



**REPORT TO THE NATIONAL COMPETITION COUNCIL**  
**IMPLEMENTATION OF NATIONAL COMPETITION POLICY AND**  
**RELATED REFORMS**  
**IN**  
**SOUTH AUSTRALIA**  
**MARCH 2003**

## ABBREVIATIONS

ACCC	Australian Competition and Consumer Commission
ANZMEC	Australia and New Zealand Mines and Energy Council
ARMCANZ	Agriculture & Resource Management Council of Australia and New Zealand
CCA	Conduct Code Agreement
CoAG	Council of Australian Governments
CPA	Competition Principles Agreement
GBE	Government Business Enterprise
GBE Act	Government Business Enterprises (Competition) Act 1996
GRIG	Gas Reform Implementation Group
LGA	Local Government Association
NCC	National Competition Council
NCP	National Competition Policy
NEM	National Electricity Market
NRTC	National Road Transport Commission
OLG	Office of Local Government
SAIPAR	South Australian Independent Pricing and Access Regulator
TPA	Trade Practices Act 1974

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## **1. INTRODUCTION**

This report summarises progress during calendar year 2002 by the South Australian Government in implementing the obligations contained in the three Intergovernmental Agreements (National Competition Policy Agreements) endorsed by the Council of Australian Governments (CoAG) on 11 April 1995:

- Conduct Code Agreement;
- Competition Principles Agreement;
- Agreement to Implement the National Competition Policy and Related Reforms.

The report fulfils the formal requirements of the Competition Principles Agreement (CPA) to publish an annual report concerning implementation of competitive neutrality requirements (CPA, Clause 3.(10)) and legislation review requirements (CPA, Clause 5.(10)). Other aspects of competition policy are also covered.

It can be read in conjunction with the South Australian Government's previous annual reports to the National Competition Council (NCC) covering calendar years 1996, 1997, 1998, 1999, 2000 and 2001. Also relevant are the NCC's first, second and third tranche assessment reports, supplementary reports on those assessments, and the assessment reports for 2002.

This report is structured under the broad headings of Conduct Code Agreement, Competition Principles Agreement, and Related Reforms. A small bibliography provides details of relevant publications.

The report has been prepared by the Department of the Premier and Cabinet, in consultation with other agencies of the South Australian Government, including particularly the Departments of Treasury and Finance; Justice; Primary Industries and Resources; Water, Land and Biodiversity Conservation; and Transport and Urban Planning.

Inquiries about the report may be directed to the NCP Implementation Unit, Cabinet Office, Department of the Premier & Cabinet, telephone (08) 8226 1931.

## 2. CONDUCT CODE AGREEMENT

The Conduct Code Agreement (CCA) obliges the South Australian Government to enact Application of Laws legislation to apply the Competition Code, without modification, in South Australia. The Competition Code (effectively the restrictive business practice provisions of Part IV of the *Trade Practices Act, 1974 (C/wth)*) is applied to all persons in South Australia, including the Crown in so far as it “carries on a business”.

Clause 2.(1) of the CCA requires that written notice of all exemptions made by State law, in reliance on section 51.(1) of the *Trade Practices Act*, will be given to the Australian Competition and Consumer Commission (ACCC) within 30 days of enactment. Clause 2.(3) requires written notice to be given to the ACCC by 20 July 1998 of section 51.(1) exemptions in existence at the commencement of the CCA and which will continue to have effect after 20 July 1998.

The *Competition Policy Reform (South Australia) Act, 1996 (SA)* and the *Competition Policy Reform (South Australia) Savings and Transitional Regulations, 1996 (SA)* came into force on 21 July 1996, and have continued in operation unaltered since that date. This legislation satisfies the obligations contained in clause 5 of the CCA. It applies the Competition Code to all persons coming within South Australia’s jurisdictional reach, including those unincorporated persons, not engaged in interstate or foreign trade or commerce, to whom Part IV of the *Trade Practices Act* does not apply for constitutional reasons.

### 2.1 Section 51(1) Exemptions

The South Australian legislature did not pass any State law in the twelve months to the date of this report giving rise to an exemption from the application of Part IV of the *Trade Practices Act* in reliance on s.51(1) of the *Trade Practices Act*. In addition, no legislated exemptions have been revoked by legislative amendments or repeals in the same period.

However, the following issues are forecast:

- The *Chicken Meat Industry Bill, 2002 (SA)* was introduced into Parliament on 4 December 2002, and is expected to be debated in the first half of 2003. That Bill contains a comprehensive *Trade Practices Act* exemption for the negotiating, making, and giving effect to, agreements between processors and growers for the agisting of chickens. The exemption will be notified to the ACCC after the Bill has satisfied all the relevant Parliamentary processes.
- On 6 November 2002 the Minister for Agriculture, Food and Fisheries announced an independent review into the single-desk export aspects of the *Barley Marketing Act, 1993 (SA)*. Section 33A of that Act contains a *Trade Practices Act* exemption for certain operations carried out by ABB Grain Export Ltd pursuant to the single-desk arrangements. If the Government accepts any recommendations for change to the single-desk arrangements, the nature and extent of that exemption may need amending, or may be repealed.

### 2.2 Compliance

South Australian Government businesses have continued to become familiar with the compliance obligations imposed upon them as a result of the application of the *Trade*

*Practices Act* to Crown statutory corporations, and the Competition Code to unincorporated Crown businesses. However, the main difficulty has always been, and remains, the lack of delineation between a Crown business (in the full commercial, profit-seeking sense) and that large number of governmental activities where there is a fee or charge (or “co-payment” or “contribution”) or some element of cost-recovery, but no intention to seek a profit, and where the activity is seen more as a governmental activity than a business. In those situations, the activity may use “business” terminology, and will of course seek to operate efficiently, but its prime motivation is not commercial.

The Crown Solicitor’s Office maintains a Competition Unit that can assist agencies with Trade Practices compliance and risk management. The Competition Unit maintains contact with the ACCC, both Canberra and Adelaide Regional Office, on issues that concern both the Government and the ACCC, including substantive trade practices matters and matters of mutual policy interest. The Competition Unit receives a steady volume of enquiries from a range of departments and statutory authorities, seeking both general assessments of their activities in terms of compliance with the *Trade Practices Act*, and advice on particular competition questions.

### 3. COMPETITION PRINCIPLES AGREEMENT

The Competition Principles Agreement puts in place policy elements additional to those contained in the Conduct Code which are considered essential for a comprehensive National Competition Policy. These additional policy elements are:

- independent oversight of prices charged by monopoly Government businesses;
- competitive neutrality, to ensure significant Government businesses do not enjoy any net competitive advantage simply as a result of public sector ownership;
- structural reform of public monopolies prior to privatisation or introducing competition to the market supplied by the monopoly;
- review of legislation which restricts competition;
- third party access to services provided by means of significant infrastructure facilities;
- application of these principles to Local Government.

#### 3.1 PRICES OVERSIGHT

The *South Australian Independent Industry Regulator Act 1999* was repealed by the *Essential Services Commission Act 2002*, which came into operation on 12 September 2002 (except section 9). The Essential Services Commission (ESCOSA) takes over the existing regulatory responsibilities of the Independent Industry Regulator.

Among other functions, ESCOSA regulates prices and performs licensing and other functions under relevant industry regulation Acts. In particular, section 25 gives the power to “make determinations regulating prices, conditions relating to prices and price-fixing factors for goods and services in a regulated industry.”

"Regulated industry" means “a specified industry, or specified activities, consisting of, involved in or related to the provision of essential services, declared by another Act to constitute a regulated industry for the purposes of this Act”; and "relevant industry regulation Act" means “another Act by which a regulated industry is declared for the purposes of this Act, and includes regulations under that other Act”.

ESCOSA has a role in regulating third party access to the Tarcoola to Darwin railway, pursuant to the *AustralAsia Railway (Third Party Access) Act 1999*. The railway is set to commence operations by mid-2003.

Under the *Maritime Services (Access) Act 2000*, ESCOSA also has a role in price regulation for certain essential maritime services provided by the private port operator. The legislation provided for the Minister for Government Enterprises to issue a First Pricing Determination (FDP) to apply for three years from Sale (ie to 1 November 2004). The FDP essentially maintains prices at pre-sale levels for that period. Thereafter, ESCOSA will be responsible for price regulation.

The *Electricity Act 1996* was amended in 1999 to declare the electricity supply industry as a regulated industry.

The Government indicated in the position paper, “Establishing the Essential Services Commission”, June 2002, its intention to consolidate the economic regulation of gas within ESCOSA, in preparation for gas full retail competition (FRC). Cabinet recently approved the drafting of legislation to give effect to this policy and a draft Bill is currently being discussed within Government and with industry participants. The Bill is expected to be tabled in

Parliament as soon as possible following completion of the consultation processes. Depending on comments received, tabling could occur in April 2003.

While a legal framework has been in place for gas full retail competition since 1 July 2001, via regulations under the *Gas Act 1997*, domestic households and small businesses using less than 10 terajoules gas per annum have been unable to switch gas retailers due to a number of technical and administrative reasons. The legislation also gives effect to the removal of the last of these barriers to gas market competition through the establishment of a retail market administrator and the associated market rules and business information systems. Competition between gas and electricity retailers will be on a more equal footing and the Government's competition policy commitments with respect to gas reform will have been fully satisfied. Dual fuel marketing strategies, offering both gas and electricity, are expected.

Given this convergence in gas and electricity markets, one of the key principles underlying the Government's policy and the legislation is consistency of gas and electricity industry regulation. ESCOSA has already established regulatory and pricing principles for the electricity industry and it is expected that ESCOSA would apply the same principles to the gas industry to the greatest extent possible. Various codes and rules for the gas industry would also be consistent with existing market rules and codes for electricity as far as possible. Regulatory compliance costs would be reduced.

The objects of the Gas Act would remain unchanged. The functions and powers of the ESCOSA would be defined in the Gas Act as licensing and price regulation; and other functions and powers conferred within the Gas Act (matching the provisions of the Electricity Act). The gas industry would be declared as a regulated industry for the purposes of the Essential Services Commission Act. These amendments would achieve the transfer of licensing and price regulation to ESCOSA.

A range of amendments to the Gas Pipelines Access (South Australia) Act 1997 are proposed. In particular the Essential Services Commission of South Australia will become the local Regulator. However, the proposed amendments do not alter the effect, scope or operation of the Act because the regulated environment will remain unchanged. The only changes would be to the regulatory bodies themselves, but not to the regulatory functions. The proposals to amend the Act have therefore been advised as a matter of courtesy to the relevant officers in the Federal, State and Territory Governments.

## 3.2 COMPETITIVE NEUTRALITY

This section provides the Government's annual report for the 12 months to December 2002 on the implementation of the competitive neutrality policy and principles, as required by Clause 3(10) of the CPA.

### 3.2.1 Full coverage of significant businesses

South Australia's approach to competitive neutrality is expressed in the *Government Business Enterprises (Competition) Act 1996* and the supporting Competitive Neutrality Policy Statement (most recently revised in July 2002). The basic competitive neutrality principles of tax equivalent payments, debt guarantee fees and private sector equivalent regulation can be achieved by corporatisation, commercialisation or full cost attribution. The mechanism chosen to achieve competitive neutrality depends on the extent to which potential benefits outweigh the costs.

The Act and Policy Statement are compatible with the Council's view that "significant businesses should be identified on the basis of their effect or potential effect on their relevant market(s)". The Competitive Neutrality Policy Statement says "Whether a business is significant depends upon its size and influence in the relevant market". Business size thresholds have not been used except to categorise businesses to facilitate prioritisation in the implementation of competitive neutrality. Category 1 applies to business activities where revenues are greater than \$2 million or assets greater than \$20 million, and Category 2 applies where revenues or assets are less than this.

Category 2 businesses are not precluded from adopting either corporatisation or commercialisation, as appropriate, although it is expected that generally costs would outweigh the benefits of implementation and thus cost reflective pricing would usually be adopted for these smaller businesses.

The Competitive Neutrality Policy Statement lists those businesses subject to Competitive Neutrality and notes that identifying and listing specific businesses is "not intended to exclude other business activities being identified as significant and added to the list as required. Regular assessments are carried out by agencies. Removal of the business from the list would not preclude a complaint being made against the business."

In summary, there is full coverage of significant business activities (SBAs) under the South Australian Competitive Neutrality Policy framework. Implementation of competitive neutrality is now substantially complete and the current focus is on ensuring on-going compliance with adopted competitive neutrality measures.

### 3.2.2 Review of the Competitive Neutrality Policy Statement

Pursuant to an undertaking in the Competitive Neutrality Policy Statement, a review of the Policy Statement was undertaken in 2002 by a working group of officers from the Department of Treasury and Finance, the Department of the Premier and Cabinet, PIRSA and the Office of Local Government. Cabinet approved the revised policy on 22 July 2002. No major policy changes were made. Minor changes include:

- Re-naming of headings, re-ordering of material, removal of repetition and re-wording for ease of reading and to better address readers from the general public.

- More explanation/clarification in some sections.
- Examples of business activities added.
- Updating the lists of Category 1 and 2 significant business activities to reflect the way the businesses have changed since the previous policy was published.
- Summary Reports of complaint investigations report to be placed on the DPC internet site (required to be available for inspection by the public pursuant to amendments to the Government Business Enterprises (Competition) Act 1996 made in 2000).
- Notice of changes to the Category 1 and 2 businesses to be published on the Department's internet site, for ease of access (rather than gazetted).

Minor amendments were made to the May 2000 Clause 7 Statement on the Application of Competition Principles to Local Government to ensure consistency.

### **3.2.3 Implementation Progress**

Competitive neutrality principles have been progressively applied to the Government's SBAs since South Australia became a co-signatory to the Inter-Governmental Agreements on Competition Policy in 1995.

A total of 19 Category 1 and 15 Category 2 Government Businesses are currently listed in the Competitive Neutrality Policy Statement ([www.premcab.sa.gov.au](http://www.premcab.sa.gov.au)). As a result of the regular review of agency business activities and compliance with competitive neutrality principles, one additional SBA has been identified and several have moved from Category 2 to Category 1. The policy statement will be revised in the near future to reflect these changes.

*"A Guide to the Implementation of Competitive Neutrality"* March 1998 and *"A Guide to the Implementation of Cost Reflective Pricing"* October 2001 were prepared to assist agencies responsible for implementing the principles of competitive neutrality and, in particular, cost reflective pricing.

The Public Corporations Act 1993 is the preferred mechanism for implementing corporatisation reforms in South Australia. The Public Corporations Act is flexible in its application in that it can be used either partially or in its entirety to reflect differing operational requirements. It can be applied to an entity's existing legislation but can also be used to establish separate legal status.

The Public Corporations Act includes the following provisions that facilitate corporatisation reforms:

- Establishment of a board;
- Formal requirement for a Charter dealing with the nature and scope of commercial operations.
- Formal requirement to develop performance measures (agreed to by the Treasurer);
- Imposition of tax equivalents;
- Dividend provisions; and
- Annual and interim reporting obligations.

Where corporatisation is not appropriate, or the potential benefits would not exceed the costs, commercialisation or full cost attribution will be applied.

### 3.2.3 Compliance Monitoring of Identified Significant Business Activities (SBAs)

South Australian Government agencies have devoted significant resources to implementing competitive neutrality reforms in SBAs. Competitive neutrality implementation programs are now largely complete with only a small number SBAs still in the process of finalising reforms.

As previously mentioned, focus in South Australia is now moving away from implementation and towards on-going compliance. In December 2001, the Treasurer wrote to all Ministers with responsibility for SBAs, as listed in the Competitive Neutrality Policy Statement, requesting confirmation of on-going competitive neutrality compliance for each SBA and identification of any new SBAs. The request also reinforced that:

- Ministers, through their Chief Executive Officers, are responsible for ensuring that all SBAs comply with competitive neutrality principles;
- Agencies have a number of guides, case-studies and other reference material at their disposal to assist in competitive neutrality implementation and on-going compliance.

This exercise was repeated in January 2003, consistent with the commitment in the Competitive Neutrality Policy Statement for regular assessment of government activities. The information provided in response to this request forms the basis of the following section, presented by portfolio. SBAs which had implemented an appropriate competitive neutrality measure at the time of the previous Annual Report and which report continuing compliance with that measure are not specifically mentioned.

#### **Department of Treasury and Finance - Government Enterprises Portfolio**

At the end of December 2002, the Government Enterprises Portfolio consisted of the following three SBAs, all of which are on the Category 1 list:

- South Australian Water Corporation (SA Water)
- South Australian Lotteries Commission (SA Lotteries)
- South Australian Forestry Corporation

SA Water was corporatised in 1994 with full application of the *Public Corporations Act 1993*.

On 1 January, 2001 the *South Australian Forestry Corporation Act 2000* came into effect, bringing the South Australian Forestry Corporation (SAFC) into operation. The new Corporation assumed the role of the former ForestrySA, a business unit within the Department of Administrative and Information Services. The *South Australian Forestry Corporation Act* provides for SAFC to be subject to the provisions of the *Public Corporations Act 1993* and provides for corporate governance activities and business planning to be undertaken by a five-member Board appointed by the Minister.

Both SA Water and SAFC are subject to tax equivalents and debt guarantee fees, have identified and funded CSOs, separate legal status, a commercially focused Board and formal dividend policies.

The current organisational structure and governance arrangements for SA Lotteries are consistent with the corporatisation requirement for competitive neutrality. Although

foreshadowed in the previous report, no changes to the governance arrangements for SA Lotteries have occurred or are presently proposed.

Since the previous Annual Report, the following have been removed from the list of SBAs:

- ETSA Corporation and subsidiaries (the Government is no longer responsible for the operation of this entity);
- SA Generation Corporation and subsidiaries (the entity does not operate on a commercial basis);
- Fire Equipment Services (the entity no longer trades).

### **Department of Human Services (DHS)**

At end of December 2002, DHS had four Category 1 and five Category 2 SBAs. The Department has confirmed that all SBAs are compliant with the nominated competitive neutrality measure.

