

4 Legislation review

The National Competition Policy (NCP) introduced measures to improve the effectiveness of Australia's regulatory arrangements. This chapter focuses on governments' obligations under clause 5 of the Competition Principles Agreement (CPA) to review and, where appropriate, reform legislation that restricts competition. The CPA clause 5 originally set a target date of 2000 for governments to complete the review and reform of all legislation (at June 1996) that contained restrictions on competition. In November 2000, the Council of Australian Governments (CoAG) extended this target date to 30 June 2002 (CoAG 2000). However, because governments are subject to a March–April annual reporting requirement, the National Competition Council could not assess all relevant activity to 30 June 2002 for its 2002 NCP assessment. Accordingly, in that assessment, the Council advised all governments that:

The co-occurrence of the deadline for review and reform completion and the 2002 NCP assessment posed some difficulties for the Council. It was not practical for the Council to report on all activity to 30 June 2002 ... The Council believes it appropriate, therefore, to consider some review and reform activity in the 2003 NCP assessment ... The 2003 assessment will consider only completed review and reform activity. Review and/or reform activity that is incomplete or not consistent with NCP principles at June 2003 will be considered to not comply with NCP obligations. Where noncompliance is significant, because it involves an important area of regulation or several areas of regulation, the Council is likely to make adverse recommendations on payments. Governments should ensure they provide adequate reporting in time for the 2003 assessment, to show they have met review and reform obligations. (NCC 2002, pp. xv–xvi)

This advice was again relayed to all governments in late 2002 as part of the lead-up to this 2003 NCP assessment.

The legislation review and reform program represented a comprehensive reform effort over a relatively short time span. Governments were tasked with reviewing around 1800 pieces of legislation from 1996 to 2003. The scope of legislation for review encompassed, for example, agricultural marketing, forestry, fishing, transport services, occupations, compulsory insurance arrangements, retail trading hours, liquor licensing, education, gambling, communications, and planning, construction and development services. (Volume 2 provides detailed commentary on governments' compliance with the CPA clause 5 obligations in these and other areas. Electricity-, gas- and water-related legislation is discussed in chapters 7–9 of this volume.)

The CPA clause 5 obligations

Clause 5 of the CPA obliges governments to review and, where appropriate, reform all existing legislation (at June 1996) that restricts competition. It requires governments to remove restrictions on competition unless they can demonstrate that the restrictions are warranted — that is, that restricting competition benefits the community overall (being in the public interest) and that the restriction is necessary. Clause 5(1) states:

The guiding principle is that legislation (including Acts, enactments, Ordinances or regulations) should not restrict competition unless it can be demonstrated that:

(a) the benefits of the restriction to the community as a whole outweigh the costs; and

(b) the objectives of the legislation can only be achieved by restricting competition. (CoAG 1995)

In addition to requiring the review and reform of existing legislation, the CPA clause 5 contains two ongoing obligations.

- It obliges governments to review, at least once every 10 years, any restrictive legislation against the guiding principle. The aim is to ensure that regulation remains relevant in the face of changes in circumstances and/or in government and community priorities.
- It specifies that governments must ensure new legislation that restricts competition is demonstrably consistent with the clause 5(1) guiding principle.

Clause 5 thus relates to (1) the review and reform of the stock of legislation, (2) systematic reviews of continuing legislation at least once every 10 years and (3) the assessment of all new legislation against the guiding principle via governments' 'gatekeeper' processes (discussed below).

Obligations in other NCP agreements aim to improve the effectiveness of Australia's regulatory base. These include:

- governments' ongoing commitments under the Conduct Code Agreement to notify the Australian Competition and Consumer Commission of legislation that relies on s. 51(1) of the *Trade Practices Act 1974* (TPA) (see chapter 5); and
- governments' obligations to ensure decisions by Ministerial councils and national standard-setting bodies accord with the CoAG-endorsed guidelines that reflect the guiding principle (see chapter 6).

Legislation and the public interest

The public interest lies at the heart of good quality regulation. This principle aims to ensure restrictions on competition serve the wider community, rather than advance the interests of those able to exert undue influence on decision-makers. Given that restrictions on competition have typically been couched in terms of furthering the interests of the community, the NCP places an onus of proof on proponents of such restrictions to subject claims of public interest to robust and transparent analysis. The NCP thus acknowledges that political interests and the interests of the wider community can diverge.

Regulation that genuinely promotes the interests of the wider community provides the foundation for a flexible, responsive and internationally competitive economy. In contrast, regulation that only serves the interests of certain groups, industries and occupations often represents a cost to the community as a whole (box 4.1). This cost can arise in several ways:

- *Transfers from users/consumers to the beneficiaries.* In some instances, relatively large benefits are appropriated by concentrated, readily identifiable and politically astute groups at the expense of the wider community which is comprised of a diffuse group of users and consumers. These arrangements tend to continue because the costs to individual consumers (who often are unaware of potential alternative outcomes) may be relatively small and because consumers as a collective are not well organised and generally lack direct input into the making of regulations.
- *Resource allocation impacts.* Regulation that favours particular groups tends to result in the beneficiaries commanding more resources than they would otherwise. This can be manifested through a diminution of direct competitors and/or alternative providers of substitute goods and services. Users and consumers pay more for the goods and services that are conferred regulatory protection than they would in a more competitive environment. Consumers thus have less to expend on other goods and services, which means other providers of goods and services produce less and use fewer labour and capital inputs (a negative multiplier effect).
- *Dynamic efficiency effects.* Restrictions on competition — whether direct, such as exclusive licences, or indirect, such as registration and ownership restrictions — stifle innovation. Protecting incumbents erects a barrier not only to new entrants, but also to new ideas and innovative practices. A relatively ‘comfortable’ business operating environment tends to engender complacency. A further source of loss to the community is the diversion of entrepreneurial effort away from undertaking core business activities to preserving (or seeking) a privileged position through legislative restrictions on competition. Vigorous competition promoting dynamism and innovation is the hallmark of economies that deliver high community living standards.

Box 4.1: Examples of how costs arise from restrictive legislation

Restrictions on trading hours and the loss of consumer choice: Australia has undergone major social changes in recent decades, including a rise in female labour force participation and a corresponding rise in two income households. Retailers have responded by offering extended trading hours to 'time-poor' consumers and specialist traders have emerged in, for example, furniture and electrical goods. These outlets with large floor plans, often in fringe areas to take advantage of low rents and better parking, offer a vast array of goods. Retail malls have made shopping a family oriented activity by providing food outlets and cinemas. In some jurisdictions, however, governments have restricted the hours that large and specialist traders can operate, and their citizens can shop. The aim of the restrictions is to allow small retailers to trade at certain times without competition from large retailers. The evidence is that such restrictions are not in the public interest.

- In Sydney and Melbourne around 35 per cent of consumers buy groceries on Sunday (where supermarkets are open). In Perth and Adelaide, only small food stores can trade on Sundays and the comparative figure is 7-8 per cent (Jebb Holland Dimasi 2000).
- Tasmania's NCP review found 'consumers are inconvenienced by ... restrictions on shop trading hours in terms of where they purchase their groceries and ... the times in the week when they purchase them' (Workplace Standards Tasmania 2002).
- In Victoria, local councils may hold a plebiscite to determine if a community wishes to reimpose limits on shop trading hours. To date, only the City of Greater Bendigo exercised this option. The voluntary poll, conducted in 1998, attracted 72 per cent of voters, of which 77 per cent voted to support the continuation of Sunday trading.
- An attempt by the ACT Government to reinstitute trading hours restrictions, after consumers had experienced a trial period of deregulation, failed after a public outcry.

Agricultural marketing – efficiency, choice and the environment: In Western Australia, legislation establishes a marketing corporation with a monopoly over the domestic wholesale marketing of all potatoes grown in the State for fresh consumption, and empowers it to licence growing areas. The beneficiaries of the legislation are existing growers who enjoy higher returns – evidenced by the trading of production quota at an average price of \$7000 per hectare or \$25 per tonne. As the quotas make it difficult for growers to expand production area it encourages practices to increase area yields. Thus, Western Australian growers spend three times more on fertiliser than South Australian growers. The NCP review noted evidence of adverse impacts on ground water quality from high fertiliser application. Quotas also make it difficult for growers to switch between crops to suit their farming program.

The prices paid by Western Australian consumers for fresh potatoes must over time be higher than they otherwise would (this is disputed by proponents of regulation). Western Australian consumers also have more restricted choice in potato varieties than consumers in other states. Finally, the review also indicated that the marketing corporation's administration and compliance costs are nearly \$3 million per year (excluding growers' compliance costs).

Ownership restrictions and access to dentists: New South Wales' legislation restricts the ownership of dental practices by nondentists. There is an exemption for health funds and people who can demonstrate to a Dental Board that it is in the public interest for them to own a dental practice. Depending on how it is interpreted, the exemption process can create a barrier to entry. For example, the Victorian Branch of the Australian Dental Association claims that more than 100 nondentist owned practices have established in Victoria since the deregulation of ownership restrictions in June 2000.

Reservation of practice and the cost of conveyancing: Several States and Territories have legislation permitting nonlawyers to undertake certain activities traditionally reserved for lawyers. This was not always the case. In New South Wales in the early 1990s, the legal profession was opened up to allow conveyancing to be practiced by appropriately qualified nonlawyers. Fees scales and advertising restrictions were also removed. Conveyancing fees subsequently fell by 17 per cent resulting in a saving to New South Wales consumers of at least \$86 million (Baker 1996).

Much of the legislation subject to NCP review and, where appropriate, reform involves restrictions on competition that may not have significant impacts in their own right. Nevertheless, a plethora of smaller regulatory impacts on users and consumers across a range of activities (that is, over 1800 pieces of legislation subject to review) has a cumulative effect. Such an environment tends to be self-perpetuating because other interest groups perceive the benefits of eschewing competitive processes in favour of lobbying for regulatory constraints on competition. For these reasons the NCP aims to ensure all governments (and interjurisdictional processes) deliver quality regulation.

The Council's approach to assessing compliance

Under the NCP agreements, each State's and Territory's receipt of NCP payments depends on the extent to which it complied with its CPA obligations. In relation to governments' obligations for existing legislation, the Council considered both review activity and reform implementation when assessing governments' compliance. It looked for transparent, robust and objective reviews, because these increase the likelihood of policy outcomes that are in the public interest. The Council also looked for governments to implement review recommendations expeditiously, unless a government could demonstrate that review recommendations were not in the public interest. The Council continues to consider whether new legislation restricting competition is in the public interest.

This 2003 NCP assessment considers review and reform activity by governments since the last assessment. It covers activity to and beyond 30 June 2002 — the date set by CoAG for completing reviews and implementing appropriate reforms of existing legislation. As in previous NCP assessments, the Council concentrated on regulation most likely to have significant impacts on competition, prioritising the areas in which reform would provide the greatest community benefit.

