquiry into the operations of the boards and committees in the Fair Trading portfolio. The final report by the Gunning Committee was published on 1 September 2000. The Minister endorsed it subject to a full review of the Act. The full review was scheduled to be with the Minister for Consumer and Employment Protection by the end of July 2003.	Review and reform incomplete

(continued)

Table 10.7 continued

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Occupations</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
Western Australia (continued)	<i>Gas Standards Act 1972</i> and <i>Gas Standards (Gasfitting and Consumer Gas Installations) Regulations 1999</i>	Licensing, registration, entry requirements (knowledge and skills, 'fit and proper person test'), reservation of practice	Gasfitters	A review of the legislation was endorsed by the Expenditure Review Committee of Cabinet. The review concluded that licensing of gas fitters is in the public interest, but further examination of some provisions is warranted.		Review and reform incomplete
	<i>Electricity Act 1945</i> and <i>Electricity (Licensing) Regulations 1991</i>	Licensing, entry requirements (apprenticeship/training and experience/exam, 'fit and proper person test'), reservation of practice, disciplinary processes	Electricians	A review of the legislation was endorsed by the Expenditure Review Committee of Cabinet. The review concluded that licensing of electricians is in the public interest, but further examination of some provisions is warranted.		Review and reform incomplete
	<i>Builders Registration Act 1939</i> and <i>Regulations</i>	Licensing, registration, entry requirements (training and practical experience, age, good character, sufficient material and financial resources), reservation of practice, business licensing	Builders	Review recommendations included reducing restrictions on owner builders, expanding the scope of conditional licences, and expanding the coverage of the Act to the whole State.	The <i>Building Legislation Amendment Act 2000</i> was proclaimed in 2001.	Meets CPA obligations (June 2002)
	<i>Home Building Contracts Act 1996</i>	Requirement of written contracts, conditions (including mandatory insurance)		Review, in conjunction with a review of the Builders Registration Act was completed. Recommendations included retaining requirements for written contracts and a maximum deposit amount, the warranty period and home indemnity insurance (but with further examination of the differences in requirements with the rest of Australia). Also recommended that insurance authorisation be modified so the Minister (rather than insurers) approves policies.	The <i>Building Legislation Amendment Act 2000</i> was proclaimed in 2001.	Meets CPA obligations (June 2002)

(continued)

**Table 10.7** continued

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Occupations</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
South Australia	<i>Building Work Contractors Act 1995</i>	Licensing (building work contractors), registration (building work supervisors), entry requirements (for contractors: qualifications, experience, sufficient business knowledge and experience and financial resources, 'fit and proper person test', no bankruptcy in past 10 years for supervisor: qualifications, reservation of practice, disciplinary processes, business conduct (written contracts, product or service standards, statutory warranty)	Builders, building industry tradespeople	Review was completed in 2002. The part of the review dealing with the financial resources requirements for contractors and mandatory building indemnity insurance was omitted from the final report released by the Government. This area was referred back to the review panel for reconsideration in light of the collapse of HIH. A supplementary issues paper, dealing with financial and insurance requirements, was released for public and industry comment. However, this process was overtaken by a national review dealing with the same issues. The finalisation of the supplementary review of the financial resources and building indemnity insurance requirements has been deferred pending completion of the national reform process which is expected to report to the Ministerial Council for Consumer Affairs by mid-2003.	Implementation of these recommendations will be considered together with the recommendations arising from the national review, which are anticipated to result in a Bill to be introduced in the second half of 2003.	Review and reform incomplete

*(continued)*

**Table 10.7** continued

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Occupations</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
South Australia (continued)	<i>Plumbers, Gas Fitters and Electricians Act 1995</i>	Licensing (contractors), registration (workers), entry requirements (for contractor: qualifications, experience, no undischarged bankruptcy, 'fit and proper person test', sufficient business knowledge and experience and financial resources; for worker: qualifications, experience), reservation of practice (for plumbing: water, sanitary or draining work or the installing or testing of backflow prevention devices), disciplinary processes	Plumbers, gasfitters, electricians	The NCP review was completed in February 2003 and recommended retention of the present licensing and registration regimes because the benefits in terms of protection of public health and safety and against consumer loss are considered to exceed the costs of regulation. The review considered alternatives to forms of regulation, including reliance on the common law, general consumer protection legislation, the insurance market and negative licensing. However, none was considered to be a satisfactory option.	The review identified certain trivial restrictions on competition and proposed amendments, but these changes are not required for CPA clause 5 purposes.	Meets CPA obligations (June 2003)

(continued)

**Table 10.7** continued

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Occupations</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
Tasmania	<i>Electricity Industry Safety and Administration Act 1997</i>	Licensing, registration, entry requirements, reservation of practice, disciplinary processes, business conduct (electrical contractor to have insurance)	Electrical contractors and technicians	No review was undertaken. The Government assessed the restrictive provisions of this Act as essentially the same as those of other jurisdictions in which NCP reviews and other assessments established the public benefit of the restrictions.		Meets CPA obligations (June 2001)
	<i>Plumbers and Gas-fitters Registration Act 1951</i>	Licensing, registration, entry requirements (qualification or experience, apprenticeship and exam), reservation of practice (sanitary, mechanical services, water and backflow prevention plumbing, draining and roof plumbing, any o r plumbing work, gasfitting), disciplinary processes	Plumbers, gasfitters	Review recommendations included: reducing areas of reservation of practice; limiting qualifications and experience required to demonstrate competence for registration; implementing an appropriately constituted self-certification system; and amalgamating registration and plumbing inspection systems to reduce overlap and the regulatory burden on plumbers.  Proposed new occupational licensing legislation is being considered by the Government, to provide for the licensing and registration arrangements for plumbers, gas fitters and electricians. A discussion paper was released, seeking submissions from industry, local government and other interested parties.	A Cabinet Minute proposing a new occupational licensing scheme was drafted and is expected to be forwarded to the Minister for submission to Cabinet before legislation to implement the review is introduced to Parliament in the 2003 spring session.	Review and reform incomplete
	<i>Building Act 2000</i>	Mandatory accreditation, entry requirements (including continuing professional development), reservation of practice, disciplinary processes, business conduct (insurance)	Building practitioners for building and plumbing work over \$A5000	The regulatory impact statement on the Building Bill 1999 was released in August 1999. The Act provides a framework for regulation of the building industry, and details of the framework are being developed in consultation with the building industry.	The Act commenced from 1 January 2003, following the completion of industry consultation.	Meets CPA obligations (June 2002)