The previous Annual Report, reported the following SBAs as being compliant with all competitive neutrality principles:

- HomeStart Finance (Category 1);
- Institute of Medical and Veterinary Services (IMVS) – Research and Diagnostic Pathology Services (Category 1);
- Rental Accommodation – Modbury Hospital, Royal Adelaide Hospital, Flinders Medical Centre (Category 2);
- North Western Adelaide Health Service Equipment Hire (outside customers) - the equipment hire (outside customers) activity was transferred to Metropolitan Domiciliary Care as of 1 July 2002 and the annual revenue has increased to the extent that it is now classified as a Category 1 Business Activity); and
- SouthPath SA Pathology Services (Category 2)

The Department has confirmed continuing competitive neutrality compliance for these SBAs during the year.

The previous Annual Report reported that competitive neutrality had not been fully implemented in the two SBAs below.

Medvet Science Pty Ltd (Category 1) – It was reported that commercialisation had been adopted except that the application of tax equivalents was being reviewed. The result of the review is that the application of tax equivalents was not necessary as all profits are used for research, which would be tax deductions.

Flinders Medical Centre Car Park (Category 2) – It has been determined that the car park is not run on a commercial basis as it is provided as a matter of government policy to service the needs of staff, visitors and others that use the Flinders Medical Centre. There is no intention to operate on a full cost recovery basis. The activity has been removed from the list of SBAs.

During 2002, a new SBA was identified.

Metropolitan Domiciliary care – Therapy Solutions – It has recently been identified as a Category 2 SBA: Cost reflective pricing is applied.

### **Department of Education and Children’s Services (DECS)**

At end December 2002, DECS had four Category 2 SBAs:

- DECS Publishing
- Distribution Centre Services
- Recruitment of full-fee paying overseas students; and
- Provision of study tours to overseas students and educators.

DECS has advised that all of these SBAs comply with competitive neutrality principles through the implementation of Cost Reflective Pricing.

### **Department of Further Education, Employment, Science and Technology (DFEEST)**

DFEEST had one Category 1 SBA, this being Fee for Service activities not required by Government in vocational education and training.

DFEEST has advised that fee for service activities in TAFE institutes are in principle conducted on a full cost attribution basis and therefore meet competitive neutrality requirements. A review of many aspects of TAFE operations by Peter Kirby was recently completed, and work on implementing the recommendations will ascertain whether any changes in administrative procedures are necessary.

### **Department of the Premier and Cabinet (DPC)**

At 31 December 2002, DPC had three category 1 SBAs and one Category 2 SBA.

Artlab - The 2001 Report advised that Artlab (Category 2) implemented cost reflective pricing principles, and an internal audit undertaken in September 2001 confirmed compliance.

Adelaide Festival Centre Trust (AFCT) (Category 1) - Bass ticketing service; Set building workshops; and Theatre hire services - DPC has advised that the AFCT continues to be compliant with competitive neutrality principles. Following partial application of the *Public Corporations Act 1993* in 1998, implementation has been progressive.

### **Department of Primary Industries and Resources (PIRSA)**

At 31 December 2002 PIRSA had two Category 2 SBAs being Seed Certification and Testing; and PIRSA Rural Solutions. The Department has confirmed that for 2002, these two SBAs comply with competitive neutrality principles through the implementation of cost reflective pricing.

PIRSA Rural Solutions – This entity is currently listed as a Category 2 business. Currently this SBA is forecasting earnings of over \$3 million this year, so it is more appropriate that the business is reclassified as a Category 1 business. Rural Solutions has adopted the cost reflective pricing competitive neutrality method for all commercial work. This includes jobs for other government agencies where Rural Solutions have responded to an external tender.

Scientific Diagnostic Services is no longer listed as an SBA on the basis that the priority of its activity is the achievement of public policy outcomes. It comprises a number of services provided to industry as a matter of government policy and regulation (import and export requirements).

### **Department of the Environment and Heritage (DEH)**

At 31 December 2002, DEH had identified two Category 2 SBA, namely Cleland Wildlife Park (CWP) and the Discover Penguins Program.

Cleland Wildlife Park - The Department has advised the following actions have been implemented in order to meet Cleland Wildlife Park's business objectives and the Government's policy regarding competitive neutrality.

- Benchmarking of fees and charges with competitors has occurred and recommendations regarding increments in admission and other charges have been implemented. Fees and charges actually increased two years in advance of Business Plan recommendations in 2002/03;
- Costs not related to the operation of the business (such as percentage of employee salaries directly related to Government processes) have been allocated outside of the Wildlife Park budget.
- A comprehensive 5 year business plan has been developed.
- Gross Profit, staffing costs etc for the Commercial Services area are regularly benchmarked against industry standards for similar type businesses.
- Outputs have been clearly identified in the Business Plan and financial reports, and costs determined against each output.
- Rate of revenue return based on competitive price increases has been reflected in the Business Plan.
- Depreciation in the value of assets, exemptions for land tax, insurances, council rates and emergency services levy have been included in the cost base.

Discover Penguins Program - The Competition Commissioner determined in his report "Competitive Neutrality Complaint regarding penguin tour activities at Kingscote, Kangaroo Island by National Parks and Wildlife SA", dated 19 December 2002, that the Discover Penguins Program constitutes a significant business activity (category 2) for competitive neutrality purposes. DEH is therefore required to apply competitive neutrality principles in accordance with the South Australia Government's Competitive Neutrality Policy Statement. The Competition Commissioner indicated that principle of cost reflective pricing would be sufficient.

DEH has commenced an independent audit and calculation of the costs attributable to the Discovering Penguins Program activities. On completion of the audit, the Department of Treasury and Finance will verify the audit findings. DEH will then apply cost reflective pricing to the Discovering Penguins Program.

## **Department of Administrative and Information Services (DAIS)**

At 31 December 2002, DAIS had one Category 1 SBA being Supply SA (distribution services), which continues to comply with the adopted competitive neutrality measure (Cost Reflective Pricing).

Building Maintenance Services, is no longer listed as an SBA because the priority of its activity is the achievement of public policy outcomes. This entity has been allocated a section of the metropolitan area in which to operate. The entity operates according to set pricing regimes within the designated area only. It operates as a matter of government policy to ensure continuation of service in case of business failure.

## **Department of Transport and Urban Planning (DTUP)**

At 31 December 2002, DTUP had three Category 1 SBAs being TransAdelaide; West Beach Trust; and Adelaide Cemeteries Authority. Corporatisation is the competitive neutrality measure for each of these SBAs.

TransAdelaide – The corporation complies with competitive neutrality principles through the application of corporatisation. Community services obligations are funded via the Passenger Transport Board contract and are set out in the corporation's Performance Statement.

West Beach Trust (WBT) - The WBT applies corporatisation. A draft Performance, Charter and Corporate Business Plan are currently with the Minister for Urban Development and Planning for consideration and signature.

Adelaide Cemeteries Authority (ACA) - The ACA is a body corporate subject to the provisions of the Public Corporation Act 1993. The Authority has a charter of performance as required by the Act.

Ports - When the South Australian Ports Corporation was divested in November 2001, the small ports at Cape Jervis (on Fleurieu Peninsula), and Penneshaw and Kingscote (on Kangaroo Island), were retained in Government ownership for reasons of public policy. Kingscote is used mainly as a recreational jetty. Cape Jervis and Penneshaw are community ferry ports and are quite different from the larger commercial wharves that operate elsewhere in the State. They provide a network of connection between the Island and the mainland and as such are essential infrastructure. The ports are not intended to be operated as profit making businesses, although there is cost recovery. Competitive neutrality does not apply.

The ports are used by a range of commercial operators. For example, the ports at Cape Jervis and Penneshaw are the subject of a non-exclusive licence agreement between the Minister and Sealink. The terms of the licence balance Sealink's need for commercial certainty to justify investment and the Government's need to ensure provision of access for emergency and essential services and a sufficient number and type of services throughout the year to service both the island's tourist industry and its permanent population.

## **Justice Department**

The Justice Portfolio had three listed Category 1 SBAs (Contestable Legal Services, part of the Crown Solicitor's Office; Police Security Services Division; and the Public Trustee, and one Category 2 SBA (Interpreting and Translating Services).

The Department has confirmed compliance with the adopted competitive neutrality measures for each of these SBAs. The following updates the information in the last Annual Report.

Police Security Services Division (PSSD) - PSSB is currently listed as a Category 1 SBA and has complied with the adopted competitive neutrality measure, commercialisation. PSSD has been “ring-fenced” from the rest of the South Australian Police and has commercial targets.

Further work is being undertaken to further improve the PSSB business process, including improved links to SAPOL’s Strategic and Business Plans, and the implementation of a Financial Charter and Operating Guidelines. Currently SAPOL is conducting a review of PSSB which will address a range of issues including the role and functions of PSSB, the strategic integration of PSSB’s role and function within SAPOL and the manner in which PSSB provides security services to the government.

Public Trustee (Personal Trusteeship Services) - The former Government introduced legislation to corporatise the Public Trustee but it lapsed in late 2001. For some time before that however, Public Trustee had been ‘commercialised’ and it currently meets the requirements of commercialisation that are contained in the State Government’s Competitive Neutrality Policy Statement.

Interpreting and Translating Centre (Office of Multicultural Affairs) - During April to May 2002, a consultant undertook an internal review for competitive neutrality purposes. The resultant report recommended that minor increases should be made to the Interpreting and Translating Centre (ITC) fees for competitive neutrality compliance. These increases were implemented on 1 October 2002.

## **Tourism Department**

The Tourism Portfolio had two Category 1 SBAs listed in the Competitive Neutrality Policy Statement - the Adelaide Convention Centre; and Adelaide Entertainment Centre. Both entities apply cost reflective pricing and conduct annual pricing reviews.

The SA Tourism Commission’s Travel Centre Bookings and sales services, and wholesale programs SA Shorts and SA Getaway are no longer listed as SBAs because they do not attempt to recover costs or operate on a commercial basis. Their main function is to promote SA as a tourist destination. The achievement of public policy outcomes is the main priority of these activities.

## **Department of Business, Manufacturing and Trade (DBMT)**

At 31 December 2002, DBMT had one Category 2 SBA being the SA Centre for Innovation, Business and Manufacturing – Manufacturing Engineering Projects Group (Graduate Development Program).

DBMT has advised that compliance with competitive neutrality principles is through the application of activity based costing which has been acceptable to the Department of Treasury and Finance as it closely equates to cost reflective pricing.

The Advanced Manufacturing Facility, reported on in the previous Annual Report, has been sold.

### **Department of Water, Land and Biodiversity Conservation (DWLBC)**

At 31 December 2002, DWLBC had one Category 2 SBA, State Flora

State Flora was identified as a SBA in June 2002, by the Competition Commissioner in his report on an investigation into a competitive neutrality complaint. The Commissioner recommended cost reflective pricing as the CN measure to be implemented. The Office of Sustainable Development in DWLBC has embarked on a restructuring program for State Flora that involves achieving compliance by mid-2003.

#### **3.2.5 Community Service Obligations (CSOs)**

The South Australian Government's policy in relation to CSOs is set out in the CSO Policy Framework document dated December 1996. CSO policy is also reflected in the Competitive Neutrality Policy Statement, *A Guide to Implementation of Competitive Neutrality Policy* and the *Public Corporations Act*.

No changes have occurred to the key policy elements that have been set out in previous reports.

Currently CSO payments are only made to two agencies, SA Water Corporation and South Australian Forestry Corporation. These arrangements have not changed since the previous report. A review of the CSO policy and procedural arrangements is however underway to simplify and improve the efficiency of current arrangements.

#### **3.2.5 Competitive Neutrality Complaints**

The *Government Business Enterprises (Competition) Act* (GBE Act) came into operation in August 1996. The Act provides for the appointment of Competition Commissioners who can be assigned to investigate complaints of infringement of competitive neutrality principles. In August 1997, a Commissioner was appointed by the Governor to investigate complaints referred to him by the Premier. The Commissioner was re-appointed for a further two year term in December 2001.

The Department of the Premier and Cabinet provides a secretariat for the complaints mechanism, which responds to enquiries from the public and manages the complaints process. A package of information relevant to competitive neutrality complaints is available to persons seeking further information or wishing to make a complaint.

Upon receipt of a written complaint against a State or local government business activity, and subject to it being within the scope of the GBE Act, the complaint is referred to the State agency or local government concerned for investigation, response and possible resolution. Where the complaint cannot be satisfactorily resolved, consideration is given to its assignment to the Competition Commissioner.

Three investigations by the Commissioner were incomplete at the end of 2001 and were carried over into 2002 (State Flora, Passenger Transport Board (PTB) and National Parks and Wildlife SA).

The State Flora complaint had been suspended in 1998 pending sale of the government business and was re-opened in August 2001. The Commissioner reported on 6 June 2002. Investigation of the PTB complaint, referred to the Commissioner in July 2000, was completed on 27 March 2002. The National Parks and Wildlife SA complaint was referred to the Commissioner on 14 January 2002 and finalised on 19 December 2002. Summaries of the Commissioner's reports for all three investigations are available at [www.premcab.sa.gov.au](http://www.premcab.sa.gov.au).

Two written complaints were received in 2002 (against Supply SA and the Mt Barker District Council). The former was referred to the Competition Commissioner, and the latter to the council, to be independently investigated.

A summary of complaint statistics and formal complaint information appears in Tables 1 and 2 below.

**TABLE 1: SUMMARY OF COMPLAINT STATISTICS FOR 2002**

	Complaints investigated		Completed investigations		Incomplete investigations			
	Number	4 (inc 3 by Commissioner)	Upheld	Dismissed	In progress	Terminated – vexatious/ mala fide	Terminated – Complainant withdrawn	Other
	Number	2 (by Cmr)	Number	Number	Number	Number	Number	Number
State	4 (inc 3 by Commissioner)	2 (by Cmr)	1 (by Cmr)	1	0	0	0	0
Local Government	1	0	0	1	0	0	0	0
Total	5	2	1	2	0	0	0	0

On hand 1/1/02 - 3 (being investigated by the Commissioner). Add complaints received – 2. Less complaints completed – 3 (by Commissioner). On hand 31/12/02 - 2

**TABLE 2: FORMAL COMPLAINTS FINALISED IN 2002**

Date of receipt of complaint	Target of complaint	Nature of complaint <sup>(1)</sup>	Findings of investigation and recommendation	Date of formal advice to complainant	Date of formal advice to target of complainant	Action taken or proposed following recommendation <sup>(2)</sup>	Other relevant information <sup>(3)</sup>
7/6/00	Passenger Transport Board	Activities of the Passenger Transport Board, particularly its role in the provision of buses to special events	The Competition Commissioner found that the PTB was not a significant business activity and therefore CN does not apply.	27/3/02	27/3/02	N/A	Complaint closed 19/8/02
7/5/98	State Flora	Activities of State Flora nursery in the Belair National Park and activities in several country locations	The Competition Commissioner found that State Flora's nursery revegetation and forestry seedling propagation and sale activities at Murray Bridge constitute a significant business activity and that cost reflective pricing should be applied.	6/6/02	6/6/02	State Flora listed as Category 2 business. Full cost reflective pricing to be implemented by 1 July 2003.	Complaint closed 8/8/02. Delay due to suspension of investigation while State Flora was placed on the market and negotiations for sale took place.
6/11/01	National Parks and Wildlife SA	Penguin tours on Kangaroo Island	The Competition Commissioner found that the penguin tours were a significant business activity and that cost reflective pricing should be applied.	19/12/02	19/12/02	Government considering response.	N/A

(1) brief description including any issues peculiar to the complaint; (2) including action by : Minister, target of complaint and dissatisfied complainants(3) including reason for delay in resolving complaint where applicable

### **3.3 STRUCTURAL REFORM**

#### **3.3.1 Gas and Electricity**

Developments in the gas and electricity sectors during 2002 are reported in section 4.

#### **3.3.2 Ports**

On 16 October 2001 the Government announced the divestment of Ports Corp to the Flinders Port consortium. Settlement was completed on 2 November 2001. The consortium has commenced a 99 year lease of Ports Corp land and has purchased wharves, buildings, plant and equipment and the ongoing business. On 5 September 2002, the South Australian Ports Corporation was dissolved and the *South Australian Ports Corporation Act 1994* repealed.

In April 2001, the Government submitted a report on its structural review to the NCC. The NCC approved it in its 2002 assessment. In accordance with its obligation to the purchaser of the ports, the Government sought to have the access regime declared as an effective regime under Part 3A of the Trade Practices Act 1974. The NCC has indicated that it will not certify it as effective. This is mainly due to the process by which the Initial Pricing Determination was arrived. The Premier has since written to the NCC withdrawing the application, and this has been acknowledged by the NCC in writing.

#### **3.3.3 Vocational Education and Training Services**

There are currently eight publicly owned TAFE Institutes responsible for the delivery of vocational education and training services in South Australia. These operate as units within the Department of Further Education, Employment, Science and Technology.

During 2001, the South Australian Government embarked on a process to corporatise TAFE Institutes. The process included the introduction of the TAFE (Governance Reform) Amendment Bill 2001 into Parliament. The Bill was not passed before the calling of the State election. The TAFE corporatisation process was halted by the incoming Government.

TAFE continues to undertake Fee for Service vocational education and training services which are not required by Government. This activity is conducted on a full cost attribution basis and complies with competitive neutrality principles.

### **3.4 LEGISLATION REVIEW**

This section provides the Government's annual report for the 12 months to December 2002 on the review of legislation that restricts competition, as required by clause 5.(10) of the CPA.

#### **3.4.1 Reviews completed by December 2002**

Good progress continued to be made during 2002 with reviews of the 178 Acts containing restrictions on competition. Attachment 2 shows the Acts listed for review and gives brief details of the restrictions on competition and review and reform action. The reviews are grouped by portfolio. Currently, 173 reviews have been completed and 5 are still underway (2 of these are national reviews). Two Acts are the subject of further reviews of specific restrictions (the Barley Marketing Act 1993 and the Liquor Licensing Act 1997).

A list of review reports provided to the NCC for reviews which were not listed as completed in the legislative review update table in the 1998 Annual Report, and where the government has made a policy decision on the recommendations forms Attachment 1.

### 3.4.2 Specific Reviews

The following have been identified by the NCC as priority issues for this assessment.

#### ***Agricultural and Veterinary Chemicals (SA) Act, Agricultural Chemicals Act, Stock Foods Act, Stock Medicine Act***

##### Outstanding issues from the review of the national agvet chemical registration scheme:

- licensing of agricultural chemical manufacturers

Inter-jurisdictional agreement has been reached to remove the (currently inactive) requirement for agricultural chemical manufacturers to be registered.