Review and reform priorities

Recognising the resource demands on governments from completing all reviews and implementing reforms, the Council considered that the greatest benefit to the community would arise from prioritising review and reform activity to address those restrictions with a greater impact on competition.¹

¹ The legislation covered in this NCP assessment is a subset of all legislation for review and reform. The Council updates the full list of legislation in its *Legislation review compendium*, now in its fourth edition (NCC 2002).

Accordingly, in its 2001 NCP assessment, the Council identified priority areas of regulation likely to have nontrivial impacts on competition (box 4.2). It asked governments to complete review and reform activity in these areas by no later than the CoAG target date.

The prioritisation process meant that the Council scrutinised governments' review and reform activity for around 800 separate pieces of legislation. While this 2003 NCP assessment continued the focus on priority areas, it finalised the Council's assessment of governments' progress in reviewing and reforming all remaining (existing) legislation review and reform matters, including the nonpriority areas.

Box 4.2: Priority legislation areas

Water

Legislation relating to water management, supply, irrigation, trading and water corporations

Primary industries

Barley/coarse grains; dairy; poultry meat; rice; sugar; wheat; fishing; forestry; mining; food regulation; agricultural and veterinary chemicals; quarantine; bulk handling

Communications

Australian Postal Corporation Act 1989: third party access regime; *Broadcasting Services Act 1992* and related legislation; *Radiocommunications Act 1992*

Fair trading legislation and consumer legislation

Fair trading legislation; consumer credit legislation; trade measurement legislation

Insurance and superannuation services

Workers compensation insurance; compulsory third party motor vehicle insurance; professional indemnity insurance; public sector superannuation scheme choice

Health and pharmaceutical sector

Chiropractors; dentists and dental paraprofessionals; *Health Insurance Act 1973* (Cwlth); medical practitioners; Medicare provider numbers for medical practitioners; nurses; occupational therapists; optometrists, opticians and optical paraprofessionals; osteopaths; pathology collection centre licensing; pharmacists; physiotherapists; podiatrists; psychologists; radiographers; speech pathologists; traditional Chinese medicine

Legal services and other professions

Legal services; conveyancers; real estate agents, security providers, motor vehicle dealers; travel agents; employment agents

Planning, construction and development services

Planning and approvals; building regulations and approvals; related professions and occupations, such as architects

Retail regulation

Shop trading hours; liquor licensing; petroleum retailing

Social regulation

Education services; gambling; child care services

Transport services

Road freight transport (tow trucks, dangerous goods); rail services; taxis and hire cars; ports and sea freight; international liner cargo shipping (part X of the TPA); air transport

Objective and robust reviews

The Council has always emphasised the link between high quality reviews and well-considered, effective policy outcomes. Open, independent and objective review processes provide the best opportunity to identify and assess all costs and benefits of restrictions on competition, and to implement regulations (including alternatives to restrictions) that best achieve the community's goals.

The Council has consistently encouraged governments to adopt independent review processes. Governments sometimes argue, however, that the inclusion of stakeholder representatives on review panels is necessary. The Council's experience is that it is often difficult for direct stakeholders to agree on key issues and that agreement between directly interested parties is less likely to reflect fully the interests of the wider community. The Council therefore supports the approach proposed by the Commonwealth Office of Regulation Review that 'if direct representation by industry or other groups were considered desirable, a preferable approach would be to include them on a reference group' (PC 1999b, p. xviii).

CoAG (2000) asked the Council to consider, when assessing jurisdictions' compliance with the CPA clause 5 guiding, whether review conclusions are within a range of outcomes that could reasonably be reached based on the information available to a 'properly constituted review process'. Other guidance provided by CoAG included:

- requesting that governments document the public interest reasons supporting their reform decisions and make this reasoning publicly available;
- requesting that governments consider the likely impacts of reform measures on specific industry sectors and communities, including the likely adjustment costs; and
- recognising that satisfactory reform implementation may include a firm transitional arrangement that extends beyond 30 June 2002, where justified by a public interest assessment.

CoAG's guidance points to the need for a rigorous analytical approach whereby reviews consider all relevant evidence and logically draw conclusions and recommendations from that evidence. Policy actions in line with review findings and recommendations based on flawed analysis or incomplete evidence may not satisfy the CPA guiding principle. The Council's approach in assessing compliance, therefore, is to look for evidence that reviews:

- had terms of reference based on the CPA clause 5(9), supported by publicly available explanatory documentation such as an issues paper;
- were conducted by an appropriately constituted review panel able to undertake an independent and objective assessment of all matters

relevant to the legislation under review, including restrictions on competition and public interest matters;

- provided for public participation (including participation by directly interested parties) through appropriate consultative processes;
- assessed and balanced all costs and benefits of existing restrictions on competition and considered alternative means of achieving the objective of the legislation;
- considered all relevant evidence and reached reasonable conclusions and recommendations based on the evidence before the review; and
- demonstrated a net public benefit when recommending that a government introduce or retain restrictions on competition.

In assessing jurisdictions' compliance, the Council accounted for whether flaws — such as a failure of the review's terms of reference to encompass relevant questions, deficient analysis leading to recommendations that are inconsistent with the evidence, or a failure to consider relevant evidence — might have compromised the review's recommendations

The need to address the guiding principle

To test whether restrictions on competition are warranted, governments need to consider the public interest factors in the CPA clause 1(3). The community-wide perspective means that restrictions must benefit the whole community, not just particular groups. In assessing compliance with the CPA clause 5, the Council looked for governments to have provided at least a statement of the findings/recommendations of each relevant review, along with a clear and comprehensive explanation of their response to the review and its supporting rationale.

Arguments supporting a restriction usually arise through the evidence and recommendations of the relevant review. In this context, transparent policy-making offers a public benefit, which is enhanced where the public can participate in reviews and access review reports. For these reasons, the Council encouraged governments to make their review reports publicly available when developing a public interest case (recognising, however, that the NCP agreements do not require the public release of reports).

Implementation of appropriate reform

The CPA guiding principle means that a government needs to change its legislation if it cannot justify the restrictions. Appropriate reform implementation requires a government to remove restrictions on competition

unless it can demonstrate via a robust net community benefit case that the restrictions are warranted

Appropriate reform implementation may include, where justified by a public interest assessment, having a firm transitional arrangement that extends beyond 30 June 2002. For this 2003 NCP assessment, the Council considered that governments met their CPA obligations, even if they did not complete reforms by 30 June 2002, where they:

- presented a robust net community benefit case to support the (temporary) retention of restrictions beyond June 2002; and
- announced a transitional strategy for removing the restriction within a reasonable period from June 2002 (for example, by ‘locking in’ the reform through legislation).

More generally, the Council looked for governments to ensure reform outcomes that restrict competition have regard to review recommendations (assuming reviews were properly constituted and conducted). For compliance, governments needed to provide a public interest rationale for competition restrictions that is supported by relevant evidence and robust analysis. Where a government introduced or retained competition restrictions on the basis of review recommendations, but the review does not provide clear reasoning and argument to support its recommendations, the Council looked for the government to show the evidence and logic underlying its decision. Where a government’s introduction or retention of competition restrictions was not an approach reasonably drawn from the recommendations of the review, the Council looked for the government to provide a rigorous supporting case, including a demonstration of flaws in the review’s analysis and reasoning.

The CPA guiding principle does not mean that governments must always conduct a full public review before reforming restrictions. Governments sometimes repeal redundant legislation after preliminary scrutiny shows that the legislation provides no public benefit. Such action meets the CPA objectives. Similarly, a government may choose to disregard a review recommendation supporting a restriction or seek to achieve policy outcomes via an approach other than that recommended by a review. Where a government did not implement the recommendation of a properly constituted rigorous review, however, the Council looked for the government to provide a robust net community benefit argument, explaining why the approach recommended by the review was inappropriate.

Notwithstanding the above, the Council adopted a more expeditious process in assessing governments’ obligations to review and reform nonpriority legislation. This reflects the likelihood that such legislation involves ‘lower order’ restrictions on competition and that the Council’s resources are used more effectively in engaging with governments on priority legislation review matters.

Divergent approaches across jurisdictions

The NCP provides for the possibility that different governments might evaluate similar issues differently and thus reach different conclusions on an appropriate approach. Given that Australia is essentially one national market, however, uniform or consistent regulation across jurisdictions is likely to benefit the community by reducing divergent regulatory imposts on businesses and service providers, and ultimately leading to lower prices to consumers.

The NCP facilitates legislative consistency in various ways. First, the CPA offers scope for national reviews. It provides that a government, where one of its reviews has a national dimension or effect on competition (or both), should consider whether the review should be national in scope. Twelve national reviews have been scheduled under the NCP. Nine have been completed, although the relevant governments still have to undertake the necessary legislative action in many cases. Progress with national reviews is discussed in chapter 14, volume 2.

Second, governments have implemented mutual recognition since 1993. Mutual recognition is aimed at creating a regulatory environment that will 'encourage enterprise, enable business and industry to maximise their efficiency, and promote international competitiveness' (CoAG 1998). The Commonwealth *Mutual Recognition Act 1992* and related State and Territory mutual recognition legislation aim to achieve a national market in goods and services via two principles:

- that goods that may be sold legally in one State or Territory may be sold in a second State or Territory, regardless of differences in standards applying to goods in the relevant jurisdictions; and
- that a person who is registered to practise an occupation in one State or Territory be able to register to practise an equivalent occupation in a second State or Territory.

Questions of mutual recognition may arise where occupations are registered in some but not all jurisdictions. The NCP assessment implications are discussed in volume 2 — see for example, chapter 3 (health and pharmaceutical services), chapter 5 (other professions and occupations) and chapter 10 (planning, construction and development services).

Compliance with the review and reform of the stock of legislation

In volume 2 (chapters 1–12) of this NCP assessment the Council concluded its assessment of outstanding priority legislation review matters for the

Commonwealth, State and Territory governments. Tables 4.2–10 (at the end of this chapter) summarise instances of noncompliance. The tables indicate those areas of review and reform in which the Council determined a failure to comply with CPA clause 5 obligations.

Reasons for a compliance failure assessment

For jurisdictions to be assessed as meeting CPA obligations, the requirements are that:

- the review and, where appropriate, reform of a particular piece of legislation fully meets the CPA clause 5(1) guiding principle; or
- the review and reform is consistent with the CPA clause 5(1) guiding principle, but reform is yet to be completed because it involves a transitional implementation program, supported by a robust public interest test, that extends beyond 2003 (CoAG 2000).

Failure to comply with the CPA requirements can arise for a range of reasons. In some instances, the Council assessed that outcomes are not consistent with the obligations under the CPA clause 5(1). In other cases, noncompliance was the result of a timing failure — that is, a government did not meet the (extended) deadline of 30 June 2003.²

Tables 4.2–10 adopt the following categories of compliance failure.