*(continued)*

Table 10.7 continued

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Occupations</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
ACT	<i>Building Act 1972</i>	Licensing, registration, entry requirements (training, course work, practical experience or qualifications and supervised building work, business capacity), reservation of practice, disciplinary processes, business conduct (insurance)	Building practitioners	<p>Targeted public review, in conjunction with the review of the <i>Electricity Act 1971</i> (electricians licensing) and the <i>Plumbers, Drainers and Gasfitters Board Act 1982</i> was completed in August 2000. It recommended: replacing legislation by a single new Act for licensing builders, electricians, plumbers, drainers and gasfitters; abolishing existing boards and replacing them with a single registrar supported by separate advisory panels; making changes to remove duplication and streamline the licensing arrangements; and changing the disciplinary system.</p> <p>The Government announced its response to the review, agreeing with most recommendations. It did not agree with the recommendation for a peer group to have the power to overturn registrar's decisions on strictly technical matters.</p>	Drafting of legislation governing all building trades was stopped by the 2001 Election. An Exposure Draft Bill for the Construction Practitioners Licensing Act together with regulations were tabled on 24 June 2003.	Review and reform incomplete
	<i>Electricity Act 1971</i> (electricians licensing) <i>Electricity Safety Act 1971</i>	Licensing, registration, entry requirements (skills, qualifications, experience, business capacity), the reservation of practice (installing, altering or repairing an electrical installation, other than an electrical installation that operates at extra low voltage), disciplinary processes, business conduct (insurance)	Electricians, electrical workers	See discussion of Building Act.	See discussion of Building Act.	Review and reform incomplete

(continued)

**Table 10.7** continued

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Occupations</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
ACT (continued)	<i>Plumbers, Drainers and Gasfitters Board Act 1982</i>	Licensing, registration, entry requirements (skills, experience, qualifications, age 18 years or over, 'fit and proper person test'), reservation of practice (installing/ fitting a fire-fighting sprinkler, sanitary plumbing, water supply plumbing, laying or repairing drains, installing/repairing/ inspecting/testing consumer natural gas piping and gas appliances), disciplinary processes	Plumbers, drainers, gasfitters	See discussion of Building Act above.	See discussion of Building Act.	Review and reform incomplete
Northern Territory	<i>Building Act</i>	Licensing, provision for the establishment of building technical standards, registration of building practitioners and certifiers, regulation of building matters (including the registration of building products), permits, appeals processes	Building practitioners	A review was undertaken in 1999 and endorsed in July 2002. The review recommended that: ss. 21, 41 and 46 of the Act be repealed, because they are redundant or anticompetitive in nature; other anticompetitive provisions of the Act be retained because they are justified under clause 5(1) of the CPA; and 'other issues' raised in the review be considered during the general review of the Act.	<i>The Building Amendment Act 2003</i> was introduced into the Legislative Assembly on 30 April 2003 to effect the full recommendations of the review. The Bill was passed by the Parliament and is now before the Administrator for assent.	Meets CPA obligations (June 2003)

*(continued)*

**Table 10.7** continued

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Occupations</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
Northern Territory (continued)	<i>Electrical Workers and Contractors Act</i>	Licensing, registration, entry requirements (qualifications, experience, 'fit and proper person test'), reservation of practice (electrical work unless extra-low voltage)	Electrical workers	Review was completed in October 2000. Consultation involved the public release of an issues paper, consultation with stakeholders and submissions. Recommendations included that licensing should be maintained, but also that other means of signalling competence should be afforded comparable status, the board should consider removing additional experience requirements for contractors, the 'fit and proper person' test should be amended to signal the criteria against which it is assessed, and exemptions to licensing requirements for the Power and Water Authority should be removed. The review recommended a more general review of the Act.	A Bill to amend the Act was introduced in June 2003. The Act was passed by Parliament on 14 August 2003 and is before the Administrator for assent.	Meets CPA obligations (June 2003)
	<i>Plumbers and Drainers Licensing Act</i>	Licensing, registration, entry requirements (qualifications or experience, fitness of character), reservation of practice (for plumbing: installing, altering, removing or repairing fixtures, fittings and pipes designed to receive and carry sewage or water, and the ventilation of those fixtures, fittings and pipes), business conduct (supervision)	Plumbers, drainers	Review by Centre for International Economics was completed in September 2000, recommending that: the Act explicitly recognise a national competency based approach; the board's options in dealing with complaints be made widely known; the 'fit and proper person' test be maintained so long as appeal mechanisms are clear and accessible; and membership of the board be reviewed to establish whether the continued Power and Water Authority membership is desirable. The Review also recommended a more general review of the Act, to examine the case for compliance certificates and the case for restricted plumbing licences to meet the needs of other trades.	The Government approved the review recommendations. The Plumbers and Drainers Licensing Amendment Bill was introduced in June 2003 and was passed on 12 August 2003. It is before the Administrator for assent.	Meets CPA obligations (June 2003)