- regulation of low risk chemicals

Changes in the *Agricultural and Veterinary Chemicals Code Act 1994* have been drafted and are due in federal parliament this year. This will require consequential changes in the *Agricultural and Veterinary Chemicals (South Australia) Act 1994*. Since changes in definitions are involved, changes will also have to be made to the South Australian *Agricultural and Veterinary Products (Control of Use) Act 2002*, which references some of the affected definitions in the federal Act via the South Australian mirror legislation.

- contestability of chemical assessment services; and

Chemical assessment services are technically already contestable, though the National Registration Authority (NRA) has thus far not chosen to utilise other possible providers, largely due to the difficulties in verifying the capabilities of non-governmental alternative providers.

- compensation for third party access to chemical assessment data?

Compensation for third party access to chemical assessment data is currently being assessed by the NRA in conjunction with jurisdictions and the chemical manufacturing industries. This has been a difficult process to negotiate with major manufacturers, many of whom are based overseas.

##### The public interest case for South Australia's decision to retain, as part of the registration process, an assessment of whether the efficacy claimed by a supplier is appropriate.

South Australia, as a signatory to national legislation, was in agreement with all other states that efficacy was an important aspect of risk assessment. From a purist perspective, different efficacies of rural chemicals may be a subject where the end user could make their own judgment. In reality, few rural chemical users have the knowledge or skills to discriminate accurately in this highly technical field. For those who make the attempt and who obtain sub-optimal results, the likelihood of resistance to the chemical concerned is raised. This is a matter of concern for the community with the prospect of resistant pests, weeds or diseases being costs which extend well beyond the immediate financial effect on the chemical user who fails to judge chemicals' effectiveness properly.

##### Implementation of reforms to 'control of use' legislation.

The *Agricultural and Veterinary Products (Control of Use) Act 2002* was passed by Parliament in August 2002. All proposed major Regulations have been the subject of public discussion and are ready for presentation to Cabinet for drafting. The Act and Regulations are expected to come into operation about July 2003. The Act repealed the *Agricultural Chemicals Act 1955*, *Stock Foods Act 1941* and *Stock Medicines Act 1939*.

### ***Architects Act***

The Commonwealth Treasurer released the final Productivity Commission report on 16 November 2000. An inter-government working group, with a representative from each State and Territory, was set up to develop a national response to the review. The Minister will be asked to endorse the State Review Panel's report recommendations where they are critical to addressing competition policy. It is likely that a Bill will be prepared by June 2003.

### ***Barley Marketing Act***

The Government is committed to an independent review of the export marketing provisions of the Act in line with NCP review requirements. The review is underway and the review panel expects to report to the Minister by 19 May 2003. The Government will then consider the recommendations and announce its decision.

### ***Building Work Contractors Act***

The Review was completed in 2001, however the part of the review dealing with the financial resources requirements for contractors and mandatory building indemnity insurance was omitted from the Final Report released by the Government and referred back to the Review Panel for reconsideration in light of the collapse of HIH, one of only two providers of building indemnity insurance in SA. A Supplementary Issues Paper, dealing with financial and insurance requirements, was released for public and industry comment. However, this process was overtaken by the commissioning and completion of a national review dealing with the same issues by Prof. Percy Allan. A national working party is now developing recommendations for a package of nationally consistent reforms to building legislation aimed at reducing building disputes and indemnity insurance claims. It is likely that financial resources and reputation requirements in the Act will be increased rather than decreased as a result of this process. Any proposals for new restrictions will need to be justified as delivering a net public benefit. Therefore, the finalisation of the Supplementary Review of the financial resources and building indemnity insurance requirements has been deferred pending completion of the national reform process. It is intended to report recommendations to the Ministerial Council for Consumer Affairs (MCCA) by mid-2003 and for reforms to be implemented in the second half of 2003.

The released Final Report made recommendations relating to reducing the financial reputation requirements for contractors. These overlap also with the national review focus on reducing builder insolvency rates. Implementation of these recommendations will be considered together with the reform recommendations arising from the national review, which are anticipated to result in a Bill to be introduced in the second half of 2003.

### ***Children's Protection Act***

The review report recommended that restrictions in section 6(1) were unjustified and may limit the Court's ability to appoint an officer best suited to needs of the child. Cabinet approved drafting amendments on 21 August 2000. The 2002/3 Child Protection Review, undertaken by Robyn Layton, recommends further amendments to the Act. Competition policy amendments will be progressed jointly with the Child Protection recommendations.

It is anticipated that implementation of the Layton review recommendations will occur in 2003/4 and that amendments to the Act will be introduced into Parliament in the second half of 2004.

### ***Chiropodists Act***

Cabinet approved the drafting of amendments to the Act. A draft Bill has been prepared. Consultation with Podiatrists Board is complete. Public consultation will occur, then the Bill will be introduced into Parliament in second half of 2003.

### ***Chiropractors Act***

Cabinet approved the drafting of amendments to the Act. A Bill has been prepared. Consultation with the Board finalized. Public consultation will occur and the Bill will then be introduced into Parliament in second half of 2003.

### ***Citrus Industry Act***

The NCP review of the Act was completed in 2001. The review recommended that an association that is representative of the citrus industry in South Australia be nominated under the *Primary Industry Funding Schemes Act, 1998* as the administrator of a fund established under that Act for the purpose of undertaking those functions performed by the Board which provide industry benefit. Once the industry association has taken on the industry benefit functions of the Board, the *Citrus Industry Act, 1991* should be repealed.

Before submitting the review to Cabinet, a SA Citrus Industry Steering Committee was established to develop options for future management of the industry. Consultants were engaged to assist in the process, which involved preparation of strategies, two rounds of public consultation and a detailed survey with all sectors of the citrus industry.

Development of the new structure and a transition process should be completed by June 2003, with the reform implemented by December 2003.

### ***Controlled Substances Act***

AHMAC is still considering the Galbally Review. It would be premature for South Australia to make a decision until AHMAC arrives at its position.

### ***Conveyancers Act***

The review recommendations included: changing entry requirements in relation to fitness and propriety; removing ownership restrictions (but introducing requirement that a director of an incorporated company must not unduly influence a registered conveyancer); and removing the requirement that the sole object of a conveyancing company is carrying on business as a conveyancer. The Government endorsed the review recommendations in March 1999. A Bill to remove the ownership restrictions and prohibit undue influence was introduced into Parliament in late 2000, but lapsed with the calling of the election. Consultation with stakeholders is occurring under the current Government. If Cabinet approves change upon conclusion of consultation, it is intended that a Bill to implement the change be drafted with a view to introduction in the second session of Parliament (ends 17 June 2003), or in the third session (second half of 2003).

### ***Dairy Industry Act 1992***

The *Dairy Industry Act 1992* establishes the South Australian Dairy Authority. It licenses dairy farmers, processors and vendors and since industry deregulation its key function in practice is to impose a Code of Practice primarily for food safety purposes as a condition of licence. Revenue is raised to implement and administer the food safety system. An annual report is provided to the Minister for Agriculture, Food and Fisheries. The food safety system administered by the South Australian Dairy Authority has strong stakeholder support as it is recognised by its peers as the most cost effective system in Australia.

An initial NCP review of the Act commenced in 1999-2000. A Dairy Review Green Paper was released in October 2000. Subsequent to the paper's release, a government working group and an industry steering committee were established to consider the future food safety requirements for all primary industry sectors in South Australia, given the signing by CoAG of the inter-governmental food regulation agreement, the development of a South Australian Food Act and development of national primary production and processing standards by FSANZ.

Significant delays occurred due to the election and change of government in early 2002 and a discussion paper was released in October 2002 titled "Legislation for implementation of Food Safety Systems in the Primary Industry Sector".

A Consultation Draft Bill for food safety legislation for the primary industry sector is expected to be released for public consultation in August 2003 and will include an NCP review. It is hoped that a Bill can be presented to Parliament in November 2003 (Spring Session), but a more likely timetable is March 2004 (Autumn Session).

The Bill will create a framework for cost effective implementation of risk-based food safety systems. The mechanisms will include: accreditation/licensing of businesses; imposing food safety schemes/standards/codes; collection of fees from industry for those costs attributable to industry; approval of auditors. This framework is similar to that developed in Victoria for the dairy industry by the Victorian *Dairy Act 2000*. That Act was assessed under NCP principles and approved in June 2002.

### ***Dangerous Substances Act***

The NCP review found a net public benefit justification for the restrictions on competition contained in the Act. The review report was provided to the NCC in 2001.

### ***Dentists Act***

The review recommended the removal of limits on ownership. The Dental Practices Act maintains these restrictions. Criteria for exemptions to ownership restrictions are being developed and will be considered by the Government prior to the Act and Regulations being proclaimed in June 2003.

### ***Employment Agents Registration Act***

The report and subsequent addendum from this review has been considered by the Minister for Industrial Relations. In summary the report and addendum recommends that:

- current licensing arrangements be removed from the Act;
- the Act specifically include a provision that precludes the charging of a fee by employment agents to a jobseeker simply because the employment agent had the jobseeker on their books, or the employment agent is seeking employment on behalf of that person.
- the Act be amended to prohibit an employment agent from charging a recurring fee to a jobseeker, or from charging a jobseeker a fee if the jobseeker is engaged by the employment agent.
- the Act requires the development of and adherence to an industry specific code of conduct. The Recruiting & Consulting Services Association (RCSA) code of conduct will be assessed for its appropriateness in this regard, and
- appropriate penalties are determined for not adhering to any of the first three provisions.

The Minister for Industrial Relations has noted the Queensland Government's recommendations in relation to the amendment of the Employment Agent legislation in that State. The Minister has requested that Workplace Services consider the proposals contained in the Queensland report, in particular the recommendation to include relevant provisions to protect job seekers in the Industrial Relations Act and the development of an appropriate industry code for that State. This approach appears to avoid the duplication and overlap of continuing to regulate the sector through separate legislation.

The Minister has requested that information and any recommendations concerning the Queensland recommendations be presented to him by the end of May 2003.

### ***Fair Trading Act***

In response to comments by the NCC in the Third Tranche Assessment, the relevant agency reviewed the Act to ensure that any provisions beyond those which duplicate parts of the Trade Practices Act were reviewed according to the clause 5(1) principles. The review report recommends the retention of all provisions, which are justified on the basis of a net public benefit, with further review during a forthcoming general review of Act of the following matters:

- increasing the door to door sales threshold from \$50 to \$100
- reviewing the need for retention of fair reporting provisions when sufficient time has elapsed, to ascertain adequacy of Commonwealth Privacy Act
- considering the repeal of the s.40 price ticket requirements which is a trivial restrictions on competition
- repealing or increasing the level of certainty in third party trading scheme provisions.

### ***Fisheries Act***

The NCP review of the Act was completed in 2002. The review found that:

- without some form of control, the market demand for fish will lead to unsustainable harvesting of those fish.
- The *Fisheries Act 1982* provides a legal framework for protecting the living resources of the waters to which it applies. Primarily this translates to sustainable exploitation of the State's wild fish resources. As such the Act is restrictive in nature.
- The mechanisms by which effective management of a wild fishery can be achieved vary in their impact on competition from minor to significant. The aim is to utilise those mechanisms that have the minimum impact.
- The management arrangements that the Act provides for allow limits on the extraction arrangements from a fishery, allocation of fish resources across competing uses, and the widest possible range of choices about how to catch fish. Each fishery is managed according to its particular circumstances, with a mix of access, output and input controls, as appropriate. This ensures the taking of no more, and usually less, than the maximum biological yield at the lowest cost.

It was the view of the Review Panel that the restrictions that were examined during the NCP review are justified on the basis that the benefits to the community outweigh the costs to the community. Furthermore, legislation that limits effort and catch for fisheries in this State seems to be widely supported by the community, including commercial and recreational fishers.

Nevertheless, there are several provisions in the Act and its Regulations that are considered to have anti-competitive elements. Cabinet has approved that the appropriateness of retaining these provisions be examined in partnership with stakeholders during a general review of the Act that has commenced. The general review recognises that the passage of time has found the Act wanting when compared to fisheries legislation in other Australian jurisdictions.

An issue of specific interest is the Owner / Operator restriction that applies in the marine scale fishery. The Regulations require that the person registered as a master must also be the licence holder. Substitute masters are permitted by the Director of Fisheries for official fisheries business eg fishery management committee meetings and for sickness of up to 3 months at a time on presentation of a medical certificate. This is considered to be an intermediate restriction.

Many commercial marine scale fishers who responded to the NCP Issues Paper held the view that the restriction must be retained, on the basis that it is an important tool in the ecologically sustainable development of the fishery. Without it, significant latent effort may be realised, leading to rapid depletion of spawning stock and a sharp decline in fish stocks. This line of reasoning was also advanced by the State's peak organisation representing recreational fishers.

Conversely, some other commercial fishers favour removal of the restriction so they can better utilise their fishing assets. In doing so they will increase the return on the funds they have invested in those assets and facilitate efficiency gains in the industry. They argue that potential effort increases in the marine scale fishery can be managed through appropriate catch and effort management mechanisms, as is the case in other fisheries.

Some marine scale fishers acknowledge that compensating measures such as gear restrictions, closures and licence reductions could provide an alternative to the restriction. However, these measures would impact adversely on the viability of marine scale fishers, their families, their communities and the economy.

This issue will be revisited as part of the general review of the Act. At best, the licensees may support a phased relaxation of the restriction that allows the sector to adjust to any changes to the current arrangements. Any proposed changes arising from the general review of the Act will be the subject of a separate NCP analysis that will be conducted concurrently with the general review.

The timetable for the general review provides for the community to respond to a Green Paper (closing date for submissions is 28 February 2003), the drafting of a White Paper that will be subject of another round of consultation in May 2003 and the introduction of a Bill to amend or replace the current Fisheries Act during the Spring 2003 session of the South Australian Parliament. Regulations will then need to be reviewed. Changes arising from the general review could reasonably be expected to take effect on or after 1 July 2004.

### ***Food Act***

The Act is based on the national model Bill. There are no additional provisions in the Act unique to South Australia. South Australia believes it has complied with its CPA obligations in relation to this Act.

### ***Gambling***

A report has been prepared and was approved by Cabinet in early March 2003. The review covers the following Acts:

- Authorised Betting Operations Act
- Casino Act
- Independent Gambling Authority Act
- Gaming Machines Act
- Lottery and Gaming Act
- State Lotteries Act

The Racing Act was repealed (effective 14 December 2001) and the gambling regulatory structure formerly contained in the Act is now covered by the Authorised Betting Operations Act 2000.

The Government agrees with the Review that gambling is a matter of social policy. While there is considerable scope for gambling by State residents, the general legislative arrangements in South Australia are not designed to be pro-competitive. They do not seek to achieve the emergence of a free market in gambling services where the level of, types of, and participants in gambling activity are determined by normal commercial forces.

The Review made a number of findings regarding potential restrictions on competition after assessment of the net public benefit of those provisions (including the significant policy goal of harm minimisation). The most substantial competition restriction identified relates to exclusive licensing arrangements for gambling providers. In addition, the Review makes a number of associated administrative and general policy findings which are not strictly required to ensure the State's compliance with National Competition Policy but relate to issues of consistency across forms of gambling and clarification of administrative and licensing arrangements.

Analysis of each of the identified restrictions (for each of the respective Acts) and the public interest reasons for their retention, or otherwise, can be found in the review report and the Government's response to the review. The NCC has been provided with both these documents.

### ***Harbors and Navigation Act***

The review was completed in 1999. There has been an intergovernmental agreement to develop nationally consistent legislation. This agreement has been extended until 2005 at which time the national reform should be complete. Possible amendments to the SA legislation to adopt as completed nationally agreed standards will be progressively prepared as necessary.

### ***Land Valuers Act***

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

Once the national training package has been endorsed, the Office of Consumer and Business Affairs will review the present prescribed qualifications for valuers with a view to prescribing core competencies rather than qualifications..

### ***Legal Practitioners Act***

In October 2000 the Government adopted the review recommendations in full, including the recommendation to keep the issue of multi-disciplinary practices under review and that there be no change to the professional indemnity insurance provisions provided premiums remain competitive.

However, the issue of multi-disciplinary practices is on the Standing Committee of Attorney-General's agenda, and is being progressed as part of the project to devise national model laws for the legal profession. Other amendments have been incorporated into a draft Miscellaneous Amendment Bill for introduction in March 2003.

### ***Liquor Licensing***

In line with the recommendations of the 1997 review of the Liquor Licensing Act, a further review was commenced on the two remaining restrictions, the "proof of need" test which constrains the number of outlets and the requirement that liquor can only be sold from stores devoted entirely to liquor sales. An initial Consultation Paper has been made available for public comment, and a Final Report is likely to go out for public consultation in April 2003.

### ***Meat Hygiene Act***

The review was completed in September 2000. Progress was delayed due to the development of the new South Australian Food Act 2001 which impacts on the recommendations of the review, and came into operation in December 2002. Cabinet approved the drafting of amendments to the Act in response to the recommendations of the review on 10 February 2003.

Before the Bill can be introduced into Parliament, a Memorandum of Understanding between the Department of Human Services, the Local Government Association and the Department of Primary Industries and Resources, SA must be developed, defining areas of responsibility for inspections. It is intended that this be completed in mid-2003 and the Bill introduced in the second half of 2003.

A copy of the review was provided to the NCC in February 2003.

### ***Medical Practitioners***

The review recommended removing ownership restrictions, registering medical students, requiring declaration of commercial interests and requiring professional indemnity insurance.

New legislation introduced in May 2001 was not passed before the calling of the State election. Further consultation is occurring under the new Government, and some amendments are being made (including amendments relating to infection control, accountability and honesty). Consultation is progressing with the aim of introducing a new Bill into Parliament in the second half of 2003.

### ***Mining Act, Opal Mining Act and Mines and Works Inspection Act***

The review of the Mining Act 1971, Opal Mining Act 1995 and Mines and Works Inspection Act 1920 and the respective Regulations was completed in December 2002. The report recommends the repeal of section 13 of the Opal Mining Act which established the Major

Working Area (MWA), an area of known opal diggings within the Coober Pedy precious stones field. Under section 13 corporations are not permitted to enter the MWA for the purposes of prospecting and mining; however, the review process did not identify any net public benefits to the community which would provide for the retention of that restriction. Cabinet approval of the review recommendations and approval to draft amendments to repeal section 13 will be sought in April 2003, with the aim of introducing the Bill into Parliament in the second half of 2003.