1. Review and reform is incomplete owing to a need to resolve outstanding national reviews or other interjurisdictional processes.
2. Reform commenced but involves transitional phasing beyond 30 June 2003 without a public interest justification.
3. Review and reform is incomplete but the relevant government has demonstrated a firm commitment to complete its reforms on time.
4. Review and reform is incomplete and the relevant government did not demonstrate a firm commitment to meeting its obligations on time.
5. The review and reform outcome fails to comply with the CPA clause 5 guiding principle.

These categories are elaborated in the following sections.

² The Council accepted, nonetheless, reforms implemented after 30 June 2003 up to the finalisation of this 2003 NCP assessment.

Review and reform incomplete pending outcomes from national processes

A Government in this category is not reasonably in a position to progress appropriate reforms until outstanding national processes are resolved. The Council considers that these instances of noncompliance (shaded in tables 4.2–10) should not have implications for NCP payments.

Reform involving transitional phasing beyond 30 June 2003 without a public interest justification

As noted, CoAG asked the Council to recognise that satisfactory reform implementation may include a firm transitional arrangement that extends beyond 30 June 2002 (extended to 2003 for the purposes of this NCP assessment) where justified in the public interest. The Council thus assessed a government as having failed to comply fully with its CPA obligations if it introduced a transitional reform program but did not provide a robust public interest case. The Council did not accept that a decision to simply postpone reform implementation constituted a transitional reform program.

Review and reform incomplete, but firm commitment demonstrated

A government in this category failed to complete its review and reform obligations by 30 June 2003, but demonstrated a firm commitment to that date by introducing potentially compliant legislation to Parliament or by commencing the implementation of some reforms in advance of legislative changes. The Council did not accept that undertakings to implement reforms in the near future — such as plans to introduce legislation in Parliamentary sittings later in 2003 (or beyond) — constituted a demonstrated commitment to complete review and reform by 30 June 2003.

Review and reform incomplete and no commitment demonstrated

A government in this category failed to demonstrate a concerted effort to conclude reform implementation by 30 June 2003. Its progress might have been inordinately slow, ranging from reviews that were not completed to failure to introduce a legislative response (where warranted). This category includes instances where a government is drafting legislation, has circulated exposure draft Bills or has listed legislation for introduction to the Parliament later in 2003. It also includes instances where legislative proposals would not, if implemented, comply with CPA obligations (including legislation currently before Parliaments).

Failure to comply with CPA obligations

A government in this category completed review and/or reform that resulted in outcomes that breached the CPA clause 5(1) guiding principle.

The significance of a compliance failure

The above categories of compliance failures specify the reason for a noncompliance finding but do not indicate the importance to the community of the reform failure.

The significance of a compliance failure is a 'judgement call' reflecting the following considerations, among others.

- *The relative importance of a compliance breach in terms of its impacts on the community and economy.* Single desk arrangements for an agricultural commodity, for example, are more significant than, say, reservation of title for speech therapists.
- *The extent of anticompetitive restrictions remaining.* Significance may vary across jurisdictions for the same area of regulation, depending on the extent of the restriction. Two jurisdictions might have identical barriers to entry to an industry, but one jurisdiction might allow greater entry to providers of a closely substitutable service, thereby mitigating the impact of the primary restriction (such as for taxis and hire cars).
- *How the effects of anticompetitive impacts are manifested.* Some restrictions on competition:
 - result in transfers to incumbent beneficiaries at the expense of potential competitors, leading to worse financial outcomes for users/consumers;
 - have major, albeit less tangible, effects on consumer convenience (such as the restrictions on shop trading hours); and
 - have pronounced impacts on the allocation of the resource use in other jurisdictions or the economy generally, such as differential restrictions across jurisdictions that encourage the inefficient relocation of mobile capital.

Governments' overall compliance

In terms of potential NCP payments implications arising from compliance failures (see the 'Overview of progress and recommendations' section at the front of this volume), the Council accounted for:

- the reason for the compliance failure;
- the significance, in terms of impacts on the community, of remaining restrictions on competition; and

- CoAG guidelines, including the extent of a jurisdiction's overall commitment to the implementation of the NCP (see chapter 1, volume 1).

Table 4.1 provides an overview of each government's record of compliance with its legislation review obligations, including for both priority and non priority legislation.

Table 4.1: Overall outcomes with the review and reform of legislation^a

	<i>Priority legislation</i>	<i>Nonpriority legislation</i>	<i>Total legislation</i>	<i>Proportion of priority complying</i>	<i>Proportion of non-priority complying</i>	<i>Proportion of total complying</i>
				%	%	%
Commonwealth ^b	57	68	125	33	66	51
New South Wales	118	98	216	69	79	73
Victoria	91	119	210	78	83	81
Queensland	118	60	178	61	92	71
Western Australia	117	157	274	31	54	44
South Australia	75	96	171	37	82	63
Tasmania	100	138	238	77	90	84
ACT	78	178	256	59	97	85
Northern Territory	57	40	97	47	83	62
TOTAL	811	954	1765	56	81	69

^a Includes the stock of legislation identified by each jurisdiction in their original legislation review schedules, jurisdictions' periodic additions (as other existing legislation containing restrictions on competition has been identified), and existing, amending and new legislation containing restrictions on competition identified by the Council. Excludes water-related legislation, apart from three pieces of such legislation that include matters relevant to non-water legislation areas. Excludes regulation related to electricity, gas and road transport (except where it relates to professions such as electricians and gasfitters covered in volume 2 of this report), which are treated separately in chapters 7, 8 and 9 (volume 1) respectively.

^b The Commonwealth raised concerns about the Council assessing outcomes with respect to the review and reform of legislation not included on the Commonwealth's original 1996 Cabinet-approved list of legislation — the Commonwealth Legislation Review Schedule (CLRS). The Commonwealth reported that the CLRS contains 101 pieces of legislation rather than the 125 pieces of legislation assessed by the Council. This situation is not unique to the Commonwealth. As explained in note a, for a number of reasons, the estimates may not accord with Governments' original legislation review schedules as at 1996. Other Governments did not raise concerns about these data.

Source: Derived from the National Competition Council's legislation review database.

The estimates for compliance rates noted in table 4.1 (in the final three columns) are indicative only. The main purpose is to highlight differences in the relative performance of jurisdictions and to indicate the magnitude of their legislation review task. In interpreting the data, some important caveats are as follows.

- The estimates can reflect differential treatment of legislation review matters between jurisdictions — for example, where a jurisdiction has a 'Chiropractors and Osteopaths Act' it will be counted once, whereas

separate legislation for each profession in another jurisdiction would be counted twice.

- In some cases a jurisdiction's review and reform activity for one issue might encompass several pieces of legislation, which can skew outcomes. For instance, the Commonwealth's compliance rate for its priority legislation was around 32 per cent. Noncompliance in the review and reform of its superannuation and broadcasting involved, respectively, ten and five discrete pieces of legislation (some of which were not on its 1996 Commonwealth Legislation Review Schedule). If each compliance failure involved one piece of legislation, the Commonwealth's compliance rate for priority legislation would be around 40 per cent.

For these reasons, the Council did not place undue importance on small deviations in absolute compliance ratios across jurisdictions. Indeed, tables 4.2–10 list outstanding priority reform *areas* rather than ascribing compliance failures to each piece of legislation individually.

The following section provides an overview of each jurisdiction's overall performance in the review and reform of its stock of legislation. In relation to the review and, where appropriate, reform of the priority legislation areas, the performance of the Commonwealth, Western Australia, South Australia and the Northern Territory was markedly below average.

Commonwealth

The Commonwealth Government completed the review and reform of around half of its stock of legislation. It reviewed, and where appropriate, reformed 33 per cent of its priority legislation and 66 per cent of its nonpriority legislation. Compared to other jurisdictions, the Commonwealth's performance was well below average and not commensurate with its leadership role in other areas of the NCP.

Excluding areas subject to ongoing interjurisdictional processes, the Commonwealth had 22 areas of noncompliance in priority legislation, including the following five instances of reform outcomes that breached the clause 5 guiding principle:

- export marketing arrangements for wheat (2002);
- broadcasting regulation (2003);
- regulation of postal services (2003);
- standards for imported motor vehicles (2002); and
- statutory monopoly provision of parliamentary superannuation (2003).

The Commonwealth had 11 instances of incomplete activity where a commitment to appropriate reform was not evident.

The most significant areas of noncompliance for the Commonwealth include:

- legislation on wheat marketing, broadcasting, and postal services that is in breach of CPA clause 5; and
- the incomplete review and reform of health-related legislation (pathology collection centre licensing and services covered by private health insurance) and legislation on industry assistance.

New South Wales

The New South Wales Government completed the review and reform of over 70 per cent of its stock of legislation. It reviewed, and where appropriate, reformed almost 70 per cent of its priority legislation and nearly 80 per cent of its nonpriority legislation. Compared to other jurisdictions, New South Wales' performance was above average.

Excluding areas subject to ongoing interjurisdictional processes, New South Wales had 28 areas of noncompliance in priority legislation including the following eight instances of reform outcomes that breached the clause 5 guiding principle:

- grain marketing (2002);
- poultry meat industry negotiation framework (2002);
- taxis and hire cars (2003);
- ownership restrictions for dental practices (2003) and for optical dispensers (2003);
- farm debt mediation provisions (2003); and
- regulation of gaming machines (2003) and racing and betting (2002).

New South Wales had 9 instances of incomplete activity where a commitment to appropriate reform was not evident.

The most significant areas of noncompliance for New South Wales include:

- legislation on grain marketing, poultry meat bargaining, taxis and hire cars and ownership restrictions applying to the dental and optical dispensing professions that is in breach of CPA clause 5; and
- the incomplete review and reform of regulation of liquor sales, a number of professions and fisheries management legislation.

Victoria

The Victorian Government completed the review and reform of over 80 per cent of its stock of legislation. It reviewed, and where appropriate, reformed 78 per cent of its priority legislation and over 80 per cent of its nonpriority legislation. Compared to other jurisdictions, Victoria's performance was well above average.

Excluding areas subject to ongoing interjurisdictional processes, Victoria had 10 areas of noncompliance in priority legislation, including the following two instances of reform outcomes that breached the clause 5 guiding principle:

- regulation of the tow truck industry (2003);
- regulation affording exclusive lottery licences (2003).

Victoria had six instances of incomplete activity where a commitment to appropriate reform was not evident.

The most significant areas of noncompliance for Victoria include:

- legislation on entry restrictions applying to the tow truck industry that is in breach of CPA clause 5; and
- the incomplete review and reform of legislation on pharmacies, fisheries management and some building-related occupations.

Queensland

The Queensland Government completed the review and reform of over 70 per cent of its stock of legislation. It reviewed, and where appropriate, reformed 61 per cent of its priority legislation and over 90 per cent of its nonpriority legislation. Compared to other jurisdictions, Queensland's performance was above average.

Excluding areas subject to ongoing interjurisdictional processes, Queensland had 24 areas of noncompliance in priority legislation, including the following six instances of reform outcomes that breached the clause 5 guiding principle.

- liquor licensing (2003);
- taxis and hire cars (2003);
- reservation of title for occupational therapists (2002) and for speech pathologists (2002);
- regulation of activities outside of ports (2002); and
- monopoly provision of public sector superannuation (2003).

Queensland had 11 instances of incomplete activity where a commitment to appropriate reform was not evident.

The most significant areas of noncompliance for Queensland include:

- legislation on packaged liquor sales and taxis and hire cars that is in breach of CPA clause 5; and
- the incomplete review and reform of fisheries management legislation and the regulation of several health-related professions.

Western Australia

The Western Australian Government completed the review and reform 44 per cent of its stock of legislation. It reviewed, and where appropriate, reformed 31 per cent of its priority legislation and 54 per cent of its nonpriority legislation. Western Australia's performance was below that of all other jurisdictions.

Excluding areas subject to ongoing interjurisdictional processes, Western Australia had 49 areas of noncompliance in priority legislation, including the following seven instances of reform outcomes that breached the clause 5 guiding principle:

- retail trading hours (2003);
- liquor licensing (2003);
- marketing of potatoes (2003);
- fish resources management (2003);
- petroleum products pricing (2003) and regulations establishing fuel standards (2003); and
- casinos and betting (2003).

Western Australia had 31 instances of incomplete activity where a commitment to appropriate reform was not evident.

The most significant areas of noncompliance for Western Australia include:

- legislation on retail trading hours, liquor licensing, and potato marketing that is in breach of CPA clause 5; and
- the incomplete review and reform of legislation in grain marketing, poultry meat bargaining, egg marketing, most health-related professions and some water related legislation.

South Australia

The South Australian Government completed the review and reform over 60 per cent of its stock of legislation. It reviewed, and where appropriate, reformed almost 40 per cent of its priority legislation and over 80 per cent of its nonpriority legislation. Compared to other jurisdictions, South Australia's performance was below average.

Excluding areas subject to ongoing interjurisdictional processes, South Australia had 34 areas of noncompliance in priority legislation, including the following six instances of reform outcomes that breached the clause 5 guiding principle:

- poultry meat industry negotiation framework (2003);
- taxis and hire cars (2003);
- ownership restrictions for dental practices (2003);
- regulation of retail trading hours (2003)
- monopoly provision of public sector superannuation (2003); and
- regulation of lotteries (2003).

South Australia had 25 instances of incomplete activity where a commitment to appropriate reform was not evident.

The most significant areas of noncompliance for South Australia include:

- legislation on poultry meat negotiations and taxis (moderated by liberal conditions for hire cars) that is in breach of CPA clause 5; and
- the incomplete review and reform of legislation on liquor licensing; barley marketing, fisheries, a number of health-related professions and building-related trades.

Tasmania

The Tasmanian Government completed the review and reform 84 per cent of its stock of legislation. It reviewed, and where appropriate, reformed 77 per cent of its priority legislation and 90 per cent of its nonpriority legislation. Compared to other jurisdictions, Tasmania's performance was well above average.

Excluding areas subject to ongoing interjurisdictional processes, Tasmania had 14 areas of noncompliance in priority legislation, including the following two instances of reform outcomes that breached the clause 5 guiding principle:

- marine farming planning legislation (2003); and
- the composition of the Veterinary Board of Tasmania (2003).

Tasmania had nine instances of incomplete activity where a commitment to appropriate reform was not evident.

The most significant areas of noncompliance for Tasmania are the incomplete review and reform of legislation on taxis and hire cars, some health- and building-related professions and gambling.

ACT

The ACT Government completed the review and reform around 85 per cent of its stock of legislation. It reviewed, and where appropriate, reformed nearly 60 per cent of its priority legislation and nearly all of its nonpriority legislation. Compared to other jurisdictions, the ACT's performance was above average.

Excluding areas subject to ongoing interjurisdictional processes, the ACT had 11 areas of noncompliance in priority legislation, including the following instance of a reform outcome that breached the clause 5 guiding principle:

- licensing of employment agents (2003).

The ACT had eight instances of incomplete activity where a commitment to appropriate reform was not evident.

The most significant areas of noncompliance for the ACT are the incomplete review and reform of legislation on taxis and hire cars, health-related professions and some building-related trades.

The Northern Territory

The Northern Territory Government completed the review and reform around 60 per cent of its stock of legislation. It reviewed, and where appropriate, reformed 47 per cent of its priority legislation and over 80 per cent of its nonpriority legislation. Compared to other jurisdictions, the Northern Territory's performance was below average.

Excluding areas subject to ongoing interjurisdictional processes, the Northern Territory had 16 areas of noncompliance in priority legislation, including the following instance of a reform outcome that breached the clause 5 guiding principle:

- taxis and hire cars (2003).

The Northern Territory had 14 instances where a commitment to appropriate reform was not evident.

The most significant areas of noncompliance for the Northern Territory include legislation on the reintroduction of entry restrictions to the taxi industry that is in breach of CPA clause 5, and the incomplete review and reform of legislation on liquor licensing and the health-related professions.

New legislation that restricts competition

The CPA clause 5(5) obliges governments to show that proposed new legislation that restricts competition provides a net benefit to the community and that the restriction is necessary to achieve the objectives of the legislation. The obligation regarding new legislation has been ongoing for governments since the signing of the NCP agreements in 1995.

As the 2003 NCP assessment aimed to finalise the review and reform of the stock of legislation, the CPA clause 5(5) obligations assume elevated importance. It would be undesirable for unwarranted anticompetitive restrictions on competition to be removed from existing legislation, only to resurface in new legislation.

The Council wrote to all governments on this matter in late 2002, noting that it considered the CPA clause 5(5) obligation to mean that governments should have in place legislation gatekeeping arrangements that maximise the opportunity for regulatory quality. The Council outlined that it considered that the following principles underpin effective gatekeeping arrangements.

- All legislation that contains nontrivial restrictions on competition should be subject to formal regulatory impact assessment to determine the most effective and efficient approach to achieving the government's regulatory objective, including alternatives to regulation. The impact analysis must explicitly consider competition impacts.
- All government agencies that review or make regulations that restrict competition must follow guidelines for the conduct of regulation impact analysis.
- An independent body with relevant expertise advises agencies on when and how to conduct regulatory impact assessment. The body is empowered to examine regulatory impact assessments and to advise the Cabinet on whether they provide an adequate level of analysis.
- The regulatory impact assessment body monitors and reports annually on compliance with the regulation impact analysis guidelines.

All governments have established arrangements for gatekeeper scrutiny of the competition impacts of new and amended legislation. The Council examined governments' gatekeeping mechanisms to ensure that appropriate processes are in place to ensure new legislation complies with the CPA guiding principle (see chapter 13, volume 2).

The Commonwealth Government's gatekeeping procedures represent best practice as they require impact assessment for all regulatory proposals (primary, subordinate, quasi-regulation and treaties) and are underpinned by detailed guidelines on the conduct of impact analysis. An independent Office of Regulation Review is empowered to examine agencies' regulatory impact assessments and to advise on the adequacy of the analysis at the decision-making and tabling/transparency stages. It also monitors and reports annually on compliance with the regulation impact analysis guidelines.

Other jurisdictions subject all primary and subordinate legislation to their gatekeeping requirements. New South Wales, however, does not subject direct amendments to legislation to its gatekeeping requirements. The Council considers this to be a material omission. On other aspects there is a degree of divergence between the models adopted by each jurisdiction and the best practice model adopted by the Commonwealth. For example many States and the ACT use Cabinet processes to implement gatekeeping mechanisms for primary legislation and therefore may not require the final RIS to be made available publicly. The quality and independence of monitoring and reporting also varies considerably across the States and Territories.

The Council conducted checks on the efficacy of jurisdictions' gatekeeping mechanisms by examining some new legislation in priority areas to ensure compliance with the CPA clause 5 guiding principle. (Subsequent chapters in volume 2 discuss such relevant legislation.) These checks revealed examples where, despite the efficacy of the gatekeeping system, governments have implemented legislation that restricts competition even where it has not been demonstrated that it provides a net benefit to the community and/or the objectives of the legislation could have been achieved without restricting competition. This indicates that while an effective gatekeeping mechanism is necessary to achieve good regulatory outcomes, it will not always be sufficient.

Gatekeeping systems need to be supported by governments and the departments and agencies responsible for undertaking regulatory impact analyses. Ongoing scrutiny is important. Over time experience may highlight deficiencies in gatekeeping systems that need to be addressed or improvements that could be made that lead to more effective and efficient regulatory and administrative outcomes. Responsibility for scrutinising the gatekeeping systems rests with all governments and the Council will continue to monitor new legislation and gatekeeping arrangements to ensure that governments continue to strive for best practice regulation.

Table 4.2: Noncompliance with legislation review and reform — Commonwealth Government

<i>Title of legislation</i>	<i>Assessment</i>	<i>Comment</i>	<i>Chapter reference (Vol. 2)</i>
<i>Wheat Marketing Act 1989</i>	Does not meet CPA obligations (2002)	Review did not show the export 'single desk' is in the public interest. Further review in 2004 will not address NCP issues.	1
<i>Dairy Produce Act 1986 (export control)</i>	Incomplete — firm commitment demonstrated	Most restrictions on competition removed.	1
<i>Agricultural and Veterinary Chemicals Code Act 1994</i> <i>Agricultural and Veterinary Chemicals (Administration) Act 1992</i>	Incomplete — interjurisdictional process		1
<i>Imported Food Control Act 1992</i>	Incomplete — firm commitment demonstrated	Some reforms were implemented and further amendments were introduced to Parliament.	1
<i>Quarantine Act 1908 (plant and animal)</i>	Incomplete — firm commitment demonstrated	Phased response is being implemented and further review foreshadowed in 2003.	1
<i>Export Control Act 1982 (food)</i>	Incomplete — commitment not demonstrated	Consultation on review outcomes is under way.	1
<i>Aboriginal Land Rights (Northern Territory) Act 1976</i>	Incomplete — commitment not demonstrated	The Government did not respond to the review.	1
Regulations under the Export Control Act related to wood	Incomplete — commitment not demonstrated	The review recommended repeal of the regulations.	1
<i>Shipping Registration Act 1912</i>	Incomplete — commitment not demonstrated	Reforms are being held up by broader shipping reform matters.	2
<i>Navigation Act 1912</i>	Incomplete — commitment not demonstrated	Government is considering the review.	2
<i>Motor Vehicle Standards Act 1989</i>	Does not meet CPA obligations (2002)	Restrictions, although minor, were not shown to be in the public interest.	2
<i>Therapeutic Goods Act 1989 (drugs and poisons)</i>	Incomplete — interjurisdictional process		3