In addition, the report recommends that although the health and safety provisions in the *Mines and Works Inspection Act* are not provisions that contain restrictions on competition, they should be repealed as the *Occupational Health, Safety and Welfare Act* now deals with all of the matters they cover. The report also recommends that the provisions be repealed when amendments arising from the current review of the *Mining Act* are made and that the remaining provisions of the *Mines and Works Inspection Act* be incorporated into other appropriate legislation (eg. the *Mining Act*) at the same time. Cabinet approval for this course of action will be sought in April 2003.

#### ***Motor Vehicles Act – Driving Instructors and Tow Trucks***

The Accident Towing review was completed in 2001. It will be released for further consultation with industry and key stakeholder groups prior to any formal acceptance of its recommendations. A consultation strategy is currently being developed. The consultation process will begin by June 2003 and it is expected that a draft bill will be completed by August 2003.

The review of Motor Driving Instructors recommends minor amendments to the legislation to reflect the terminology used by the industry. The Government is considering the report and it is expected that a draft bill will be prepared by August 2003.

#### ***Motor Vehicles Act – Compulsory Third Party Insurance***

The South Australian Government has provided the NCC with the review report and has put forward its public interest reasons for the present arrangements. The Government considered that the review demonstrated that a sole statutory provider scheme is cheaper for motorists than a multi-provider scheme and that the objectives of CTP legislation - universal coverage, fair claims settlement, (maximum) affordability of premiums, fairness and community acceptability as well as minimum financial risk to the Government - cannot be achieved except by restricting competition through compulsion, community rating and provision by a single statutory authority. Amendments giving effect to the Government's response came into operation on 3 October 2002.

#### ***Occupational Therapists***

The NCC has been provided with a copy of the review, which contains the public interest arguments for retaining registration. Cabinet approved drafting of amendments to the Act on 21 August 2000. A draft Bill was prepared. Consultation with the Board has been completed and public consultation will soon occur. The Bill will be introduced into Parliament in first half of 2004.

#### ***Optometrists Act***

The Review was completed in April 1999. The recommendations include extending coverage to include optical dispensers, removal of restriction on training providers and the introduction of a code of conduct. A Cabinet submission seeking approval for the recommendations and

approval to draft amendments is prepared. It is expected that the Bill will be drafted in the second half of 2003 and introduced into Parliament in 2004.

#### ***Passenger Transport Act 1994 – Taxis***

The 1999 review report by consultants Halliday-Burgan was released by the Minister for Transport and Urban Planning on 8 November 2000. The review is with the Minister for Transport and Urban Planning for consideration. Further information will be provided to the NCC by 31 May 2003 with definite timeframes for the progress of this review report

#### ***Petroleum (Submerged Lands) Act***

There are neither current licences nor current plans to promote petroleum acreage releases in SA's adjacent, offshore waters. For the sake of legislative efficiency and in the absence of any operational need to amend the Act at this time, South Australia intends to amend the legislation to achieve 'harmonisation' with the Commonwealth Act after the completion of major amendments now being developed nationally for the creation of the National Offshore Petroleum Safety Authority (NOPSA). The timing of amendments of the South Australian Act will follow the Commonwealth's timelines for incorporating the NOPSA into the Commonwealth legislation. This plan ensures for all practical purposes that South Australia's Act is on track to be amended before any licenced petroleum activities are undertaken.

#### ***Petroleum Products (Regulation) Act***

In February 2003, the South Australian Government considered the findings, and accepted the recommendations, of the review. Legislation giving effect to the recommendations is currently being drafted.

The review found that the current licensing system, namely the requirement for approval for an authority to make prescribed retail sales, provided the main restriction on competition in the petroleum retailing industry, creating a barrier to entry and protecting existing industry participants (large and small) without providing a net public benefit. The Review's main recommendation therefore related to the abolition of the Petroleum Products Retail Outlets (PPRO) Board. The PPRO Board will be phased out by the end of June 2004. The transitional period provides the industry an opportunity to adjust business plans in response to consequential legislative and administrative amendments.

#### ***Pharmacy Act***

A national review of the Pharmacy Regulation was completed in February 2000 (the Wilkinson Review). The review recommended retaining registration, the protection of title, practice restrictions and disciplinary systems (although with minor changes to the registration systems recommended for individual jurisdictions). Further, the review recommended maintaining existing ownership restrictions, and removing business licensing restrictions. CoAG considered a report in response to the review prepared by a senior officials' working party (the Borthwick report) and agreed limits on FSMA pharmacies and advertising restrictions should be lifted. Consideration of ownership restrictions has been deferred until 2005. A Bill to implement this decision is under consideration by the Government. It is anticipated that the Bill will be introduced into Parliament in the second half of 2003.

#### ***Physiotherapists Act***

The review was completed in February 1999. Recommendations include publication of a code of conduct without advertising restrictions, amended definitions of areas of practice protected, removal of the requirement to register business names, removal of ownership restrictions, prohibition of undue influence, demonstration of continuing competence and removal of

advertising and unprofessional conduct provisions from code of ethics prior to adoption of a code of conduct. Cabinet approved the drafting of amendments on 28 August 2000. Consultation with the Board has been completed and the Bill will be released for public consultation in the second half of 2003. It will be introduced into Parliament in the first half of 2004.

#### ***Plumbers, Gas Fitters and Electricians Act***

The NCP review recommended retention of the present licensing and registration regimes for plumbing, gas fitting and electrical contractors and workers, respectively. However, the report recommended that consideration be given to exempting persons who subcontract only to licensed contractors from the requirement to meet the financial requirements for licensing and exempting persons who contract only for work on certain electrical infrastructure from the requirement to be licensed. The report is with the Minister for consideration. If Cabinet endorses the reform recommendations it is intended that a Bill to implement the change be drafted with a view to introduction in the second session of Parliament (ends 17 June 2003), or in the third session (second half of 2003).

#### ***Poultry Meat***

The South Australian Government is in the process of replacing the Poultry Meat Industry Act 1976 with a Chicken Meat Industry Act. The Bill was introduced into Parliament in December 2002. As a result of the public consultation process, the Government will propose several amendments to the Bill in the current session of Parliament. The review report of the Bill was provided to the NCC in December 2002.

#### ***Psychological Practices Act***

The review completed in 1999. It recommended removing advertising and practice restrictions. Cabinet approved drafting amendments to the Act on 23 April 2001. Consultation with the Board has been completed and the Bill will be released for public consultation in the second half of 2003. It will be introduced into Parliament in 2004.

#### ***Security and Investigation Agents Act***

The review was completed in January 2003. It recommends retention of licensing, however, it also recommends a number of amendments, including to the definition of security agent, introducing a two-tiered licensing system that distinguishes between contractors and employees, removal of business knowledge and financial resources requirements other than for collection agents and alarm providers, and narrowing the local government exemption to apply only to enforcement and prosecution activities. It is with the Minister for consideration. If the Government endorses the reform recommendations it is intended that a Bill be introduced into Parliament ideally by 30 June 2003 and, if not, in the second half of 2003.

#### ***Shop Trading Hours Act***

A reform Bill was introduced into Parliament in August 2002. In October 2002 the reform Bill was held up in the Legislative Council when it was referred to a select committee by the opposition and independent members in that House. The select committee has subsequently reported that the Bill has not been passed in the Legislative Council and has been referred back to the Legislative Assembly. The Government proposes to re-introduce the Bill to Parliament in July 2003. Further discussions on this NCP Review and subsequent outcomes are to be undertaken with the NCC prior to June 2003. The NCC has been kept fully informed on developments with this legislation.

### ***Survey Act***

The review recommended current restrictions on companies and partnerships be removed and new provisions be added to make it an offence for any person to exert undue influence over a licensed surveyor to provide a service in an inappropriate or unprofessional manner. A draft Bill containing these reforms has been prepared for introduction into Parliament in the first half of 2003.

### ***Trade Measurement***

A national review is underway (Queensland is the lead agency). The Stage 1 Scoping Study was completed by an external consultant, with the recommendation that restrictions on sale of non-prepacked meat and certain prepacked goods be subject to the public benefit test (Stage 2). Examination of the restriction on prepacked goods was considered unnecessary by the review committee due to the impending amendment of these provisions. The public benefit test was completed in relation to the sale of meat, with the conclusion that the restriction results in a net public benefit, and the recommendation that the definition of “meat” be clarified for the purposes of the restriction. Following approval by the Ministerial Council for Consumer Affairs, Stage 1 and 2 reports were released in February 2003 for a 6 week public consultation period.

### ***Veterinary Surgeons***

The review was completed in May 2000 and approved by Cabinet in September 2000. A Veterinary Practices Bill is currently before Parliament and is expected to be passed in the first half of 2003. Subordinate legislation is to be developed in consultation with the key industry and public stakeholders. Proclamation of the new Act, and repeal of the existing Act, is planned to become effective prior to 31 December 2003.

### ***Water Legislation***

A report on the review of the *Waterworks Act 1932*, *Sewerage Act 1929* and the *South Australian Water Corporation Act 1994* was completed prior to the change in Government in February 2002. The report concluded that the primary restrictions to competition and constraints on market entry for alternative suppliers in areas already supplied by SA Water appear to arise from the inherent natural monopoly of the infrastructure rather than specific provisions of the legislation.

The majority of the identified restrictions to competition were considered appropriate in the context of the Acts’ objectives and that there are net public benefits from their retention. Although the review report identified a number of trivial and intermediate restrictions in the Act and consequently recommended some minor amendments to the Acts, the existing arrangements are considered to adequately address the issues raised in the review report, and accordingly no legislative changes are proposed.

### ***Wine Grapes Act***

The Wine Grapes Industry Act has been the subject of a National Competition Policy review by KPMG Management Consulting (completed in 1999) and a legislative review by PIRSA (completed in 2001).

KPMG concluded that the indicative price arrangements that the Act provides for do not have the effect of fixing, controlling or maintaining prices, are unlikely to give rise to a breach of the Trade Practices Act and are not presently operating to restrict competition in the market for the supply of wine grapes. Nevertheless, KPMG recommended that the Act be repealed

because it is not achieving its apparent objectives. However, such a recommendation was beyond the scope of the review.

Rather than implement the recommendation to repeal the Act in isolation, the Government's preferred path was to work with industry stakeholders, particularly wine grape producers and processors, to explore alternative mechanisms for achieving desired outcomes. Primary Industries and Resources SA (PIRSA) established a departmental Review Team to manage the process.

The PIRSA Review Team concluded that:

- There are no compelling reasons to retain the Indicative Price provisions of the Act;
- The lack of industry opposition to the Terms and Conditions of Payment provisions suggest that the provisions are not currently having a significant impact on competition; and
- In order to address concerns that the Terms and Conditions of Payment provisions result in rigidity in the market, the Act should be amended to allow individual grape growers and wine makers to negotiate an alternative payment arrangement which might be advantageous to both parties when the Minister fixes terms and conditions of payment.

Cabinet approved the drafting of appropriate amendments to the Act. The Government then became aware of growing concern among wine grape growers, their representative organisations and their elected representatives (State Parliament) about the impact of the amendments.

The basis for this concern is that there is ample evidence to suggest that the financial position of many middle-level and smaller processors makes it difficult for them to carry the costs of holding wine for two or more years until it is ready for the market and that these winemakers would move quickly to a position where grape growers are not paid until the wine is sold. In these circumstances, processors would have a de facto interest-free loan for an indeterminate time, with the grower effectively financing the costs of maturing wine.

With processor rationalisation already at a high level, the financial pressure on smaller winemakers will intensify, since they, and by association, their suppliers, are price-takers in an increasingly global market.

Further, if smaller wineries have the capability to defer payment, larger wineries will follow since it would be in their interests to operate on the same footing. In situations of over-supply, such as happened in the 2002 vintage, the market power which can be applied to growers can be expected to be extreme.

No one is disputing the fact that processors must pay grape growers. The reality is that grape growers and wine makers (particularly small and medium sized) have cash flow needs that are mutually exclusive. Growers seek payment as soon as possible while wine makers seek to defer payment to reduce their need for working capital. This is a continuing tension. On balance, while the Terms and Conditions of Payment provisions (Section 6) relating to payment may result in some rigidity in the market, the restriction is considered minor and the net public benefit justifies its retention.

However, it is recognised that Section 9 of the Act, relating to conditions for acceptance of delivery, is, potentially, a severe restriction on competition as processors who have not paid in full for fruit purchased in one vintage cannot take delivery of fruit in a subsequent vintage, ie

they are excluded from the market for wine grapes. It should be noted that Section 9 has never been exercised.

Alternatives to the exclusion provisions are being explored, such as access to factoring finance enabling growers to sell (at a discount) the debts owed by wine makers. This is a common method of financing used for traded goods and has some similarities to futures markets that are increasingly used by other primary industries.

The intention is to complete an examination of these alternatives by 31 May 2003. Assuming that there are viable market based alternatives to the exclusion provisions of the Act that are acceptable to industry stakeholders, legislation to remove Section 9 will be enacted before the commencement of the 2004 Vintage.

### ***Workers Rehabilitation and Compensation Act***

The NCP legislative review of the Act was completed in mid 2002 under the guidance of an inter-agency Steering Committee. Prior to the completion of the final report, an Issues Paper and a Draft Report were released for comment, with 12 and 13 submissions received respectively. Meetings were also held with some of the interested parties.

The review identified a number of restrictions to competition in the Act but only proposed minor legislative changes. The majority of the identified restrictions were considered appropriate as they are consistent with the Act's objectives and there are net public benefits from their retention. The two most significant restrictions identified by the review are compulsory coverage and sole scheme administrator (statutory monopoly provider). The review found both to be of a net public benefit and recommended their retention. The NCC has previously accepted the arguments for compulsory coverage.

In mid 2002, the South Australian Government announced two separate investigations of aspects of the workers rehabilitation and compensation arrangements in South Australia. These two investigations related to, firstly a report on the financial, risk management and governance arrangements of the WorkCover Corporation, and secondly, a review of the South Australian workers compensation and occupational health, safety and welfare systems. The Minister received reports on these two investigations for consideration in late 2002 and early 2003.

In early 2003, the Minister for Industrial Relations released the report on the 'Review of Workers Compensation and Occupational Health, Safety and Welfare' (the 'Stanley' review) for public consultation. As both of these reviews were to consider issues raised in the NCP legislative reviews, and there was a strong likelihood that legislative changes would be identified, further action on the NCP review recommendations was not progressed on the basis that the NCP review recommendations would be considered as part of the Government's broader review of the workers rehabilitation and compensation arrangements in South Australia and is expected to occur over 2003.

### **3.4.3 New legislation**

Clause 5(5) of the Competition Principles Agreement requires proposals for new legislation containing restrictions on competition to be accompanied by evidence that the legislation is consistent with the principles in clause 5(1). The Department of Premier and Cabinet has produced two documents, *Guidelines paper for agencies conducting a legislation review under the CoAG Competition Principles Agreement*, February 1998 and *Proposals for New*

*Legislation - National Competition Policy Review Obligations*, November 2001 (endorsed by Senior Management Council in December 2001), reminding South Australian portfolio agencies of this obligation. The latter document describes a process of considering restrictions on competition during the development of a policy which may lead to new legislation or amendments to existing legislation; identifying in the Cabinet submission seeking approval to draft the legislation that these issues have been considered; and commenting on the issues in the second reading speech of Bills going to Parliament. The documents are published on the Department of Premier and Cabinet internet site, at [www.premcab.sa.gov.au](http://www.premcab.sa.gov.au).

Department of Premier and Cabinet's *Circular 19 - Preparing Cabinet Submissions* is likely to be approved by Cabinet in April 2003. It describes the processes and requirements involved in preparing Cabinet submissions. It includes a requirement of the Premier (23 April 2002) to provide information on community impacts, specifically family and society, small business, regional and regulatory (including NCP issues) impacts in all Cabinet submissions. The circular encourages early consultation on proposals among affected Government agencies and the community, as well requiring, where relevant, an implementation strategy. The circular indicates the type of proposals where a regulation assessment is appropriate and provides a checklist of questions to focus policy officers on relevant considerations.

The NCP Implementation Unit in the Department of Premier and Cabinet provides advice to agencies on regulation impact statements and NCP requirements. It also advises Cabinet Office on the adequacy of the regulation impact statements in Cabinet submissions.

The NCP Implementation Unit provided comments on about 110 regulatory impact statements in draft submissions, and about 100 Cabinet submissions from July 2002 to December 2002 inclusive. System improvements to enable South Australia to provide statistics on legislation considered by the gatekeeping process each year will be considered soon, with a view to including this information in the next Annual Report.

### **3.4.4 Ten Year Review**

Following the completion of the scheduled legislation reviews, clause 5(6) requires the systematic review of legislation which restricts competition at least every ten years. The first review of a scheduled Act was completed in 1997.

It should be noted that in South Australia subordinate legislation lapses at the end of ten years, and must be remade. This will bring into play the processes for the review of new legislation described above.

## **3.5 THIRD PARTY ACCESS**

### **3.5.1 Port Facilities**

Last year's Annual Report provided information on the *Maritime Services (Access) Act, 2000* ("the Act"), which came into operation on 26 October 2001 and established a third party access regime. That access regime can may be applied by proclamation to nominated ports and to a range of maritime services, namely: channels, pilotage, berths, loading and unloading facilities, storage, and land used in connection with a maritime service. The Act has been proclaimed to apply to the six ports sold in October 2001, and to a seventh port operated by another private company. At present it has been proclaimed to apply only to channels,

pilotage, certain nominated common user berths, and bulk handling (loading and unloading) facilities.

In 2001 the South Australian Government submitted an application to the NCC seeking a recommendation by the Council that the Commonwealth Minister certify the access regime as “effective”, pursuant to s.44M of the Trade Practices Act. Since then, the NCC has indicated that it will not recommend that the State's ports access regime be certified as effective. This is mainly due to the process by which the Initial Pricing Determination was arrived at. The Premier has since written to the NCC withdrawing the application, and this has been acknowledged by the NCC in writing.