(continued)

Table 4.2 continued

<i>Title of legislation</i>	<i>Assessment</i>	<i>Comment</i>	<i>Chapter reference (Vol. 2)</i>
<i>Health Insurance Act 1973 (Part IIA) (pathology collection centre licensing)</i>	Incomplete — commitment not demonstrated	The Government would comply if it announced a review as recommended by steering committee.	3
<i>National Health Act 1953 Health Insurance Act 1973 (restrictions on services covered by private health insurance)</i>	Incomplete — commitment not demonstrated	Trialling of less restrictive approach was delayed to late 2003.	3
<i>Superannuation Act 1976 Superannuation Act 1990 Superannuation Guarantee (Administration) Act 1992</i>	Incomplete — firm commitment demonstrated	Legislation is before Parliament.	6
<i>Parliamentary Contributory Superannuation Act 1948</i>	Does not meet CPA obligations (2003)	Monopoly provision of superannuation.	6
<i>Superannuation Industry (Supervision) Act 1993 Superannuation (Self Managed Superannuation Funds) Taxation Act 1987 Superannuation (Self Managed Superannuation Funds) Supervisory Levy Imposition Act 1991 Superannuation (Resolution of Complaints) Act 1993 Occupational Superannuation Standards Regulations Applications Act 1992 Superannuation (Financial Assistance Funding) Levy Act 1993</i>	Incomplete — firm commitment demonstrated	Government response was in accord with review recommendations, and exposure draft legislation was circulated. In other instances, the Government has undertaken actions consistent with the review recommendations.	6
<i>Safety, Rehabilitation and Compensation Act 1988</i>	Incomplete — interjurisdictional process		6

(continued)

Table 4.2 continued

<i>Title of legislation</i>	<i>Assessment</i>	<i>Comment</i>	<i>Chapter reference (Vol. 2)</i>
<i>Interactive Gambling Act 2001</i>	Incomplete — commitment not demonstrated	Draft review report is expected in 2003.	9
<i>Broadcasting Services Act 1992</i> <i>Radio Licence Fees Act 1964</i> <i>Television Licence Fee Act 1964</i>	Does not meet CPA obligations (2003)	Retains numerous restrictions on competition without a public interest case.	11
<i>Radiocommunications Act 1992</i> and related legislation	Incomplete — commitment not demonstrated	The Government has made some progress and is considering some other recommendations.	11
<i>Australian Postal Corporation Act 1989</i>	Does not meet CPA obligations (2003)	Pro-competitive legislation was defeated in the Senate, but some minor reforms were made.	11
<i>Anti-dumping Authority Act 1998</i> <i>Customs Act 1901 part XVB</i> <i>Customs Tariff (Anti-dumping) Act 1975</i>	Incomplete — commitment not demonstrated	Review has not commenced.	12
<i>Customs Tariff Act 1995 – Automotive Industry Arrangements</i>	Incomplete — firm commitment demonstrated	Legislation is before Parliament.	12
<i>Customs Tariff Act 1995 – Textiles Clothing and Footwear</i>	Incomplete — commitment not demonstrated	Review is completed and under consideration by the Government.	12

Table 4.3: Noncompliance with legislation review and reform — New South Wales

<i>Title of legislation</i>	<i>Assessment</i>	<i>Comment</i>	<i>Chapter reference (Vol. 2)</i>
<i>Grain Marketing Act 1991</i>	Does not meet CPA obligations (2002)	Monopoly is legislated to the end of 2005 without public interest justification.	1
<i>Poultry Meat Industry Act 1986</i>	Does not meet CPA obligations (2002)	Restricts competition between processors and between growers.	1
<i>Agricultural and Veterinary Chemicals (New South Wales) Act 1994</i>	Incomplete — interjurisdictional process		1
<i>Marketing of Primary Products Act 1983 (Rice Marketing Board)</i>	Incomplete — see next column	Outcome of Commonwealth consultations with other jurisdictions on export authority proposal not announced. The New South Wales Government has extended vesting for a further five years pending new NCP review.	1
<i>Fisheries Management Act 1994</i>	Incomplete — firm commitment demonstrated	The Government made considerable progress.	1
<i>Stock Medicines Act 1989</i>	Incomplete — interjurisdictional process		1
<i>Food Act 1989</i>	Incomplete — firm commitment demonstrated	Legislation is before Parliament.	1
<i>Farm Debt Mediation Act 1994</i>	Does not meet CPA obligations (2003)	The Act enforces compulsory mediation between lenders and farmers and deferral of farm debt appropriation.	1
<i>Mines Inspection Act 1901</i>	Incomplete — commitment not demonstrated	Act is slated for repeal in 2003.	1
<i>Veterinary Surgeons Act 1986</i>	Incomplete — commitment not demonstrated	Draft Bill is under preparation.	1
<i>Passenger Transport Act 1990 (taxis)</i>	Does not meet CPA obligations (2003)	Limited liberalisation of entry restrictions.	2
<i>Tow Truck Industry Act 1998</i>	Incomplete — firm commitment demonstrated	Further review will occur after trial allocation system.	2

(continued)

Table 4.3 continued

<i>Title of legislation</i>	Assessment	Comment	Chapter reference (Vol. 2)
<i>Marine Safety Act 1998</i>	Incomplete — firm commitment demonstrated	Awaiting advice from the Commonwealth on the National Review of the Uniform Shipping Laws Code.	2
<i>Dentists Act 1989</i>	Does not meet CPA obligations (2003)	Act contains ownership restrictions.	3
<i>Nurses Act 1991</i>	Incomplete — firm commitment demonstrated	Legislation is before Parliament.	3
<i>Optical Dispensers Act 1963</i> <i>Optometrists Act 1930</i>	Does not meet CPA obligations (2003)	Act contains ownership restrictions.	3
<i>Podiatrists Act 1989</i>	Incomplete — firm commitment demonstrated	Legislation is before Parliament.	3
<i>Pharmacy Act 1964</i>	Incomplete – commitment not demonstrated	Proposals for reform before the Cabinet	3
<i>Legal Professions Act 1987</i>	Incomplete – interjurisdictional process		4
<i>Wool, Skin and Hide Dealers Act 1935</i>	Incomplete — commitment not demonstrated	Legislative reform is anticipated in 2003.	5
<i>Travel Agents Act 1986</i>	Incomplete – interjurisdictional process		5
<i>Shops and Industries Act 1962</i> (hairdressers)	Incomplete — commitment not demonstrated	Legislative reform is anticipated in 2003.	5
<i>Commercial Agents and Private Inquiry Agents Act 1963</i>	Incomplete — commitment not demonstrated	Legislative reform is anticipated in 2003.	5
<i>Workers Compensation Act 1987</i>	Incomplete – interjurisdictional process		6
<i>Registered Clubs Act 1976</i> (liquor) <i>Liquor Act 1982</i> (liquor)	Incomplete — commitment not demonstrated	Review completed. Awaiting Government response.	7
<i>Funeral Funds Act 1979</i>	Incomplete — firm commitment demonstrated	The Government is considering if new legislation may be required to implement the review's recommendations.	8
<i>Trade Measurement Administration Act 1989</i>	Incomplete – interjurisdictional process		8

(continued)

Table 4.3 continued

<i>Title of legislation</i>	Assessment	Comment	Chapter reference (Vol. 2)
<i>Child (Care and protection) Act 1987</i> <i>Children and Young Persons (Care and Protection) Act 1988</i>	Incomplete — firm commitment demonstrated	Reform implementation expected soon.	9
<i>NSW Lotteries Corporatisation Act 1996</i> <i>Public Lotteries Act 1996</i>	Incomplete — commitment not demonstrated	Government is considering the review report.	9
<i>Casino Control Act 1992</i>	Incomplete — commitment not demonstrated	Government is considering the review report.	9
<i>Gaming Machines Act 2001</i>	Does not meet CPA obligations (2003)	Act provides for an exclusive licence.	9
<i>Racing Administration Act 1998</i>	Does not meet CPA obligations (2002)	Legislation retains provisions for minimum telephone bets and restrictions on advertising of interstate betting services.	9
<i>Environmental Planning and Assessment Act 1979</i> and planning and land use reform projects	Incomplete — firm commitment demonstrated	The Government made good progress in planning/land use projects.	10
<i>Architects Act 1921</i>	Incomplete — firm commitment demonstrated	Legislation is before Parliament.	10

Table 4.4: Noncompliance with legislation review and reform – Victoria

<i>Title of legislation</i>	<i>Assessment</i>	<i>Comment</i>	<i>Chapter reference (Vol. 2)</i>
<i>Agriculture and Veterinary Chemicals (Victoria) Act 1994</i> <i>Agriculture and Veterinary Chemicals (Control of Use) Act 1992</i>	Incomplete – interjurisdictional process		1
<i>Fisheries Act 1995</i>	Incomplete – firm commitment demonstrated	The Government made considerable progress.	1
<i>Extractive Industries Development Act 1995</i>	Incomplete – commitment not demonstrated	New legislation slated for Parliament in 2003.	1
<i>Transport Act 1983</i> (provisions relating to tow trucks) and <i>Transport (Tow Truck) Regulations</i>	Does not meet CPA obligations (2003)	Legislation retains barriers to entry.	2
<i>Port Services Act 1995</i>	Incomplete – firm commitment demonstrated	Reform was partly implemented and a further Bill is slated for Parliament in spring 2003.	2
<i>Drugs, Poisons and Controlled Substances Act 1981</i>	Incomplete – interjurisdictional process		3
<i>Pharmacists Act 1974</i>	Incomplete – commitment not demonstrated	Review recommendations under consideration	3
<i>Legal Practice Act 1996</i>	Incomplete – interjurisdictional process	Act complies in other respects.	4
<i>Private Agents Act 1966</i>	Incomplete – commitment not demonstrated	Legislative reform is anticipated in 2004.	5
<i>Travel Agents Act 1986</i>	Incomplete – interjurisdictional process		5
<i>Accident Compensation Act 1985</i> <i>Accident Compensation (Workcover Insurance) Act 1983</i>	Incomplete – interjurisdictional process		6
<i>Transport Accident Act 1986</i>	Incomplete – interjurisdictional process		6
<i>Trade Measurement (Administration) Act 1995</i>	Incomplete – interjurisdictional process		8
<i>Tattersall Consultation Act 1958; Public Lotteries Act 2000</i>	Does not meet CPA obligations (2003)	The Government extended the exclusive licence.	9
<i>Building Act 1993 (building approvals)</i>	Incomplete – commitment not demonstrated	Legislation is slated for Parliament in 2003.	10
<i>Architects Act 1991</i>	Incomplete – commitment not demonstrated	Legislation is slated for Parliament in 2003.	10
<i>Surveyors Act 1978</i>	Incomplete – commitment not demonstrated	Progression of Bill is under consideration.	10