Essentially, the State has complied with its contractual obligations to the purchaser (Flinders Ports) simply by seeking certification. Further, the Act remains in force, and while a disgruntled access seeker may seek a declaration of the relevant services under the *Trade Practices Act*, it would be open to the port operator to challenge such a declaration on the basis that the Act does, in fact, provide an “effective” access regime, contrary to the views of the NCC.

### **3.5.2 Rail Facilities**

The South Australian Government, in conjunction with the Northern Territory and Commonwealth Governments, supported the AustralAsia Railway project. One of the fundamental features of that project was the rail access regime for the line from Tarcoola to Alice Springs, and in due course to Darwin, which was established by the complementary *Australasia Railway (Third Party Access)* legislation of South Australia and the Northern Territory. This regime was certified by the Commonwealth Treasurer as effective under section 44N of the *Trade Practices Act 1974* on 23 March 2000. The certification is for a period ending on 31 December 2030.

By agreement with the Asia Pacific Transport Consortium Pty Limited (the private consortium involved in the project) the Australasia Railway Access Regime has not, to date, been prescribed by the governments of South Australia and the Northern Territory. It is envisaged that prescription will occur after completion of construction of the line between Alice Springs and Darwin. The nominated date for completion is April 2004, however, construction may be completed prior to that time.

Relying on the deferred implementation of the Australasia Railway Access Regime, AuIron Limited, the promoter of an iron ore smelting project that was unable to reach agreement on access charges, made application on 12 September 2001 to the NCC for declaration of the service provided by that portion of the existing line between Wirrida and Tarcoola in South Australia. AuIron plans to use the rail track to operate trains to haul coal and iron ore from its mines in the Lake Philipson region to Port Augusta, Stirling North and Whyalla in South Australia.

The NCC recommended declaration of the service and Senator Campbell declared the service under section 44H of the *Trade Practices Act 1974* for a period of five years, effective from 27 September 2002.

An application for a review of this decision by the Australian Competition Tribunal was lodged by Asia Pacific Transport Consortium Pty Limited on 24 September 2002. The

application is currently subject to the Tribunal's pre-hearing procedures pending a formal hearing.

### **3.5.3 Gas Issues**

#### **National Gas Pipelines Advisory Committee:**

The Fifth Amending Agreement that amended the National Third Party Access Code for Natural Gas Pipeline Systems (the Code) came into operation on 27 June 2002. Because South Australia is the lead legislator for the Gas Access Regime, the agreement has effect in all Australian States and Territories upon publication in the South Australia Government Gazette.

This agreement made it explicit that Non Capital Costs to be recovered in Reference Tariffs set by Relevant Regulators, may include, but are not limited to, costs incurred for generic market development activities aimed at increasing long-term demand for the delivery of Reference Services.

The South Australian Parliament also passed the Gas Pipelines Access (South Australia) (Reviews) Amendment Act 2002. This Act amends the Principal Act of the Gas Pipelines Access (South Australia) Act 1997, Schedules 1 and 2 of which apply in other Australian States and Territories. The amending Act, inter alia clarifies the point at which rights of appeal arise and close, and expands the category of persons able to apply for a review of a decision of a Relevant Regulator. It is linked in part with the Fourth Amending Agreement, which came into effect on 6 February 2003.

#### **Regulation of Natural Gas Distribution Network:**

The South Australian Independent Pricing and Access Regulator (SAIPAR) issued its final decision on the Access Arrangement submitted by the Service Provider, Envestra Limited, for the South Australian Natural Gas Distribution System on 21 December 2001. In its final decision SAIPAR did not approve the Access Arrangement submitted by Envestra.

Envestra is now required to submit a revised Access Arrangement under section 2.18 of the Code, which the Relevant Regulator must approve if it incorporates the amendments specified, or which it may approve if it substantially incorporates the amendments specified, or otherwise addresses the Relevant Regulator's concerns. The approval is in the form of a further final decision under section 2.19 of the Code.

During 2002, Envestra applied for, and was granted, several extensions of time to submit a revised Access Arrangement that accords with the Final Decision. Since the Final Decision was issued, claims for costs related to the introduction of Full Retail Competition have been restated. It has not been possible to quantify these costs, and it is also not known when they will arise but a mechanism to provide for their recovery within the Access Arrangement was considered.

In addition, Envestra raised issues that were not raised before the Final Decision was formulated. Foremost among these was a claim by Envestra for a substantial increase in allowable Costs for Insurance. These have been attributed largely to events beyond Envestra's control, such as the HIH collapse and the terrorist attacks on 11 September 2001.

### **Regulation of the Natural Gas Transmission Network:**

The ACCC, the Relevant Regulator for the Moomba to Adelaide Pipeline, drafted and approved its own Access Arrangement for the Moomba to Adelaide Pipeline, after it did not approve the revised Access Arrangement submitted by Epic Energy. Epic Energy appealed to the Federal Court and the Australian Competition Tribunal against this decision. This follows the successful appeal by Epic Energy to the Western Australian Supreme Court against aspects of the decision of the Western Australian Regulator.

### **Other issues**

**Productivity Commission Review:** The Commonwealth Government released its response to the Productivity Commission's Report on its Review of the National Access Regime in September 2002. The South Australian Government will address its response to the Commonwealth Government in due course.

**Review of the National Gas Access Regime:** In 2002, senior officials from the Australian States, Territories and the Commonwealth commenced discussion on the terms of reference for a Review of the Gas Access Regime.

## **3.6 LOCAL GOVERNMENT**

The application of competition principles to the Local Government sector in South Australia is continuing, consistent with the Statement on the Application of Competition Principles to Local Government (the Clause 7 Statement).

### **Clause 7 Statement**

The Clause 7 Statement was revised in September 2002. The changes were minor, consisting of a reorganisation of the contents of the Statement for greater clarity and the deletion of information that was repeated.

### **Reporting Period**

Information from Councils 2001/2002 annual reports has been used as the basis for the following report. As a consequence, the reporting period for Local Government in this report is for the 2001/2002 financial year. This is consistent with reporting in previous years.

### **Significant Business Activities**

It has been previously reported that councils have identified all significant business activities and determined which competitive neutrality principles are to apply to them. Councils continue to review these arrangements and, as a consequence, there has been a slight change in the reporting of significant business activities from the last report.

The pattern established in South Australian Local Government since the commencement of NCP implementation and reporting continued during the reporting period. Generally speaking, councils are only involved in small-scale business activities and cost reflective pricing is the most common principle being applied to achieve competitive neutrality.

There are four councils conducting Category 1 business activities:

- The Adelaide City Council (the local governing body for the central business district in Adelaide);
- The District Council of Mount Barker;
- The City of Mitcham; and
- The City of Unley.

The Adelaide City Council has five Category 1 business activities. Though this is the same number as previously reported, there has been a slight change for this reporting period, with the property management activity being replaced by the Adelaide Aquatic Centre. The five businesses are:

- Adelaide Aquatic Centre;
- Central Market Authority;
- North Adelaide Golf Links;
- Off Street Parking (U-Park); and
- Wingfield Waste Management Centre.

An organisational structure has been implemented in the Adelaide City Council that separates its business activities from its other activities, and commercialisation principles are being applied.

The District Council of Mount Barker conducts the Monarto Quarry, which was classified as a category 1 business in the second year of its operation. Commercialisation is the competitive neutrality principle being applied.

The City of Mitcham and the City of Unley jointly run a fully commercial cemetery operation as a Category 1 business via a separately incorporated subsidiary.

Councils reported on a total of 42 Category 2 business activities. These are almost exclusively small scale, with caravan parks occurring most frequently. Table 3 summarises the Category 2 activities and the principles being applied to them – cost reflective pricing (CRP), commercialisation (COM) or corporatisation (COR).

In the majority of cases, cost reflective pricing is the principle being employed to achieve competitive neutrality.

**TABLE 3 – Category 2 significant business activities**

<b>Nature of Activity</b>	<b>Number</b>	<b>CRP</b>	<b>COM</b>	<b>COR</b>
Caravan Parks	23	20	2	1
Works/Development	5	5		
Recreation centres	3	3		
Waste management	1	1		
Function centres/Cafes	2		2	
Saleyards	1	1		
Small tourist facility	2	2		
Utilities	2	2		
Rural Transaction Centre	1	1		
Golf Course	1	1		
Multipurpose recreational, sport and tourism facility management	1			1
<b>Total</b>	<b>42</b>	<b>36</b>	<b>4</b>	<b>2</b>

## **By-laws**

As previously reported, each council has identified by-laws that may restrict competition and, where appropriate, initiated reform of the by-laws.

All by-laws in South Australia are subject to a sunset clause - after seven years of operation they lapse. Under the terms of the new *Local Government Act 1999*, any new by-laws made must not restrict competition to any significant degree unless there is evidence that the benefits of the restriction outweigh the costs and that the objectives of the by-law can only be reasonably achieved by the restriction.

All council by-laws, when made, are also examined by the Legislative Review Committee of Parliament, which must ensure that they are in accordance with the general objects and intent of the legislation under which they are made. The Committee may move for the disallowance of a by-law.

## **Competitive neutrality complaints**

The State Government competitive neutrality complaints mechanism in the Department of Premier and Cabinet was established to receive and consider competitive neutrality complaints against both State and Local Government business activities.

Before a complaint is assigned to an independent Competition Commissioner for investigation, the matter must have been referred to the Local Government agency for investigation and report, but not have been resolved by agreement between the parties during that process. The Clause 7 Statement advises councils to establish their own formal mechanism to handle complaints, and a draft model was prepared to provide guidance. No Council reported a competition related complaint in the 2001/2002 financial year (a complaint was received in the second half of 2002 and is reported above in section 3.2 Competitive Neutrality, where the reporting period is calendar year).

## 4. RELATED REFORMS

The Agreement to Implement National Competition Policy and Related Reforms makes provision of specified financial assistance by the Commonwealth conditional on the States making satisfactory progress with the implementation of the requirements of the Conduct Code Agreement and Competition Principles Agreement and also with implementation of related reforms which have been the subject of separate CoAG agreements. These related reforms include:

- establishment of a competitive national electricity market;
- national framework for free and fair trade in gas;
- strategic framework for the efficient and sustainable reform of the Australian water industry;
- road transport reforms.

### 4.1 ELECTRICITY

Under the *Agreement to Implement the National Competition Policy and Related Reforms*, South Australia is obliged to:

- have given full effect to, and continue to observe fully, the Competition Policy Inter-governmental Agreements;
- have fully implemented, and continue to observe fully, all CoAG agreements with regard to electricity, gas, water and road transport.

With respect to electricity, this refers to aspects such as:

- the ability for customers to choose which supplier, including generators, retailers and traders, they will trade with;
- non-discriminatory access to the interconnected transmission and distribution network;
- no discriminatory legislative or regulatory barriers to entry for new participants in generation or retail supply; and
- no discriminatory legislative or regulatory barriers to interstate and/or intrastate trade.

With the introduction of Full Retail Contestability (FRC) on 1 January 2003, South Australia has fully met its NCP obligations in relation to electricity.

#### **South Australian Derogations**

South Australia notes that the NCC indicated, in its 2002 assessment, its concern with jurisdictions seeking any further derogations to the National Electricity Code, notwithstanding the extensive 'public benefit' test applied by the ACCC.

South Australia sought and had approved a derogation during 2002 to allow a transitional period in relation to the provision of metering services to enable implementation of FRC, similar to those of NSW and Victoria, as noted by the Council in the 2002 NCP assessment.

The Electricity Supply Industry Planning Council (ESIPC) was established to provide advice to the Government and Essential Services Commission of South Australia (ESCOSA) on the future development of the South Australian power system.

ESIPC has responsibility for the continued obligations on network services providers in respect of inter-regional network planning. In addition to having a representative on the Inter-Regional Planning Council (IRPC), ESIPC also provides resources and information to facilitate inter-regional planning.

South Australia sought and had approved an amendment to derogation 9.28.3 (System Planning) as a result of NECA's Network and Distributed Resources code change package approved towards the end of 2001. The derogation was required to ensure that the ESIPC had access to all the information required to perform its intended role under the Electricity Act 1996.

The information gathering powers of the ESIPC have been enhanced to ensure that the Council receives all information required to perform its intended planning role for the South Australian jurisdiction, in addition to its role as jurisdictional Responsible Officer under the National Electricity Market Memorandum of Understanding on the Use of Emergency Powers and the regulations under the Electricity Act.

South Australia has no current intention to seek further derogations, although we reserve the right to seek further derogations if it is in the public interest to do so.

## **Regulation**

Consistent with the South Australian Government's commitment to introduce a strong consumer protection framework, the Essential Services Commission Act 2002 (other than section 9) (ESC Act) was proclaimed on Thursday 12 September 2002, thereby establishing the ESCOSA.

The ESCOSA subsumed the existing regulatory responsibilities of the South Australian Independent Industry Regulator.

The functions of ESCOSA are to:

- regulate prices and perform licensing and other functions under relevant industry regulation Acts;
- monitor and enforce compliance with and promote improvement in standards and conditions of service and supply under relevant industry regulation Acts;
- make, monitor the operation of, and review from time to time, codes and rules relating to the conduct or operations of a regulated industry or regulated entities;
- provide and require consumer consultation processes in regulated industries and assist consumers and others with information and other services;
- advise the Minister on any matter referred by the Minister and on matters relating to the economic regulation of regulated industries, including reliability issues and service standards;
- administer the ESC Act;
- to perform functions assigned to the Commission under the ESC Act or any other Act;
- in appropriate cases, to prosecute offences against this Act or a relevant industry regulation Act.

In performing these functions, the ESCOSA must have as its primary objective protection of the long term interests of South Australian consumers with respect to the price, quality and reliability of essential services; and

at the same time, have regard to the need to:

- promote competitive and fair market conduct;
- prevent misuse of monopoly or market power;
- facilitate entry into relevant markets;
- promote economic efficiency;
- ensure consumers benefit from competition and efficiency;
- facilitate maintenance of the financial viability of regulated industries and the incentive for long term investment;
- promote consistency in regulation with other jurisdictions.

The ESC Act ensures the independence of ESCOSA by providing that ESCOSA is not subject to Ministerial direction in the performance of its functions, and the Chairperson must be appointed for a fixed five year term and can only be removed from office under extremely limited circumstances.

The former South Australian Independent Industry Regulator, Mr Lew Owens, has become the first Chair of the ESCOSA.

During 2003, it is proposed that the ESCOSA role will be expanded to include gas and water regulatory activities.

A major element of the new ESCOSA is the introduction of a new primary objective. The ESCOSA must protect the long-term interests of South Australian consumers with respect to the price, quality and reliability of essential services. The long-term interests of consumers are consistent with efficient and financially viable regulated industries that have incentives for long-term investment.

A real strengthening of regulatory powers is achieved by a combination of increased enforcement powers by providing warning notices, injunctions and penalties in the ESCOSA enabling Act and, as appropriate, by increased enforcement powers and penalties in the related industry Act.

The Government has significantly increased the enforcement powers of the ESCOSA including tough new penalties of up to \$1million for a breach of a licence condition, including breaches of industry codes or rules. Similar provisions with respect to warning notices and injunctions have also been included in the Electricity Act.

The ACCC, in accordance with its responsibilities under the National Electricity Code (Code), commenced regulation of the transmission network in South Australia, operated by ElectraNet SA, from 1 January 2003.

On 16 April 2002, ElectraNet SA lodged an application with the ACCC outlining its proposed revenue cap, to be applied to the non-contestable elements of the transmission network for a period of 5 ½ years from 1 January 2003 to 30 June 2008. On 13 December 2002 the ACCC released its Final Determination on the revenue cap to apply to ElectraNet SA, determining a revenue allowance for ElectraNet that increases from \$148.01 million in 2002-03 to \$180.38 million in 2007-08.

The South Australian Government has maintained the Office of the Technical Regulator. The Technical Regulator was established under the *Electricity Act 1996* and the *Gas Act 1997*. It has the principal functions of:

- monitoring and regulation of safety and technical standards in the electricity supply industry;
- monitoring and regulation of safety and technical standards with respect to electrical installations;
- administration of the provisions of the Act relating to the clearance of vegetation from powerlines;
- any other functions assigned to the Technical Regulator under the Act.

The independent Electricity Ombudsman Scheme has continued to operate and is responsible for a free dispute resolution process between the electricity entities and customers. Mr. Nick Hakof was appointed as the ombudsman on 4 January 2000. The ombudsman is independent, and has a broad discretion to deal with complaints. It is a requirement of the licences held by transmission, distribution and retail licensees that they participate in the industry ombudsman scheme, the terms and conditions of which are approved by the ESCOSA.

The ombudsman is able to settle a dispute by directing a participating business to compensate a customer up to \$20,000, although this can be increased to a maximum of \$50,000 with the consent of the parties to the dispute.

The Government has announced that the Electricity Industry Ombudsman will be expanded to encompass dispute resolution in the gas and water industries.

### **Full Retail Contestability**

An immediate focus of the ESCOSA has been on reforms to the electricity industry, reflecting the immediate priority in preparing for electricity FRC, which commenced on 1 January 2003.

The Electricity Pricing Order (EPO), issued on 11 October 1999, will continue to regulate the prices charged by the distribution business until 2005 and provide guidance for future regulatory periods, however, as of 1 January 2003, the EPO no longer regulated retail or transmission prices.

The South Australian Government has made a range of legislative changes to ensure that there are adequate consumer protection measures in place to support FRC.

Through the *Electricity (Miscellaneous) Amendment Act 2002*, which amended the *Electricity Act 1996*, the ESCOSA was given the power to require that retailers justify any price increases and has reserve powers to cap retail prices if the ESCOSA finds that electricity tariffs are excessive and unjustifiable.

Further, the ESCOSA was given the power to require that at least one electricity retailer has an obligation to supply all small customers at justifiable prices. On 12 September 2002 a proclamation was issued declaring that this obligation (termed the “standing offer” in the legislation) will apply to AGL SA. Pursuant to the provisions of the *Electricity Act*, AGL SA is required to publish and justify the price that it intends to charge under the standing offer 90 days before it is intended to come into effect. AGL SA published its standing contract prices on 30 September 2002, announcing an effective 25% increase in electricity costs for small consumers

The standing offers were referred to ESCOSA on 30 September 2002 for a review of the justification for the proposed price increases. The Price Inquiry Final Report by the ESCOSA indicates that AGL's price structure is justified by the prudent costs incurred by AGL in supplying standing contracts to small customers and that South Australia's higher prices are primarily driven by higher network charges; noting some minor changes made by ESCOSA.