Table 4.5: Noncompliance with legislation review and reform – Queensland

<i>Title of legislation</i>	<i>Assessment</i>	<i>Comment</i>	<i>Chapter reference (Vol. 2)</i>
<i>Agricultural and Veterinary Chemicals (Queensland) Act 1994</i>	Incomplete – interjurisdictional process		1
<i>Agricultural Chemicals Distribution Control Act 1966</i>	Incomplete – firm commitment demonstrated	Amended Act to be proclaimed in October 2003.	1
<i>Fisheries Act 1994</i>	Incomplete – firm commitment demonstrated	The Government made considerable progress.	1
<i>Sawmills Licensing Act 1936</i>	Incomplete – commitment not demonstrated	The review recommended the act be repealed.	1
<i>Transport Operations (Passenger Transport) Act 1994 (taxis)</i>	Does not meet CPA obligations (2003)	No progress in reducing barriers to entry.	2
Transport Infrastructure (Rail) Regulation 1996 – <i>Transport Infrastructure Act 1994</i>	Incomplete – firm commitment demonstrated	Legislation is before Parliament.	2
Transport Infrastructure (Ports) Regulation 1994 – <i>Transport Infrastructure Act 1994</i> (activities outside ports)	Does not meet CPA obligations (2002)	Legislation limits certain activities to authorised ports.	2
Health practitioner legislation (practice restrictions): <i>Chiropractors and Osteopaths Act 1979</i> <i>Dental Act 1971; Dental Technicians and Dental Prosthetists Act 1991</i> <i>Medical Act 1939</i> <i>Optometrists Act 1974 / Optometrists Registration Act 2001</i> <i>Physiotherapy Act 1964</i> <i>Physiotherapists Registration Act 2001</i> <i>Podiatrists Act 1969</i> <i>Podiatrists Registration Act 2001</i>	Incomplete – firm commitment demonstrated	Amending legislation is before Parliament.	3

(continued)

Table 4.5 continued

<i>Title of legislation</i>	Assessment	Comment	Chapter reference (Vol. 2)
<i>Nursing Act 1992</i>	Incomplete — commitment not demonstrated	Review completed in August 2003.	3
<i>Occupational Therapists Act 1979</i>	Does not meet CPA obligations (2002)	Act provides for reservation of title.	3
<i>Speech Pathologists Act 1979</i>	Does not meet CPA obligations (2002)	Act provides for reservation of title.	3
<i>Pharmacy Act 1976</i>	Incomplete – commitment not demonstrated	Reforms to be introduced in 2003	3
<i>Health Act 1937 (drugs and poisons)</i>	Incomplete — interjurisdictional process		3
<i>Legal Practitioners Act 1995</i>	Incomplete — interjurisdictional process		4
<i>Health Act 1937 (hairdressing)</i>	Incomplete — commitment not demonstrated	Reforms are expected to commence in July 2004.	5
<i>Pawnbrokers Act 1984</i> <i>Second-hand Dealers and Collectors Act 1984</i>	Incomplete — commitment not demonstrated	New legislation is expected in 2003.	5
<i>Travel Agents Act 1988</i>	Incomplete — interjurisdictional process		5
<i>Auctioneers and Agents Act 1971 (maximum commissions for auctioneers and real estate agents)</i> <i>Property Agents and Motor Dealers Act 2000</i>	Incomplete — commitment not demonstrated	Review is under consideration.	5
<i>Workcover Queensland Act 1996 (monopoly insurance provision)</i>	Incomplete — interjurisdictional process		6
<i>Superannuation (Government and other Employees) Act 1998</i>	Does not meet CPA obligations (2003)	Act underpins monopoly provision of superannuation.	6
<i>Liquor Act 1992</i>	Does not meet CPA obligations (2003)	Hotel monopoly on the sale of packaged liquor and restrictions on the ownership, location and configuration of bottle shops.	7

(continued)

Table 4.5 continued

<i>Title of legislation</i>	<i>Assessment</i>	<i>Comment</i>	<i>Chapter reference (Vol. 2)</i>
<i>Funeral Benefit Business Act 1982</i>	Incomplete — commitment not demonstrated	Bill may be introduced in late August 2003.	8
<i>Credit Act 1987</i>	Incomplete — firm commitment demonstrated	Reform completion depends on the resolution of matters before the courts.	8
<i>Keno Act 1996</i> <i>Charitable and Non-profit Gambling Act 1999</i>	Incomplete — commitment not demonstrated	Review report is expected in July 2003.	9
<i>Gaming Machine Act 1991</i>	Incomplete — commitment not demonstrated	Government is considering the review report.	9
<i>Wagering Act 1998 (TAB)</i>	Incomplete — commitment not demonstrated	Draft review was released in April 2003.	9
<i>Interactive Gambling (Player Protection) Act 1998</i>	Incomplete — interjurisdictional process	Reform completion depends on resolution of Commonwealth legislation.	9
<i>Grammar Schools Act 1975</i>	Incomplete — commitment not demonstrated	Legislation is slated for Parliament in late 2003.	9
<i>Child Care Act 1991</i> Child Care (Child Care Centres) Regulation 1991 and Child Care (Family Day Care) Regulation 1991	Incomplete — firm commitment demonstrated	Act and Regulations come into effect on 1 September 2003.	9
<i>Surveyors Act 1977</i>	Incomplete — firm commitment demonstrated	Legislation is before Parliament.	10

Table 4.6: Noncompliance with legislation review and reform — Western Australia

<i>Title of legislation</i>	<i>Assessment</i>	<i>Comment</i>	<i>Chapter reference (Vol. 2)</i>
<i>Agricultural and Veterinary Chemicals (Western Australia) Act 1995</i> <i>Agricultural Produce (Chemical Residues) Act 1983</i> <i>Aerial Spraying Control Act 1966</i>	Incomplete — interjurisdictional process		1
<i>Veterinary Preparations and Animal Feeding Stuffs Act 1976</i>	Incomplete — firm commitment demonstrated	Legislation is before Parliament.	1
<i>Grain Marketing Act 1975</i>	Incomplete — firm commitment demonstrated	Regulations and Ministerial guidelines are to be finalised.	1
<i>Marketing of Eggs Act 1945</i>	Incomplete — commitment not demonstrated	Removal of restrictions is slated for no later than 2007.	1
<i>Chicken Meat industry Act 1977</i>	Incomplete — firm commitment demonstrated	Legislation is before Parliament.	1
<i>Marketing of Potatoes Act 1946</i>	Does not meet CPA obligations (2003)	Restrictions were retained without adequate public interest evidence.	1
<i>Health Act 1911</i> and Food regulations under the Health Act	Incomplete — commitment not demonstrated	The Regulations are under review.	1
<i>Veterinary Surgeons Act 1960</i>	Incomplete — commitment not demonstrated	Legislative amendments are to be drafted.	1
<i>Fish Resources Management Act 1994</i>	Does not meet CPA obligations (2003)	Restrictions were retained without public interest evidence.	1
<i>Pearling Act 1990</i>	Incomplete — commitment not demonstrated	The recommended reforms have not been implemented. The Government also intends to retain hatchery quota against the recommendations of the NCP review.	1
<i>Sandalwood Act 1929</i>	Incomplete — firm commitment demonstrated	Legislation is before Parliament	1

(continued)

Table 4.6 continued

<i>Title of legislation</i>	<i>Assessment</i>	<i>Comment</i>	<i>Chapter reference (Vol. 2)</i>
<i>Taxi Act 1994</i>	Incomplete — commitment not demonstrated	First-stage reforms were announced.	2
<i>Explosives and Dangerous Goods Act 1961</i>	Incomplete — firm commitment demonstrated	Legislation is before Parliament	2
<i>Jetties Act 1926 and Regulations</i> <i>Lights (Navigation) Protection Act 1938</i> <i>Marine and Harbours Act 1981 and Regulations</i> <i>Shipping and Pilotage Act 1967 and Regulations</i> <i>Marine Act 1982</i>	Incomplete — commitment not demonstrated	Drafting of legislation is slated for late 2003.	2
<i>Transport Co-ordination Act 1966</i>	Incomplete — commitment not demonstrated	The Government is yet to finalise legislation.	2
Health practitioner legislation: <i>Dental Act 1939; Dental Prosthetists Act 1985</i> <i>Chiropractors Act 1964</i> <i>Optical Dispensers Act 1966; Optometrists Act 1940</i> <i>Nurses Act 1992</i> <i>Osteopaths Act 1997</i> <i>Physiotherapists Act 1950</i> <i>Podiatrists Registration Act 1984</i> <i>Psychologists Registration Act 1976</i> <i>Occupational Therapists Registration Act 1980</i>	Incomplete — see next column	The Council and Western Australia previously agreed that the State's health practitioner core practices review would be completed and implemented fully by June 2004. The Government did not, however, introduce important template health practitioner legislation for which drafting commenced in 2001. Nevertheless, in July 2003, it advised the Council that a steering committee had been established and that its draft review report is expected soon. The Government indicated that '[t]his will enable legislative amendment to be implemented by June 2004'.	3
<i>Medical Act 1894</i>	Incomplete — commitment not demonstrated	New legislation slated for late 2003	
<i>Poisons Act 1964</i> <i>Health Act 1911 (Part VIIA) (drugs and poisons)</i>	Incomplete — interjurisdictional process		3

(continued)

Table 4.6 continued

<i>Title of legislation</i>	<i>Assessment</i>	<i>Comment</i>	<i>Chapter reference (Vol. 2)</i>
<i>Pharmacy Act 1964</i>	Incomplete — commitment not demonstrated	Department of Health is considering review outcomes	3
<i>Legal Practitioners Act 1893</i>	Incomplete — interjurisdictional process		4
<i>Motor Vehicle Driving Instructors Act 1963</i>	Incomplete — commitment not demonstrated	Review report is expected in late 2003.	5
<i>Auction Sales Act 1973</i>	Incomplete — commitment not demonstrated	Review report endorsed by Cabinet.	5
<i>Travel Agents Act 1985 and Regulations</i>	Incomplete — interjurisdictional process		5
<i>Settlement Agents Act 1981</i>	Incomplete — commitment not demonstrated	Review report was endorsed by Cabinet.	5
<i>Pawnbrokers and Second-hand Dealers Act 1994</i>	Incomplete — commitment not demonstrated	Draft Bill is ready for Ministerial endorsement.	5
<i>Debt Collectors Licensing Act 1964</i>	Incomplete — commitment not demonstrated	Review report endorsed by Cabinet.	5
<i>Employment Agents Act 1976</i>	Incomplete — commitment not demonstrated	Review report is expected in late 2003.	5
<i>Hairdressers Registration Act 1946</i>	Incomplete — commitment not demonstrated	Review was completed.	5
<i>Real Estate and Business Agents Act 1978</i>	Incomplete — commitment not demonstrated	Legislative amendments are being drafted.	5
<i>Motor Vehicle (Third Party Insurance) Act 1943</i>	Incomplete — interjurisdictional process		6
<i>State Superannuation Act 2000</i>	Incomplete — commitment not demonstrated	Restricted review is under way.	6
<i>Workers Compensation and Rehabilitation Act 1981</i>	Incomplete — interjurisdictional process		6
<i>Retail Trading Hours Act 1987</i>	Does not meet CPA obligations (2003)	The Government will take no further action until 2005.	7
<i>Liquor Licensing Act 1988</i>	Does not meet CPA obligations (2003)	The Government will take no further action until 2005.	7