However, it should be noted that the AGL standing offer represents a "price ceiling" and competitive offers are expected to be lower. The Government has been anxious to ensure that there is as much competition in the retail sector as possible. To this end, the Government has welcomed the recent applications by Energy Australia and Australian Energy Services (AES) for retail licences to operate in South Australia. Energy Australia and AES now join Origin Energy, TXU, and AGL SA as retailers who have indicated that they will be offering market offers to small consumers. It is understood that Origin Energy and TXU are intending to offer market contracts during the first part of 2003. Origin Energy published their default contract prices on 20 December 2002 which enables it to offer market contracts to small customers once the period required under the *Electricity Act* has been observed.

ETSA Utilities has developed a number of interim arrangements to be utilised for the facilitation of customer transfers until all of its computer based systems are operational later in the year.

The commencement of full retail competition impacts upon a number of complex computer systems required for processing customer transfers, for meter reading and for dispatching information to NEMMCO and other retailers.

ETSA Utilities is currently utilising its interim systems, comprising of both automated and manual processes, until its automated systems are fully operational. These interim systems understandably have more finite capabilities than the fully automated systems but still allow for an orderly transfer process. It is understood that second tier retailers have adjusted their marketing efforts accordingly.

The Government has continued to work closely with other NEM jurisdictions in pursuing energy reforms through the Ministerial Council on Energy and the National Electricity Market Ministers' Forum

The Government has committed to continuing to address issues arising from the Energy Markets Review such as the role and form of transmission and governance arrangements.

The South Australian Government made submissions to both the Issues Paper of 15 March 2002 and the Draft Report of the Energy Markets Review of 15 November 2002. The Government will continue working with other jurisdictions to implement reforms that are in the public interest.

## **4.2 GAS**

CoAG endorsed the Natural Gas Pipelines Access Agreement (the Agreement) in November 1997. The Agreement establishes the basis for a National Third Party Access Code (the Code) for Natural Gas Pipeline systems, both transmission and distribution. The Agreement stipulated that the Code was to be given legal effect by a uniform Gas Pipelines Access Law, with South Australia as the lead legislator.

In this capacity, South Australia enacted The *Gas Pipelines Access (South Australia) Act 1997* which came into operation on 30 July 1998. The Gas Pipelines Access Law and the Code are set out in schedules to that Act.

The Act came into operation after the Commonwealth legislation received the Governor-General's assent on 30 July 1998. The Commonwealth legislation is integral to the operation of the National Access Regime. South Australia as the lead legislator had its gas pipelines access regime certified by the Commonwealth Minister as "effective" on 8 December 1998. This prohibits the use of the "declaration" pathway within the *Trade Practices Act 1974* to obtain pipeline access. Other jurisdictions are following South Australia's lead.

The High Court held, in *re Wakim* on 17 June 1999, that the Constitution prevented State legislation conferring jurisdiction on the Federal Court, even when Commonwealth legislation has purportedly consented to such conferral of jurisdiction. This decision has resulted in the access scheme described above being invalid, requiring an amendment to be made to the Act. All Parties to the Agreement have put forward changes to their enabling legislation, which have been agreed by all Parties. Changes required to be made by South Australia in its capacity as lead legislator were agreed to by all the parties, and came into operation on 28 January 2001. Owing to this necessary amendment, the process of certification for other States and Territories was delayed.

In July 1997, the *Gas Act 1997* came into effect, establishing a new regulatory regime for the gas industry. The Act provides for separate licences to operate pipelines and to undertake gas retailing, thereby ensuring effective separation of these activities. In July 1997, the pipeline networks previously owned by Boral in South Australia (eg Adelaide, Mt Gambier, and Berri) were sold to Envestra Limited, an energy infrastructure company. This sale meant that the former pipeline and retail parts of Boral within South Australia had been legally separated. Neither Epic Energy nor Envestra have been issued with a licence to enable them to retail or sell natural gas. Origin Energy (formerly Boral), the main natural gas retailer in South Australia, along with other entities including Terra Gas Trader have been issued with licences to retail natural gas, but not for the operation of gas pipelines.

It is the South Australian government's view that such structural separation, along with the provisions of the South Australian Gas Access Regime ensures the continued separation of the natural monopoly element of the gas industry, namely the pipelines from the retailing element.

The structural separation of the competitive retailing aspect of the gas industry from the natural monopoly pipeline element is seen as consistent with National Competition Policy. The 1997 CoAG Natural Gas Pipelines Access Agreement says that the access regime applies to both transmission and distribution pipelines, rather than just transmission pipelines as noted in the February 1994 CoAG communiqué. It would appear inconsistent with the seamless approach to pipeline access, that ownership of transmission pipelines should preclude ownership of distribution pipelines. From this it is concluded that clause 10 of the February 1994 agreement is satisfied as long as the above structural separation is maintained.

The *Gas Pipelines Access (South Australia) Act 1997* establishes the South Australian Independent Access and Pricing Regulator (SAIPAR) for gas distribution pipelines in South Australia. SAIPAR released a final decision on access to South Australia's distribution network on 21 December 2001.

As discussed in 4.1 above, the Government established the ESCOSA in September 2002. ESCOSA will be the economic and commercial regulator for the gas industry once the relevant changes are made to the *Gas Act 1997*. Similarly it will take over the Local Regulator role currently carried out by SAIPAR.

Pursuant to the national access regime, the ACCC is the national regulator for transmission pipelines. The ACCC established the Moomba to Adelaide pipeline access arrangement on 15 August 2002. Epic Energy has appealed this decision to Australian Competition Tribunal, with a hearing in May 2003. Prior to the Tribunal's decision, the current access regime remains in place.

### Retail Contestability

Pursuant to the 1997 CoAG Natural Gas Pipelines Access Agreement, the legal barriers to contestability of gas retailers have been removed according to the following timetable.

Date	April 1998	1/7/1999	1/7/2000	1/7/2001
Annual TJ	>100	10-100	< 10 (non domestic)	All customers

All natural gas consumers have been legally contestable since 1 July 2001. It is the South Australian Government's view that removing legal impediments to retail competition in gas is sufficient to satisfy the 1997 inter-governmental agreement. However, the South Australian Government is working to overcome the impediments to full retail competition.

Impediments to full retail competition to-date include:

- **Access to infrastructure.** This was largely addressed by the 15 August 2002 ACCC approval of the transmission pipeline access agreement and the December 2001 final decision of SAIPAR on the distribution system access arrangements.
- **Gas supply.** A second pipeline being built by SEAGas will provide additional gas. It is anticipated that construction will be completed by late 2003.
- **Retail Market Administration.** The lack of information systems to allow for the orderly management of customer transfer between retailers has prevented competition in the less than 10TJ customer class. South Australian gas industry participants have established with Western Australian gas industry participants the Retail Energy Market Company (REMCo). It is planned that REMCo will be the retail market administrator in South Australia and Western Australia and will establish the required systems.

During 2003, the South Australian Government will be amending the *Gas Act 1997* to address the establishment of a Retail Market Administrator, facilitate FRC systems and establish consumer protection arrangements suitable for a multiple retailer environment.

The South Australian Government expects the Retail Market Administration systems to be established during 2003 with "go live" gas full retail competition in 2004.

### 4.3 WATER

With regard to water, CoAG agreed to a Strategic Framework for the reform of the Australian Water Industry. The *Agreement to Implement the National Competition Policy and Related Reforms* deals with issues including:

- natural resource management
- providing water for the environment
- pricing (including the treatment of cross subsidies)
- more rigorous approaches to future investment
- trading in water entitlements
- institutional reform
- improved public consultation

#### **Water Reform in South Australia**

South Australia has made significant progress in implementing the CoAG strategic water reform framework. Importantly the legislative, policy, and institutional reforms have seen the continued achievement of many on-ground outcomes through 2002.

The reforms are resulting in improved decision making with the community and better balancing of the competing demands on water resources. Catchment water management boards are now playing a very important role in community education and involvement, as well as linking organizations involved with managing land and water across the catchment, through their planning processes.

The formation of the Department of Water, Land and Biodiversity Conservation has brought together the many aspects of Natural Resource Management and enabled the integration of the many aspects of natural resource management, including water resource issues. The Department continues its key focus on water resource management, through raising the profile of water, and providing improved coordination across government through its lead role.

The South Australian State Government is leading strategic planning for future water resources management for Adelaide through the “Waterproofing Adelaide Strategy”. A principal aim is to continue to foster and initiate innovative water source and supply strategies and ensure the strategic use of existing water infrastructure in order to enhance our water supplies.

A report on the issues raised by the National Competition Council follows. It should be noted that many of these reforms have been completed in previous assessments, as South Australia was already undertaking significant reforms in the water arena when the CoAG water reforms were agreed. South Australia notes that there has been an increasing expectation over time as to what is deemed to be a successful implementation of the reforms. South Australia is concerned that the National Competition Council may now be going beyond its jurisdiction in attempting to assess, and by penalties correct, the outcomes of the reform process.

## Irrigation scheme management

The Council will look at the progress in devolution of local management in the Lower Murray Reclaimed Irrigation Areas.

The Lower Murray Reclaimed Irrigation Areas (LMRIA) require improved management and rehabilitation in order to reduce their environmental impact on the River Murray and improve farm productivity. A major 'Options Study' has been undertaken to assess the environmental sustainability and economic viability of flood-irrigated dairying in these areas. It provides an evaluation of the benefits and costs of alternative management options for the LMRIA (eg abandonment, rehabilitation, conversion to other use, etc). The Study has found the best outcome to be, and the State Government has approved, rehabilitation of the most viable parts of the irrigation areas after a period of restructuring.

The Government has approved a public funding contribution of \$22m towards trials, restructuring, rehabilitation works, etc. A significant private contribution from irrigators will also be required. Restructuring assistance will be offered shortly, and rehabilitation is expected to commence in 2003/04. Funding is being sourced from the National Action Plan for Salinity and Water Quality.

## Full Cost Recovery - Urban

SA Water has paid high dividends in the past, often in excess of 100 per cent of after-tax profits. The Council is looking for equivalent corporations law arrangements to be applied for the distribution of profits South Australia, while it may have factored externalities into the costs of water and wastewater services, has no mechanism for transparently reporting these externalities in setting prices. South Australia should provide information on its mechanism for transparently accounting and reporting externalities in setting prices.

The NCC 2002 Assessment stated the NCC had concerns about South Australia's dividend policy as follows:

- Basing the policy on EBITDA may result in dividends in excess of 100 per cent of after tax profits being paid. This could have unintended impacts on the capital structure and financial resources of the business.
- The policy does not appear to be designed to address any objectives for SA Water's capital structure.
- South Australia currently does not have independent service quality regulation to protect water consumers from the potentially adverse consequences of a run down in financial viability, though this may change when the proposed Essential Services Commission comes to regulate standards.
- There is no independent price regulation in South Australia to ensure future capital expenditure needs are taken into account in price determination.

South Australia's approach runs the risk of running down assets, reducing financial viability and reducing service standards below minimum requirements.

In relation to SA Water dividends, information has previously been provided demonstrating that SA Water is, and is projected to remain, in a sound financial condition.

SA Water does not take capital expenditure decisions in the same way as a Corporations Law company, in which there may be implications for service levels and quality standards from levels of retained earnings. All SA Water capital expenditures are approved by the responsible Minister and Cabinet. Capital expenditures, setting of charges, disposition of cash (and thus borrowing levels), etc are all subject to normal Ministerial/Cabinet controls and approval processes to ensure community needs are properly specified and prioritised.

Therefore the level of dividends has no implications for the level of capital expenditure. South Australia's approach does not run the risk of running down assets, reducing financial viability and reducing service standards below minimum requirements. Whatever view is formed about SA Water's asset base or level of net assets being too large or too small, growing too fast or too slow, it could not be said that outcomes are unintended.

In our view, there are a number of elements of form over substance in respect of NCP requirements for Government business enterprises. However, it is not at all apparent that Corporations Law provisions are the appropriate basis for disposition of liquid assets in government owned entities. Corporations Law provisions are designed to protect creditors of companies rather than consumers and should not be the basis of serious policy making in this regard.

The NCP obligation could readily be sidestepped by depicting some portion of dividends as a capital return. This would provide a mechanism designed to access asset revaluation income and to prevent unintended accumulations of cash or unintended repayment of debt by SA Water.

In relation to externalities, the mechanism for transparently accounting and reporting externalities in setting prices are Ministerial statements, Budget papers, the SA Water Annual Report, etc.

### **Consumption Based Pricing – Urban**

South Australia does not have a transparent price setting mechanism, or an independent process for reviewing prices. In the absence of an independent process for reviewing prices, the Council will:

- continue to assess urban water, wastewater and trade waste charges consistent with the timetable for commercial pricing reform outlined in the supplementary NCP assessment of September 2000; and
- pay particular attention to those prices that contain components based on property values due to the risk that this introduces non-transparent cross-subsidies.

SA notes the Council's intentions. The timetable for commercial water pricing and trade waste charging reform referred to in the supplementary assessment continues to be adhered to as described in the following sections.

#### ***Water***

Traditionally charges for urban water supply were fixed, based on property value with associated free water allowances, above which excess water use charges applied. However, a focus on reducing the free water allowances through the 1980s to increase the usage component of total water charges and then key reforms through the early 1990s culminated in the introduction of consumption based pricing for all but commercial customers from 1 July 1995.

In November 2001, legislation was passed to remove the free water allowances that still applied to commercial customers. The legislation provided for a 5 year transition to manage the impact of the changes on individual customers.

From 1 July 2002 commercial customers commenced paying charges for all water they consumed. Under the transition arrangements they received a substantial discount, 80%, on a

quantity of water equivalent to what they received as a free water allowance. This discount will be phased out over the next four years with full water use charges to apply to all of their consumption from 2006/07 onwards.

In 2002/03 all other customers incur water use charges as follows:

0-125kL:	40c/kL
Above 125kL:	97c/kL

These prices also form the basis for commercial water use charges. However, given the discount that applies to the water previously supplied as a water allowance, the water use charges that apply to commercial customers for 2002/03 are:

0-125kL:	8c/kL (80% discount on 40c/kL)
Above 125kL up to allowance:	19.4c/kL (80% discount on 97c/kL)
Above allowance:	97c/kL

Commercial water prices for 2003/04 have already been determined as:

0-125kL:	16.4c/kL (60% discount on 42c/kL)
Above 125kL up to allowance:	40c/kL (60% discount on \$1.00c/kL)
Above allowance:	\$1.00/kL

This reform, in isolation, is being introduced on a revenue neutral basis. As water use revenues increase, revenues from access charges are being reduced by offsetting reductions in the rate in the dollar used to determine the property based access charge. In 2001/02 the commercial access charge was determined as 0.206% of improved property value subject to a minimum of \$138. In 2002/03 the rate in the dollar applied to property value had declined to 0.188% although the minimum had risen to \$143 reflecting the increase in basic charges applied to other non-commercial customers. The rate in the dollar applied to property value will continue to decline over the transition period to offset the additional revenues that accrue as the discount on usage previously provided as part of the free water allowance is phased out.

### ***Sewerage Charges***

Consumption based charges generally do not apply in South Australia for sewerage, nor are they considered appropriate. The quantity of sewage discharges is a relatively minor driver of costs of providing and operating sewerage systems and measurement of discharge, particularly the pollution loading which is more significant to costs than discharge quantity, is not practical for the vast majority of customers.

Despite these reservations, consumption based charges are justifiable for a small number of large dischargers to the sewerage system. Discharges of trade (non-domestic) waste account for around 40% of the pollution load on treatment plants and a small group of less than 50 customers provide 90% of this load.

Whilst charges based on discharge quantity have been applied to a small number of these customers (under twenty) previously, generally for the largest dischargers, a more comprehensive system of trade waste charges was introduced from July 2002. These charges apply to the Category 3 Trade Waste Dischargers defined as having annual discharges that exceed any of the following:

Flow	20 ML pa,
Biochemical Oxygen Demand (BOD)	20 tonnes pa or
Suspended Solids (SS)	20 tonnes pa.

The charges have been applied to 43 trade waste dischargers with another two exempted in the interim on the basis of pre-existing arrangements with the Government. Community service obligation payments are made to SA Water in recognition of these exemptions.

The basic rate of charges that are applied has been determined to reflect avoidable costs imposed by trade waste dischargers. A 50% surcharge on this rate does apply for high concentration flows, applying to the component of the pollutant load that represents the high concentration portion.

Property rates continue to apply to the dischargers but a 50% discount on trade waste charges is provided to a maximum value of one third of the property rate.

For existing dischargers facing increases in the trade waste charge compared to what they paid previously, discounts are available to manage the transition to full application of the new charges. This discount is equal to 80% in 2002/03, 60% in 03/04, 40% in 04/05 and 20% in 05/06. Full charges will apply in 06/07.

The full charges in 2002/03, that is before application of the discount should it be relevant, are:

<i>Flow (excluding "domestic" wastewater)</i>	3.4 cents per kL
<i>Biochemical Oxygen Demand</i>	
For loading portion up to 1000 mg/L	17.8 cents per kg
For loading portion above 1000 mg/L	27 cents per kg
<i>Suspended Solids</i>	
For loading portion up to 500 mg/L	16.2 cents per kg
For loading portion above 500 mg/L	24 cents per kg
<i>Total Dissolved Solids</i>	
For loading above a threshold	\$1.28 per kg

The charges have been incorporated within permits that have been negotiated with individual dischargers. The permits have a 3 year term and therefore do not encompass the full 5 year implementation period. Full implementation of the charges will thus take effect during the course of subsequent permits for the next three year term. The trade waste charges are indexed for the second and third years of the current permit and will be updated to reflect actual cost movements as part of the determination of the subsequent permits.

Full implementation of the charges for all Category 3 customers, based on predicted discharge levels, would raise revenues of \$3.6m in 2002/03. However, given that most dischargers receive discounts as part of the phase-in arrangements and two dischargers have exemptions from the new charges for the term of their agreements, trade waste revenue collections from the new trade waste charges in 2002/03 are expected to be limited to \$0.7m. This will of course rise significantly as the discounts are phased out in subsequent years, bringing an appropriate level of consumption based pricing given cost drivers relevant to sewerage operation in the State.

### ***Property Based Charge Components***

A paper titled 'Property Based Charges and Cross Subsidy' provided with a letter to Graham Samuel on 14 June 2000 discussed this issue and demonstrated that there can be no presumption that recovery of fixed costs among customers according to property values would give rise to cross subsidies. Price differentiation is common in circumstances where secondary market trading is non-existent or limited. Price differentiation may involve the capture of consumer surplus but does not imply that cross subsidies are present.

It is likely that differential fixed cost recovery based on property values corresponds more to willingness to pay than would a uniform basis of fixed cost recovery.

The property based component of charges can be distinguished from those volumetric and load components of charges which have implications for consumption and investment decisions. These components are indeed applied uniformly across customer classes

### **Cross Subsidies**

South Australia is yet to demonstrate that it has met the commitment to undertake an open and transparent analysis, and identification of, cross-subsidisation between classes of customer in water and or wastewater services. The establishment of more open and transparent pricing setting arrangements could address remaining questions regarding cross-subsidisation.

It is the State's contention that no significant cross-subsidies exist within urban water and sewerage pricing. The only exception to this is in relation to major trade waste dischargers, an issue that is being addressed through the introduction of trade waste charges for major dischargers as detailed earlier.

Cross-subsidies only arise where prices are set outside of the "Baumol Band". That is, cross-subsidies only arise if prices are set below incremental costs imposed by the customer or above the cost to service the customer in isolation, the stand-alone cost.

Water supply is a capital intensive industry and the ongoing incremental costs imposed by any individual customers tend to be substantially less than the average costs incurred. Under the urban water pricing arrangements that apply across the State, no customer pays total annual charges less than 97c per kilolitre of water supplied (in 2002/03). This is above the incremental costs. At the same time, given economies of scale for the industry, it is most unlikely that the charges imposed will exceed the stand-alone costs of providing the same supply to any one customer in isolation.

In respect of new assets, a rigorous capital justification process is in place to ensure that new investment achieves the weighted average cost of capital. Where this cannot be achieved, projects do not proceed unless the Government makes an explicit decision based on its broader perspective and community service obligation payments are approved to make up the shortfall. The Government has established a Community Service Obligation (CSO) Policy to facilitate this. CSOs are funded through explicit purchase agreements between purchasing Ministers and the service provider, SA Water.

The issue of the community service obligation payment made in respect of country operations to support State wide pricing is often raised in the context of discussion of cross-subsidies. Country customers fully meet the incremental costs they impose. The community service obligation payment is a payment made by Government, not other customers, to ensure SA

Water a commercial return in respect of the substantial asset base that is already in place. These assets are effectively sunk assets and these capital costs are not incremental in nature.

With respect to sewerage pricing, the incremental costs imposed by individual customers tend to be lower as a proportion of total annual costs than for water supply. A high proportion of sewerage costs are fixed from the outset. Consequently only a relatively small number of large trade waste dischargers impose annual incremental costs that are likely to exceed the annual charges imposed. The trade waste charging framework, when fully implemented, will address this. Otherwise the arguments set out above in respect to water supply apply equally to sewerage. Consequently the only significant cross-subsidisation within sewerage pricing arises in respect of the large trade waste dischargers for whom additional charges are currently being introduced to remedy this situation.

### **Institutional separation**

6(c) To the principle that, as far as possible, the roles of water resource management, standard setting and regulatory enforcement and service provision be separated institutionally.

South Australia lacks transparency in current price setting mechanisms. The Council will monitor and review any changes in pricing arrangements aimed at addressing transparency, and any other price issues that may emerge.

South Australia reaffirms its position that there is adequate institutional separation through Cabinet setting water prices and SA Water being responsible for service delivery. The performance of SA Water in respect of water quality and other service standards is subject to scrutiny/regulation in a range of ways including by relevant Government departments and public agencies.

### **Water allocations and property rights**

The NCC seeks an outline of the progress in converting existing allocations to the new property rights systems; and a report on the establishment of registry systems.

Reforms were completed in 1997. Details have been provided on the above in the second and third tranche assessments.

### **Provisions for the environment**

South Australia has completed all water allocation plans associated with its original implementation program. South Australia is now in the process of prescribing the Marne River and other eastern Mount Lofty catchments as stressed systems, which will result in the development of water allocation plans for these systems. In the 2002 NCP assessment, the Council considered any new systems that are prescribed should be assessed as additions to South Australia's implementation program. Accordingly, South Australia should report on:

- water allocation plans for newly prescribed systems as these are completed.

The Council will assess these plans against the ARMCANZ environmental principles.

Two additional areas have been prescribed. The plan for the Tintinara Coonapyn Prescribed Wells Area was adopted on 22 January 2003. The South East Catchment Water Management Board is still preparing the plan for the Morambro Creek Prescribed Watercourse and Prescribed Surface Water Area in the Upper South East, which were prescribed in April 2001.

The prescription process for the Great Artesian Basin, Marne River and Saunders Creek will be completed by the end of March 2003.

It is also proposed that prescription will be undertaken for the water resources in the Baroota area near Port Germein; Greenock Creek adjacent to the Barossa Valley; and Kangaroo Flat on the Northern Adelaide Plains.

Water allocation plans adopted or being prepared are as follows:

<b>Water Allocation Plan</b>	<b>Status of Plan</b>
<b>McLaren Vale</b>	Adopted on 6 November 2000
<b>Mallee</b>	Adopted on 21 December 2000
<b>Barossa</b>	Adopted on 22 December 2000
<b>Northern Adelaide Plains</b>	Adopted on 22 December 2000
<b>Southern Basins</b>	Adopted on 31 December 2000
<b>Angas Bremer</b>	Adopted on 2 January 2001
<b>Noora</b>	Adopted on 2 January 2001
<b>Musgrave</b>	Adopted on 2 January 2001
<b>Clare</b>	Adopted on 4 February 2001
<b>Padthaway</b>	Adopted on 29 June 2001
<b>Comaum-Caroline</b>	Adopted on 29 June 2001
<b>Tatiara</b>	Adopted on 29 June 2001
<b>Lacepede Kongorong</b>	Adopted on 29 June 2001
<b>Naracoorte Ranges</b>	Adopted on 29 June 2001
<b>River Murray</b>	Adopted on 1 July 2002
<b>Tintinara Coonalpyn</b>	Adopted 22 January 2003
<b>Morambro Creek</b>	Plan under preparation

In addition to the current water allocation plans, South Australia has been undertaking a Stressed Resources Review (identified in previous annual reports) to develop a process to identify additional water resources requiring more intensive management.

The Stressed Resources Review has made significant progress since the last assessment report. This includes:

- A working definition of a stressed water resource for South Australia has been developed.
- The groundwater resource units in South Australia to be covered by the Stressed Resources methodology have been specified based on the classification in the National Land and Water Audit and the State Water Plan.
- A draft set of 11 criteria to identify stress in groundwater resources in South Australia has been developed (based on the Queensland model “Risk Assessment of Queensland Aquifers:”). The aim is to rank, weight and prioritise stress levels (into high, medium or low) on individual aquifers for informed management decisions.
- An approach based on the geomorphology (or physical characteristics) of surface water systems has been identified to categorise these systems across the landscape in South Australia. This technique is similar to the “River Styles ®” approach adopted in the eastern States. A range of hydrological and ecological indicators based on best available information will then be queried to evaluate and establish the stress level on the resource. The criteria developed will provide options for the appropriate management response. The assessment scale will allow management options to be determined at a sub-catchment scale up to a stream reach length.
- Appropriate case studies are being identified to trial the method that will identify the resource condition levels, the trigger levels and provide options for the most appropriate management response.
- The Stressed Resources methodology and its indicators will identify a range of monitoring information that should be collected. This will be a key input into the complementary review of the State Water monitoring programs and requirements.

### **Intrastate trading**

For the 2003 NCP assessment, the Council is looking for States and Territories to provide information in a form that enables comparison of current arrangements with the environment at the time of the third tranche (2001) assessment. Governments should provide information on:

- current trading rules and zones;
- legislative and institutional arrangements;
- effective trade in areas of demand and measures in place to increase the depth of water trading markets. This should include the value, volume, location and nature (for example, permanent versus temporary trades, transfers from lower to higher value uses) of intrastate trades;
- the net public benefit, where restrictions remain (including restrictions on trade out of irrigation areas);
- the mechanisms in place for water trading for avoiding adverse environmental impacts on river and groundwater health; and
- the availability of market information including what and how much water can be traded, the availability of pricing information, where it can be traded to, and how it can be traded.

In South Australia there are limits on the volume of water that can be traded out of some irrigation districts in any given year. The Central Irrigation Trust has placed a 2 per cent limit on the proportion of irrigation entitlement that can be sold out of its districts.

- South Australia should report on the limits on the volume of water that may be traded out of irrigation schemes, and the use of reduction factors on water transfers;

There have been no changes in the trading rules and zones, or the legislative and institutional arrangements since the last assessment. Of note are the reductions in the volume of allocations when water is traded in the McLaren Vale and Northern Adelaide Plains Prescribed Wells Areas.

Water Allocation Plans continue to make provisions for environmental water requirements as a primary step in the allocation of water in South Australia.

Since the last assessment, the Department of Water Land and Biodiversity Conservation has launched a web site to promote water trading and provide pricing information.

The aim of the web site is to facilitate water trading activity in all areas of South Australia through the provision of up-to-date water trading market information. Because this data is updated daily, it provides potential traders with the most recent and comprehensive market information possible. In addition, a summary of previous years' trade history is also included.

The site provides a potential mechanism for buyers to contact sellers and vice versa. The Water Trading Noticeboard provides a site where the community can place advertisements on the Internet through lists of "Wanted to Buy" and "For Sale" advertisements detailing volumes, prices and contact details of the person placing the advertisement. Potential water traders can then get in touch with the relevant contact and negotiate the trade in the normal manner. The negotiations of the terms of trade are a private arrangement between the trading parties.

There are no regulatory or legislative limits placed on Irrigation Trusts in South Australia as to the amount of water they are allowed to trade in or out of their irrigation districts.

Irrigation trusts expanding in area, or new ones set up since the introduction of the Water Resources Act 1997 have purchased or leased all their water on the trading market. This demonstrates the effective functioning of the trading market in South Australia.

The specific details of water licencing legislation in South Australia may explain the apparent confusion in trading arrangements for irrigation trusts. In South Australia, the Water Resources Act (1997) licenses the right to take water. The regulatory framework only controls the person or body in the act of taking water from the resource. When the Water Resources Act was implemented, irrigation trusts were recognised as the legal entities taking water from the resource, and hence required to be licenced. An irrigation trust therefore holds the water property right and as a result is the entity that is able to trade water. The arrangements a trust sets up for the 'ownership/shares' and distribution of water within the trust is a decision taken wholly by the members of the trust.

There is a wide variation between irrigation trusts in their internal arrangements. This is a result of the different types of irrigation infrastructure. Most trusts supply water to the farm gate, whereas others operate the irrigation system across the whole farm. Some trusts are lowland and others highland. There are significant variations in the water supply pressure, with higher pressure giving greater flexibility in irrigation methods. This means that different districts have very different infrastructure costs, and hence water prices for irrigators.

The variation between trusts makes it very difficult to develop equitable controls on trading limits or exit fees. Central Irrigation Trust (CIT) has indicated that it would consider implementing exit fees for its districts if it was forced to reduce its trade ceilings for the districts. CIT has estimated that exit fees could be up to \$1,500/ML for some districts due to the high cost of infrastructure. This would effectively prohibit any trade out of the district given the market value for water is less than \$1,000/ML.

None of the 24 other trusts on the River Murray in South Australia have indicated that they have any ceilings or restrictions on trade in water entitlements. It may be counterproductive to introduce exit fees instead of trade ceilings when there is only one irrigation trust with such restrictions.

Each of the trusts has the ability to trade on a temporary and permanent basis. Only CIT has developed a self-imposed ceiling of 2% of the total volume of allocation for permanent trade.

### **Integrated Catchment Management**

<p>Specific assessment issues for South Australia</p> <ul style="list-style-type: none"> <li>• transfer criteria in water allocation plans for prescribed resources; and</li> <li>• penalties for non-compliance with licence conditions (in 2001, the Council found penalties were relatively low compared to other States and the market price for water).</li> </ul> <p>South Australia will need to show that it has achieved satisfactory progress in implementing its eight catchment water management plans (against its timetable for implementation established in 2001). South Australia should report on:</p> <ul style="list-style-type: none"> <li>• progress in implementing the remaining four catchment water management plans</li> </ul>
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The rules for transfers contained in the Water Allocation Plans. Copies of these plans have been provided previously.

The key task for catchment water management boards is to prepare and implement catchment water management plans. There are now 8 catchment water management boards across the State. The status of the various catchment water management plans is as follows:

<b>Catchment Board</b>	<b>Comment</b>
<b>Torrens</b>	Adopted May 2002
<b>Patawalonga</b>	Adopted May 2002
<b>River Murray</b>	Adoption expected March 2003
<b>Northern Adelaide and Barossa</b>	Adopted March 2001
<b>Onkaparinga</b>	Adopted December 2000
<b>South East</b>	Adoption expected April 2003.
<b>Arid Areas</b>	Plan initiated, adoption not expected until 2004
<b>Eyre Peninsula</b>	Plan initiated, adoption not expected until 2004

In addition, the South Australian Water Resources Council has undertaken a review of the implementation of each of the 8 Catchment Water Management Plans. The review

demonstrated that the boards are achieving, or working towards achieving the objectives set catchment water management plans.

As identified in the 2002 Annual Report from South Australia, the penalty charges for overuse of allocations were increased substantially. The overuse charges for 2003 were increased in accordance with CPI, and are shown below.

### Penalty Rates for 2002-2003

Prescribed Resource	Board in which prescribed area is	Penalty water rates for 2002/2003
McLaren Vale Prescribed Wells Area	Onkaparinga	\$3.15 /kL for 10% \$10.40 /kL thereafter
River Murray Prescribed Water Course	River Murray	16c /kL for 10% 31c /kL thereafter
Mallee Prescribed Wells Area	River Murray	16c /kL for 10% 31c /kL thereafter
Northern Adelaide Plains Prescribed Wells Area	Northern Adelaide Barossa	31c /kL for 10% \$1.05 /kL subsequent
Southern Basins Prescribed Wells Area – Eyre Peninsula	Eyre	16c /kL for 10% \$1.05 /kL thereafter
Musgrave Basins Prescribed Wells Area – Eyre Peninsula	Eyre	16c /kL for 10% \$1.05 /kL thereafter
Clare Prescribed Water Resources Area	Nil	-
Barossa Prescribed Water Resources Area	Northern Adelaide Barossa	\$1.05 /kL for 10% \$1.60 /kL subsequent
Angas Bremer Prescribed Wells Area	River Murray	16c /kL for 10% 31c /kL thereafter
South East Prescribed Wells Areas: - Comaum Caroline - Lacepede Kongorong - Padthaway - Naracoorte Ranges - Tatiara	South East	2c /kL for 10% \$1.05 /kL thereafter

### Integrated Natural Resource Management

Progress on the development of new state integrated catchment management arrangements (as outlined in the 2002 NCP assessment) based on;

- the development of water catchment areas and the continuation of skill-based boards; and
- integration of existing plans for water management and allocation, soil conservation and management, animal and plant control, native vegetation, re-vegetation and biodiversity and salinity management.

The Natural Resource Management Reforms in South Australia will incorporate water management, soil conservation and animal and plant control in the first stage. The state and regional Natural Resource plans will take into account other areas of natural resource management.

A draft consultation bill, the Natural Resource Management Bill, will be released in April 2003. The Native Vegetation Act will not be incorporated into the Bill in the short term.

Amalgamation of plans addressing water management and allocation, soil conservation and management, animal and plant control, native vegetation, re-vegetation and biodiversity and salinity management will not be addressed until the new system is put into place.

Bilateral negotiations are continuing with between the Commonwealth and State government over National Heritage Trust 2 and National Action Plan for Salinity and Water Quality funding. These negotiations will affect the operation and makeup of the Regional Natural Resource Management Boards and the Natural Resources Management Council. The new Council and Boards will be skills based in membership. The Commonwealth is satisfied with the general direction of NRM reform in South Australia.

Representation of the Commonwealth within the new Natural Resource Management reform system in South Australia remains an area of negotiation.

### **Rural pricing and full cost recovery**

States have different policies on passing on River Murray Water costs to water users.

- The Murray-Darling Basin States are asked to outline their policy approach on this issue.
- South Australia does not pass on costs to water users. The Council seeks advice from South Australia on how it intends to disclose on a per megalitre basis the level of subsidy and/or community service obligation provided to water businesses that receive bulk water services from River Murray Water.

South Australia is letting a consultancy to investigate cost recovery levels for River Murray users in SA, NSW and Victoria. This study will be completed in September 2003. The study will also:

- identify the beneficiaries of each expenditure component,
- provide a comparison of each State's water charging policies
- comment on the extent to which externalities are accounted for, and
- discuss the effect of different policy, regulatory or administrative components.

### **Water legislation review and reform obligations arising from the Competition Principles Agreement**

South Australia has completed a number of water legislation reviews but is still to act on the recommendations to amend legislation.

The progress in implementing these reviews has been dealt with separately in the Legislative Review section and Table of the South Australian report.

### **National Water Quality Management Strategy**

In implementing the policy. South Australia should report on implementation of the environmental protection (water quality) policy in accordance with the South Australian timetable.

The Environment Protection (Water Quality) Policy has been completed and is to be endorsed by the Government in mid to late March 2003. A copy will be forwarded at this time. It comprises a stand-alone piece of legislation, including clauses and schedules covering each of

the listed aspects (water quality, drinking water and water quality reporting and monitoring etc).

The Environment Protection Agency is currently developing information sheets and brochures to help people understand and improve their practices to meet the requirements of the policy.

### **New rural schemes**

- South Australia is considering a rehabilitation project for the Lower Murray Reclaimed Irrigation Area. A decision to proceed on this project is expected to occur by the end of 2002.
- The Clare Valley project is a private sector venture (with no financial contribution from the Government). Therefore, if the project proceeds, the Council will assess the ecological sustainability aspects of the project only. A final decision whether to proceed is expected late 2002.