(continued)

Table 4.6 continued

<i>Title of legislation</i>	<i>Assessment</i>	<i>Comment</i>	<i>Chapter reference (Vol. 2)</i>
<i>Petroleum Products Pricing Amendment Act 2000 Petroleum Legislation Amendment Act 2001</i>	Does not meet CPA obligations (2003)	Price notification and fuel supply arrangements found by the ACCC not to be in the public interest.	7
<i>Environmental Protection (Diesel and Petrol) Regulations 1999</i>	Does not meet CPA obligations (2003)	Legislation confers monopoly status on the local refinery.	7
<i>Retirement Villages Act 1992</i>	Incomplete — commitment not demonstrated	Amendments are being drafted.	8
<i>Credit (Administration) Act 1984</i>	Incomplete — commitment not demonstrated	Draft amendments caused delay.	8
<i>Hire Purchase Act 1959</i>	Incomplete — firm commitment demonstrated	Parliament is to visit legislation in August 2003.	8
<i>Weights and Measures Act 1915</i>	Incomplete — interjurisdictional process		8
<i>Education Service Providers (Full Fee Overseas Students) Registration Act 1992</i>	Incomplete — commitment not demonstrated	Review is under way.	9
<i>Curtin University of Technology Act 1966 Edith Cowan University Act 1984 Murdoch university Act 1973 University of Notre Dame Australia Act 1989 University of Western Australia Act 1911</i>	Incomplete — firm commitment demonstrated	Legislation is before Parliament.	9
<i>Community Services Act 1972 and the Community Services (Child Care) Regulations 1988</i>	Incomplete — commitment not demonstrated	Bill under development	9
<i>Lotteries Commission Act 1990; Gaming Commission Act 1987</i>	Incomplete — commitment not demonstrated	Government is considering the review reports.	9
<i>Betting Control Act 1954 (casinos and betting) Totalisator Agency Board Betting Act 1960 (betting) Racing Restrictions Act 1917</i>	Does not meet CPA obligations (2003)	Acts provide for exclusive TAB licence and bookmakers' minimum bets.	9

(continued)

Table 4.6 continued

<i>Title of legislation</i>	<i>Assessment</i>	<i>Comment</i>	<i>Chapter reference (Vol. 2)</i>
<i>Western Australian Greyhound Racing Association Act 1981</i>	Incomplete — firm commitment demonstrated	Legislation is before Parliament.	9
<i>Casino (Burswood Island) Agreement Act 1985</i> <i>Casino Control (Burswood Island)(Licensing of Employees) Regulations 1985</i> <i>Casino Control Act 1984</i>	Incomplete — commitment not demonstrated	Legislative reforms did not address key restrictions. (Exclusive licence has expired.)	9
<i>Gaming Commission Act 1987</i>	Incomplete — commitment not demonstrated	The review has been completed.	9
<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>	Incomplete — commitment not demonstrated	Legislation is slated for Parliament 2004.	10
<i>Local Government (Miscellaneous Provisions) Act 1960</i> and <i>Building Regulations 1989</i>	Incomplete — commitment not demonstrated	Drafting of new legislation was delayed.	10
<i>Architects Act 1921</i>	Incomplete — commitment not demonstrated	Legislation is slated for Parliament in 2003.	10
<i>Licensed Surveyors Act 1909</i>	Incomplete — firm commitment demonstrated	Legislation is before Parliament.	10
<i>Valuation of Land Act 1987</i>	Incomplete — firm commitment demonstrated	Legislation is before Parliament.	10
<i>Painters Registration Act 1961</i>	Incomplete — commitment not demonstrated	Review report is to be referred to the Minister.	10
<i>Gas Standards Act 1972</i> and <i>Gas Standards (Gasfitting and Consumer Gas Installations) Regulations 1999</i>	Incomplete — commitment not demonstrated	Review is under way.	10
<i>Electricity Act 1945</i> and <i>Electricity (Licensing) Regulations 1991</i>	Incomplete — commitment not demonstrated	Review is with the Minister for Energy.	10

Table 4.7: Noncompliance with legislation review and reform — South Australia

<i>Title of legislation</i>	<i>Assessment</i>	<i>Comment</i>	<i>Chapter reference (Vol. 2)</i>
<i>Agricultural and Veterinary Chemicals (South Australia) Act 1994</i>	Incomplete — interjurisdictional process		1
<i>Agricultural Chemicals Act 1955; Stock Foods Act 1941; Stock Medicines Act 1939</i>	Incomplete — firm commitment demonstrated	Legislation was passed in August 2002 and Regulations are expected to be finalised soon.	1
<i>Chicken Meat Industry Act 2003</i>	Does not meet CPA obligations (2003)	Act contains compulsory arbitration provisions.	1
<i>Barley Marketing Act 1993</i>	Incomplete — commitment not demonstrated	Government is yet to fully respond to the review.	1
<i>Dairy Industry Act 1992</i> <i>Meat Hygiene Act 1994</i>	Incomplete — commitment not demonstrated	Framework consultation is planned for August 2003 for dairy. Meat hygiene to be addressed in late 2003.	1
<i>Veterinary Surgeons Act 1985</i>	Incomplete — firm commitment demonstrated	Legislation is before Parliament and scheduled to commence in 2004.	1
<i>Mining Act 1971</i> <i>Mines and Works Inspection Act 1920</i> <i>Opal Mining Act 1995</i>	Incomplete — commitment not demonstrated	Review was completed in December 2002 and legislation is slated for 2003.	1
<i>Fisheries Act 1982</i>	Incomplete — commitment not demonstrated	Amendments expected in spring 2003.	1
<i>Fisheries (Gulf St Vincent Prawn Fishery Rationalisation) Act 1987</i>	Incomplete — firm commitment demonstrated	Legislation is slated for repeal.	1
<i>Passenger Transport Act 1994</i>	Does not meet CPA obligations (2003)	Barriers to entry into the taxi industry.	2
<i>Motor Vehicles Act 1959 (tow trucks)</i>	Incomplete — commitment not demonstrated	Draft Bill slated for August 2003	2
<i>Dangerous Substances Act 1979</i>	Incomplete — commitment not demonstrated	Legislation is yet to be introduced.	2
<i>Harbours and Navigation Act 1993</i>	Incomplete — see next column	Intergovernmental agreement is delaying reform.	2

(continued)

Table 4.7 continued

<i>Title of legislation</i>	Assessment	Comment	Chapter reference (Vol. 2)
<i>Dentists Act 1984</i>	Does not meet CPA obligations (2003)	Act contains ownership restrictions.	3
<i>Occupational Therapists Act 1974</i>	Incomplete — commitment not demonstrated	Proposed legislation for introduction in 2004 will not comply.	3
<i>Chiropractors Act 1991</i>	Incomplete — commitment not demonstrated	Legislation is slated for Parliament in 2003.	3
<i>Medical Practitioners Act 1983</i>	Incomplete — commitment not demonstrated	Legislation is slated for Parliament in 2003.	3
<i>Optometrists Act 1920</i>	Incomplete — commitment not demonstrated	Legislation is slated for Parliament in 2004.	3
<i>Physiotherapists Act 1991</i>	Incomplete — commitment not demonstrated	Legislation is slated for Parliament in 2004.	3
<i>Pharmacy Act 1991</i>	Incomplete — commitment not demonstrated	Legislation is slated for Parliament in 2003.	3
<i>Psychological Practices Act 1973</i>	Incomplete — commitment not demonstrated	Legislation is slated for Parliament in 2004.	3
<i>Chiropodists Act 1950s</i>	Incomplete — commitment not demonstrated	Legislation is slated for Parliament in 2003.	3
<i>Controlled Substances Act 1984</i>	Incomplete — interjurisdictional process		3
<i>Legal Practitioners Act 1981</i>	Incomplete — interjurisdictional process		4
<i>Conveyancers Act 1994</i>	Incomplete — commitment not demonstrated	Legislation is slated for Parliament in late 2003.	5
<i>Employment Agents Registration Act 1993</i>	Incomplete — commitment not demonstrated	Review report is under consideration.	5
<i>Travel Agents Act 1986</i>	Incomplete — interjurisdictional process		5
<i>Motor Vehicles Act 1959</i> (monopoly insurance provision)	Incomplete — interjurisdictional process		6
<i>Workers Rehabilitation and Compensation Act 1986</i>	Incomplete — interjurisdictional process		6
<i>Southern State Superannuation Act 1987</i>	Does not meet CPA obligations (2003)	Act underpins monopoly provision of superannuation.	6

(continued)

Table 4.7 continued

<i>Title of legislation</i>	Assessment	Comment	Chapter reference (Vol. 2)
<i>Liquor Licensing Act 1997</i>	Incomplete — commitment not demonstrated	Review is under way.	7
<i>Shop Trading Hours Act 1977</i>	Does not meet CPA obligations (2003)	Substantial reforms were introduced in 2003.	7
<i>Petrol Products Regulation Act 1995</i>	Incomplete — commitment not demonstrated	Legislation is being drafted.	7
<i>Trade Measurement Administration Act 1993</i>	Incomplete — interjurisdictional process		8
<i>Children's Protection Act 1993</i>	Incomplete — commitment not demonstrated	Legislation is slated for Parliament in 2004.	9
<i>State Lotteries Act 1966</i>	Does not meet CPA obligations (2003)	The Act provides for an exclusive licence.	9
<i>Gaming Machines Act 1992</i>	Incomplete — commitment not demonstrated	The Government is yet to respond fully to the review.	9
<i>Authorised Betting Operations Act 2000</i> (racing and betting)	Incomplete — commitment not demonstrated	The Government is considering the review report.	9
<i>Lottery and Gaming Act 1936</i>	Incomplete — commitment not demonstrated	Review reported in March 2003.	9
<i>Architects Act 1939</i>	Incomplete — commitment not demonstrated	Legislation is slated for Parliament in 2003.	10
<i>Survey Act 1992</i>	Incomplete — commitment not demonstrated	Draft Bill was prepared.	10
<i>Land Valuers Act 1994</i>	Incomplete — commitment not demonstrated	The Government endorsed the review recommendations.	10
<i>Building Work Contractors Act 1995</i>	Incomplete — interjurisdictional process	Finalisation of the review of financial resources and building indemnity insurance requirements was deferred pending completion of a national process. Legislation is anticipated in late 2003.	10

Table 4.8: Noncompliance with legislation review and reform — Tasmania

<i>Title of legislation</i>	<i>Assessment</i>	<i>Comment</i>	<i>Chapter reference (Vol. 2)</i>
<i>Agricultural and Veterinary Chemicals (Tasmania) Act 1994</i>	Incomplete — interjurisdictional process		1
<i>Agricultural and Veterinary Chemicals (Control of Use) Act 1995</i>	Incomplete — firm commitment demonstrated	Legislation is before Parliament.	1
<i>Food Act</i>	Incomplete — firm commitment demonstrated	New Act is yet to be proclaimed.	1
<i>Veterinary Surgeons Act 1987</i>	Does not meet CPA obligations (2003)	The Board is dominated by veterinarians.	1
<i>Marine Farming Planning Act 1995</i>	Does not meet CPA obligations (2003)	The Government did not adequately demonstrate the public interest in Ministerial discretion to allocate water area via leases.	1
<i>Taxi and Luxury Hire Car Industries Act 1995</i>	Incomplete — commitment not demonstrated	The Government is considering the review recommendations.	2
<i>Medical Practitioners Registration Act 1996</i>	Incomplete — commitment not demonstrated	Consultation on review outcomes is under way.	3
<i>Pharmacy Act 1908 (replaced by Pharmacy Registration Act 2001).</i>	Incomplete — commitment not demonstrated	Considering amending legislation in light of national review	3
<i>Optometrists Registration Act 1994</i>	Incomplete — commitment not demonstrated	Review recommendations are being considered.	3
<i>Poisons Act 1971</i> <i>Alcohol and Drug Dependency Act 1968</i> <i>Pharmacy Act 1908 (replaced by Pharmacy Registration Act 2001)</i> <i>Criminal Code Act 1924 (drugs and poisons)</i>	Incomplete — interjurisdictional process		3
<i>Legal Profession Act 1993</i>	Incomplete — interjurisdictional process		4
<i>Auctioneers and Real Estate Agents Act 1991</i>	Incomplete — commitment not demonstrated	Legislation is slated for Parliament in spring 2003 session.	5

(continued)

Table 4.8 continued

<i>Title of legislation</i>	<i>Assessment</i>	<i>Comment</i>	<i>Chapter reference (Vol. 2)</i>
<i>Travel Agents Act 1987</i>	Incomplete — interjurisdictional process		5
<i>Motor Accidents (Liabilities and Compensation) Act 1973</i>	Incomplete — interjurisdictional process		6
<i>Vocational Education and Training Act 1994</i>	Incomplete — commitment not demonstrated	Legislation is slated for Parliament in spring 2003.	9
<i>Racing Act 1983</i> <i>Racing and Gaming Act 1952</i> (except as it relates to minor gaming), which was replaced by the <i>Racing Regulation Act 1952</i>	Incomplete — commitment not demonstrated	Legislation is slated for Parliament in spring 2003.	9
<i>Gaming Control Act 1993</i> (gaming machines)	Incomplete — commitment not demonstrated	Proposed exclusive licence before Parliament would not comply.	9
<i>Architects Act 1929</i>	Incomplete — firm commitment demonstrated	Majority or reforms were implemented. Residual matters will be dealt with in 2003–04.	10
<i>Plumbers and Gas-fitters Registration Act 1951</i>	Incomplete — commitment not demonstrated	Cabinet to consider review recommendations.	10

Table 4.9: Noncompliance with legislation review and reform — ACT

<i>Title of legislation</i>	<i>Assessment</i>	<i>Comment</i>	<i>Chapter reference (Vol. 2)</i>
<i>Veterinary Surgeons Registration Act 1965</i>	Incomplete — commitment not demonstrated	Draft Bill was not finalised.	1
<i>Dangerous Goods Act 1984 (applies New South Wales legislation to ACT)</i>	Incomplete — commitment not demonstrated	Legislation is slated for Parliament in spring 2003.	2
<i>Motor Traffic Act 1936 (taxis)</i> <i>Road transport (General) Act 1999</i> <i>Road transport (Passenger Services) Act 2001</i>	Incomplete — commitment not demonstrated	The Government announced a potentially flawed liberalisation arrangement.	2
Health practitioner legislation: <i>Dental Technicians and Dental Prosthetists Registration Act 1988</i> <i>Dentists Act 1931</i> <i>Chiropractors and Osteopaths Act 1983</i> <i>Medical Practitioners Act 1930</i> <i>Nurses Act 1988</i> <i>Optometrists Act 1956</i> <i>Physiotherapists Act 1977</i> <i>Psychologists Act 1994</i> <i>Podiatrists Act 1994</i>	Incomplete — commitment not demonstrated	New legislation is scheduled for introduction to Parliament in spring 2003.	3
<i>Pharmacy Act 1931</i>	Incomplete — commitment not demonstrated	Revised legislation is being prepared	3
<i>Drugs of Dependence Act 1989</i> <i>Poisons Act 1933; Poisons and Drugs Act 1978 (drugs and poisons)</i>	Incomplete — interjurisdictional process		3
<i>Legal Practitioners Act 1970</i>	Incomplete — interjurisdictional process		4
<i>Agents Act 1968 (travel agents)</i>	Incomplete — interjurisdictional process		5

(continued)

Table 4.9 continued

<i>Title of legislation</i>	Assessment	Comment	Chapter reference (Vol. 2)
<i>Agents Act 1968</i> (employment agents)	Does not meet CPA obligations (2003)	Act retains licencing, but licence fees reduced substantially.	5
<i>Public Sector Management Act 1994</i> (superannuation)	Incomplete — interjurisdictional process	Reform depends on Commonwealth legislation.	6
<i>Education Act 1937</i> <i>Schools Authority Act 1976</i> <i>Public Instruction Act 1880 (NSW)</i> <i>Free Education Act 1906 (NSW)</i>	Incomplete — commitment not demonstrated	Legislation is slated for Parliament in spring 2003.	9
<i>Betting (ACTTAB Limited) Act 1964</i> <i>Betting (Corporatisation) (Consequential Provisions) Act 1996</i>	Incomplete — firm commitment demonstrated	Reform deferred pending the findings of a national task force on cross-border betting.	9
<i>Gaming Machine Act 1987</i>	Incomplete — commitment not demonstrated	Review report is under consideration.	9
<i>Interactive Gambling Act 1998</i>	Incomplete — interjurisdictional process	Reform depends on Commonwealth legislation.	9
<i>Architects Act 1959</i>	Incomplete — commitment not demonstrated	Consultation failed to gain agreement on proposed new Act. A rewrite of the 1959 Act is to be undertaken.	10
<i>Building Act 1972</i> <i>Electricity Act 1971</i> (electricians licensing) <i>Electricity Safety Act 1971</i> <i>Plumbers, Drainers and Gasfitters Board Act 1982</i>	Incomplete — firm commitment demonstrated	Amending legislation has been introduced.	10

Table 4.10: Noncompliance with legislation review and reform — Northern Territory

<i>Title of legislation</i>	<i>Assessment</i>	<i>Comment</i>	<i>Chapter reference (Vol. 2)</i>
<i>Agricultural and Veterinary Chemicals (Northern Territory) Act</i>	Incomplete — interjurisdictional process		1
<i>Poisons and Dangerous Drugs Act</i>	Incomplete — commitment not demonstrated	Draft Bill is under consideration.	1
<i>Food Act 1986</i>	Incomplete — commitment not demonstrated	Amendments expected in 2003.	1
<i>Veterinarians Act 1994</i>	Incomplete — firm commitment demonstrated	Some reforms implemented	1
<i>Fisheries Act 1996</i>	Incomplete — commitment not demonstrated	The Government has accepted some review recommendations and is considering others.	1
<i>Mining Act 1980</i>	Incomplete — commitment not demonstrated	The Government announced its response to the review.	1
<i>Commercial Passenger (Road) Transport Act (taxis)</i>	Does not meet CPA obligations (2003)	Legislation was previously assessed as complying, but the Government re-introduced restrictions.	2
Health practitioner legislation: <i>Dental Act</i> <i>Health Practitioners and Allied Professionals Registration Act</i> <i>Medical Act</i> <i>Nursing Act</i> <i>Optometrists Act</i>	Incomplete — commitment not demonstrated	New legislation is scheduled for Parliament in November 2003.	3
<i>Radiographers Act</i>	Incomplete — commitment not demonstrated	Legislation slated for Parliament in November 2003	3
<i>Pharmacy Act</i>	Incomplete — commitment not demonstrated	Legislation slated for Parliament in 2003	3

(continued)

Table 4.10 continued

<i>Title of legislation</i>	Assessment	Comment	Chapter reference (Vol. 2)
<i>Poisons and Dangerous Drugs Act</i> <i>Therapeutic Goods and Cosmetics Act</i> (drugs and poisons)	Incomplete — interjurisdictional process		3
<i>Legal Practitioners Act</i>	Incomplete — interjurisdictional process		4
<i>Consumer Affairs and Fair Trading Act (NT Regulations) and Amendment Act 1996</i> (travel agents)	Incomplete — interjurisdictional process		5
<i>Territory Insurance Office Act</i> <i>Motor Accidents (Compensation) Act</i>	Incomplete — interjurisdictional process		6
<i>Liquor Act</i>	Incomplete — commitment not demonstrated	Review report is being finalised.	7
<i>Education Act</i> (higher education)	Incomplete — commitment not demonstrated	Review is under consideration.	9
<i>Community Welfare Act</i>	Incomplete — commitment not demonstrated	Legislation is slated for Parliament in November 2003.	9
<i>Gaming Control Act</i> and regulations <i>Gaming Machine Act</i> and regulations	Incomplete — commitment not demonstrated	The Government is considering the review report.	9
<i>Totalisator Licensing and Regulation Act</i> <i>Sale of NT TAB Act</i>	Incomplete — commitment not demonstrated	Government response to review is expected late 2003.	9
<i>Racing and Betting Act</i> and regulations <i>Unlawful Betting Act</i> and regulations	Incomplete — commitment not demonstrated	Government is considering the review report.	9
<i>Architects Act</i>	Incomplete — commitment not demonstrated	Legislation is slated for Parliament in August 2003.	10