A summary of the progress of the rehabilitation project for the Lower Murray Reclaimed Irrigation Area is provided above under the Irrigation Scheme Management section.

SA Water has undertaken an assessment of the environmental impacts of the Clare Valley Water Supply Scheme, which is available on its web site at [www.sawater.gov.au](http://www.sawater.gov.au).

## **4.4 ROAD TRANSPORT**

The set of national road transport reforms considered under National Competition Policy originate from the Heavy Vehicles Agreement 1991 and Light Vehicles Agreement 1992. The reform programs envisaged under these agreements were subsequently included in the third of the three agreements underpinning NCP, the *Agreement to Implement the National Competition Policy and Related Reforms*.

The NCC reported in 2002 assessment of jurisdictions' progress in 2001, published in December 2002, that it was satisfied that, as at 30 June 2002, South Australia had completed all NCP road transport reform obligations.

## 5. BIBLIOGRAPHY

The following three Intergovernmental Agreements were endorsed by Heads of Government on 11 April 1995:

- *Conduct Code Agreement*
- *Competition Principles Agreement*
- *Agreement to Implement the National Competition Policy and Related Reforms.*

The following documents summarise the NCC's assessments for all jurisdictions:

- *Assessment of State and Territory Progress with Implementing National Competition Policy and Related Reforms - June 1997*
- *National Competition Policy and Related Reforms: Supplementary Assessment of First Tranche Progress - June 1998*
- *Second Tranche Assessment of Governments' Progress with Implementing National Competition Policy and Related Reforms - June 1999*
- *Supplementary Second Tranche Assessment Report - December 1999*
- *Assessment of Governments' Progress in Implementing National Competition Policy and Related Reforms, (Third Tranche Assessment), June 2001*
- *Assessment of Governments' Progress in Implementing National Competition Policy and Related Reforms - Water Reforms, June 2001*
- *Assessment of Governments' Progress in Implementing National Competition Policy and Related Reforms – Volume 1: Assessment, August 2002*
- *Assessment of Governments' Progress in Implementing National Competition Policy and Related Reforms – Volume 2: Water Reforms, August 2002*

Copies of these and other documents on aspects of NCP are available from the NCC in Melbourne, telephone (03) 9285 7474, and can be downloaded from the Council's website at: <http://www.ncc.gov.au>.

Relevant documents concerning NCP implementation in SA include:

- *Report to the National Competition Council - Implementation of National Competition Policy and Related Reforms in SA - March 1997*
- *Report to the National Competition Council - Implementation of National Competition Policy and Related Reforms in SA - April 1998*
- *Report to the National Competition Council - Implementation of National Competition Policy and Related Reforms in SA - March 1999*
- *Report to the National Competition Council - Implementation of National Competition Policy and Related Reforms in SA - March 2000*
- *Report to the National Competition Council - Implementation of National Competition Policy and Related Reforms in SA - March 2001*
- *Report to the National Competition Council - Implementation of National Competition Policy and Related Reforms in SA - March 2002*
- *Review of Legislation which Restricts Competition - timetable, June 1996 (updated May 1997, May 1998, December 1999, March 2001, March 2002)*
- *Guidelines Paper for Agencies conducting a Legislation Review under the CoAG Competition Principles Agreement - February 1998*

- *Proposals for New Legislation - National Competition Policy Review Obligations* - November 2001
- *Clause 7 Statement on the Application of Competition Principles to Local Government* – September 2002
- *Structure of Government Business Activities*, March 1995
- *Community Service Obligations - Policy Framework*, December 1996
- *Water and Sewerage Pricing for SA Water Corporation*, December 1996
- *Water and Sewerage Pricing for SA Water Corporation - Final Report of investigation under the Government Business Enterprises (Competition) Act 1996* - June 1997
- *Competitive Neutrality Policy Statement*, July 2002
- *A Guide to the Implementation of Competitive Neutrality Policy* - March 1998
- *A Guide to the Implementation of Cost Reflective Pricing – A part of Competitive Neutrality Policy*, October 2000

Copies of each of these publications are available from the NCP Implementation Unit, Cabinet Office, Department of the Premier and Cabinet, telephone (08) 8226 1931. Some can be downloaded from the Department's website at:

[http://www.premcab.sa.gov.au/dpc/publications\\_competition\\_documents.html](http://www.premcab.sa.gov.au/dpc/publications_competition_documents.html)

## Attachment 1

### LEGISLATION REVIEW REPORTS PROVIDED TO NCC in 2001 and 2002

Legislation	Date provided (* denotes electronic version provided)
Agricultural and Veterinary Chemicals (South Australia) Act 1994	18 June 2001
Agricultural Chemicals Act 1955	Not provided as repeal of the Act is recommended (advice 18 June 2001)
Agricultural Holdings 1891 (The)	Not provided as repeal of the Act is recommended (advice 18 June 2001)
Authorised Betting Operations Act 2000	March 2003
Building Work Contractors Act 1995	15 July 2002
Business Names Act 1996	18 June 2001
Casino Act 1997	March 2003
Children's Services Act 1985	24 August 2001
Chiropodists Act 1950*	18 June 2001
Chiropractors Act 1991*	18 June 2001
Citrus Industry Act 1991	3 October 2002
Coast Protection Act 1972	4 March 2002
Construction Industry Training Fund Act 1993	18 June 2001
Controlled Substances Act 1984	Not provided - publicly released national reviews (advice 18 June 2001)
Conveyancers Act 1994	18 June 2001
Cremation Act 1891	18 June 2001
Crown Lands Act 1929	4 March 2002
Dairy Industry Assistance (Special Provisions ) Act 1978	Not provided as repeal of the Act is recommended (advice 18 June 2001)
Dangerous Substances Act 1979	18 June 2001
Dentists Act 1984*	18 June 2001
Development Act 1993	18 June 2001
Discharged Soldiers Settlement Act 1934	Not provided as repeal of the Act is recommended (advice 18 June 2001)
Education Act 1972	24 August 2001
Electricity (General) Regulations 1997	25 September 2001 (by email)
Electricity (Miscellaneous) Amendment Act 1999	25 September 2001 (by email)
Electricity Act 1996	25 September 2001 (by email)
Electricity Corporations (Restructuring & Disposal) Act 1999	25 September 2001 (by email)
Electricity Corporations (Restructuring and Disposal) Regulations 1999	25 September 2001 (by email)
Electricity Corporations Act 1994	25 September 2001 (by email)

Electricity Corporations Regulations 1997	25 September 2001 (by email)
Emergency Powers Act 1941	26 November 2001
Enfield General Cemetery Act 1944	18 June 2001
Environment Protection Act 1993	4 March 2002
Explosives Act 1936	18 June 2001
Financial Institutions (Application of Laws) Act 1992	No review undertaken. Act has been repealed.
Firearms Act 1977	18 June 2001
Fisheries (Gulf St Vincent Prawn Fishery Rationalisation) Act 1987	Not provided as repeal of the Act is recommended (advice 18 June 2001)
Fisheries (Southern Zone Rock Lobster Fishery Rationalisation) Act 1987	Not provided as repeal of the Act is recommended (advice 18 June 2001)
Flinders University of South Australia Act	3 February 2002
Freedom of Information Act	24 August 2001
Fruit and Vegetables (Grading) Act 1934	Not provided as repeal of the Act is recommended (advice 18 June 2001)
Garden Produce (Regulation of Delivery) Act 1967	Not provided as repeal of the Act is recommended (advice 18 June 2001)
Groundwater (Border Agreement) Act 1985	24 August 2001
Hairdressers Act 1988	18 June 2001
Heritage Act 1993	4 March 2002
Highways Act 1926	18 June 2001
Independent Gambling Authority Act 1995	March 2003
Independent Industry Regulator Act 1999	25 September 2001 (by email)
Industries Development Act 1941	22 August 2002
Irrigation (Land Tenure) Act 1930	Not provided as repeal of the Act is recommended (advice 18 June 2001)
Land Agents Act 1994 (and supplementary report)	24 August 2001
Land and Business (Sale and Conveyancing) Act 1994	18 June 2001
Land Valuers Act 1994	18 June 2001
Landlord and Tenant Act 1936	Not provided as restrictive sections have been repealed.
Legal Practitioners Act 1981	9 October 2001
Local Government Act 1934	24 August 2001
Lottery and Gaming Act 1936	March 2003
Margarine Act 1939	Not provided as repeal of the Act is recommended (advice 18 June 2001)
Marginal Dairy Farmers (Agreement) Act 1971	Not provided as repeal of the Act is recommended (advice 18 June 2001)
Meat Hygiene Act 1994	18 June 2001
Medical Practitioners Act 1983*	18 June 2001

Motor Accident Commission (CTP)	25 September 2001
Motor Vehicles Act 1958	25 September 2001 (CTP)
Murray Darling Basin Act 1993	24 August 2001
National Electricity (South Australia) Act 1996	25 September 2001 (by email)
National Parks and Wildlife Act 1972	4 March 2002
Native Vegetation Act 1991	4 March 2002
Natural Gas Pipelines Access Act 1995	Not provided as repeal of the Act is recommended (advice 18 June 2001)
Noxious Insects Act 1934	18 June 2001
Occupational Therapists Act 1974*	18 June 2001
Optometrists Act 1920*	18 June 2001
Passenger Transport Act	NCC obtained from website
Petroleum (Submerged Lands) Act 1982	Not provided - publicly released national reviews (advice 18 June 2001)
Petroleum Act 1940	Not provided as repeal of the Act is recommended (advice 18 June 2001)
Petroleum Products (Regulation) Act 1995	March 2003
Pharmacists Act 1991	Not provided - publicly released national reviews (advice 18 June 2001)
Phylloxera and Grape Industry Act 1995	18 June 2001
Physiotherapists Act 1991*	18 June 2001
Poultry Meat Industry Act 1976	mid-December 2002
Prevention of Cruelty to Animals Act 1985	4 March 2002
Prices Act 1948	18 June 2001
Psychological Practices Act 1973*	18 June 2001
Public Trustee Act 1995	18 June 2001
Radiation Protection and Control Act 1982	Not provided - publicly released national reviews (advice 18 June 2001)
River Murray Waters Agreement Supplemental Agreement Act 1963	24 August 2001
Roxby Downs (Indenture Ratification) Act 1982	21 January 2002
Rural Industry Adjustment (Ratification of Agreement) Act 1990	Not provided as repeal of the Act is recommended (advice 18 June 2001)
Rural Industry Adjustment and Development Act 1985	18 June 2001
Rural Industry Assistance Act 1985	Not provided as repeal of the Act is recommended (advice 18 June 2001)
Sandalwood Act 1930	Not provided as repeal of the Act is recommended (advice 18 June 2001)
Second-hand Dealers and Pawnbrokers Act 1996	15 July 2002. Assessed as meeting CPA obligations by NCC June 2001.

Second Hand Vehicle Dealers Act 1995	24 August 2001
Seeds Act 1979	Not provided as repeal of the Act is recommended (advice 18 June 2001)
South Australian Film Corporation Act 1972	18 June 2001
South Australian Museum Act 1976	18 June 2001
Southern State Superannuation Act	Annual Report 1999
South Eastern Water Conservation and Drainage Act 1992	24 August 2001
State Lotteries Act 1966	March 2003
State Supply Act 1985	22 August 2002
Stock Foods Act 1941	Not provided as repeal of the Act is recommended (advice 18 June 2001)
Stock Medicines Act 1939	Not provided as repeal of the Act is recommended (advice 18 June 2001)
Stony Point (Liquids Project) Ratification Act 1981	21 January 2002
Survey Act 1992	13 June 2002
Unauthorized Documents Act 1916	26 November 2001
University of Adelaide Act	3 February 2002
University of South Australia Act	3 February 2002
Vocational Education, Employment and Training Act 1994	18 June 2001
War Service Land Settlement Agreement Act 1945	Not provided as repeal of the Act is recommended (advice 18 June 2001)
White Phosphorus Matches Prohibition Act 1915	18 June 2001
Wilderness Protection Act 1992	4 March 2002
Wine Grapes Industry Act 1991	7 March 2002

## Legislation review schedule

*Shaded legislation - repealed, no reforms required, reforms completed, or assessed as fulfilling CPA obligations.*

<b>Name of legislation</b>	<i>Agency</i>	<i>Major restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>
Dangerous Substances Act 1979	AIS	Barrier to market entry and restricts market conduct.	Review, in conjunction with the Explosives Act 1936 and the White Phosphorus Matches Prohibition Act 1915, completed in 1999. No reforms recommended	No reform required.
Employment Agents Registration Act 1993	AIS	Licensing, entry requirements (fit and proper, manager with sufficient knowledge and experience to manage business), the reservation of practice, business conduct (maintenance of records, no misleading advertising).	Review completed in October 2000. Review involved public consultation. Review recommended removing licensing requirements, development of enforceable industry code and including provisions to prohibit the capacity to charge job seekers a fee.	The Minister for Industrial Relations has noted the Queensland Government's recommendations in relation to the amendment of the Employment Agent legislation in that State and has requested Workplace Services consider the proposals contained in the Queensland report, in particular the recommendation to include relevant provisions to protect job seekers in the Industrial Relations Act and the development of an appropriate industry code for that State. This approach appears to avoid the duplication and overlap of continuing to regulate the sector through separate legislation.  The Minister has asked for information and recommendations by the end of May 2003. Amendments should be made in the Autumn 2003 session of Parliament.

<b>Name of legislation</b>	<b>Agency</b>	<b>Major restrictions</b>	<b>Review activity</b>	<b>Reform activity</b>
Explosives Act 1936	AIS	Barrier to market entry and restricts market conduct.	Desktop review completed in December 1999. Act centres around safety and does not provide primary economic control of the industry. No reforms recommended.	No reform required.
Freedom of Information Act 1991	AIS	Government's ability to refuse access to information which relates to categories of exempt documents specified in Schedule 1 of the Freedom of Information Act, in particular documents affecting the economy of the State, documents affecting financial or property interests and documents affecting business affairs.	Desktop review completed in September 2000. The Act promotes competition by enabling access to official information on a regulated basis. No reform recommended. The review report was noted in Cabinet on 28 August 2000.	No reform required.
Manufacturing Industries Protection Act 1937	AIS	Exempts some industries from legal requirements applying to competitors.	Review completed March 1999. Public consultation.	Act repealed 1999.
Occupational Health Safety and Welfare Act 1986	AIS	Restricts market competition.	Review completed in November 2000. Involved public consultation.	Government considering report. A legislative review of the Occupational Health, Safety and Welfare Act 1986 has recently been completed and a final report with recommendations has been prepared and submitted to Government. It is not appropriate to proceed with the NCP review of this Act until the outcomes of the legislative review have been finalised.
Racing Act 1976	AIS	Barrier to market entry and restrictions on market conduct.	Review completed in January 2000.	Act repealed, effective from 14 December 2001. Meets CPA obligations (8/02)
Shearers Accommodation Act 1975	AIS	Restricts market conduct.	Review completed in March 1999. Involved public consultation.	Act repealed 1999.

<b>Name of legislation</b>	<b>Agency</b>	<b>Major restrictions</b>	<b>Review activity</b>	<b>Reform activity</b>
Shop Trading Hours Act 1977	AIS	Significant restrictions, including: controls on the hours during which shops may open; variation in allowed opening hours based on the day of the week; and variation in permitted opening hours vary depending on shop location, size and products sold.	Review completed in 1998. Report not released by Government and subject to Cabinet confidentiality requirements.	Limited changes took effect from June 1999. Further changes to reduce restrictions in a Bill introduced into parliament in August 2002, but failed to pass. The government proposes to re-introduce Shop Trading Hours legislation to Parliament in July 2003.
State Clothing Corporation Act 1977	AIS	Protects sheltered workshops.	Review completed.	Corporation sold in 1995-96. The Act was amended to repeal most of original Act including all reference to sheltered workshops. Reform completed.
State Supply Act 1985	AIS	Restricts market conduct.	Desktop review completed. Final report approved by Government. Report concluded that the Act did not contain any restrictions on competition.	No legislation amendment required. State Supply Board to continue to implement the Government's Purchasing Strategically policy.
Survey Act 1992	AIS	Licensing, registration, entry requirements (education, experience, fit and proper), the reservation of title (and derivatives), the reservation of practice, disciplinary processes, business conduct (including ownership restrictions), business licensing.	Review completed in 1999. Review involved public consultation. Review recommended that requirements for companies to be licensed were a restriction on competition and recommended that these provisions be repealed. Government approved a range of amendments to the Survey Act 1992.	Draft bill has been prepared for introduction into Parliament in the first half of 2003.
White Phosphorus Matches Prohibition Act 1915	AIS	Barrier to market entry and restricts market conduct.	Review completed in April 1999.	Government has approved negotiation with Commonwealth so that Act can be repealed without international implications.
Industries Development Act 1941	BMT	Section 24, which contains provisions for making Regulations, may be in conflict with Trade Practices Act.	Review completed. No amendments recommended. Government accepted recommendations.	No reform required.

<b>Name of legislation</b>	<b>Agency</b>	<b>Major restrictions</b>	<b>Review activity</b>	<b>Reform activity</b>
Children's Services Act 1985	ECS	Barrier to market entry and restricts market conduct.	Review completed in 2000. No reform recommended. Government has endorsed review recommendation.	No NCP reform required. Meets CPA obligations (8/02)
Education Act 1972 and Regulations	ECS	Barrier to market entry and restricts market conduct. Provides for registration of non-government schools and for registration of non-government schools wishing to enrol overseas students. Teacher licensing, registration, entry requirements, reservation of practice, disciplinary processes.	Review completed in July 2000. Review involved public consultation. No reform recommended. Government has endorsed review recommendation.	No NCP reform required. Meets CPA obligations (6/01)
Catchment Water Management Act 1995	EH	Restricts market conduct.	Review completed.	Repealed by the Water Resources Act 1997, and the Catchment Water Management Act 1995.
Coast Protection Act 1972	EH	Restricts market conduct.	Review completed in December 1999. Involved public consultation. No NCP reform recommended.	No NCP reform required.
Crown Lands Act 1929	EH	Restricts market conduct.	Review completed in December 1999. Involved public consultation. Only trivial restrictions on competition. No NCP reforms recommended. The non-financial conditions be removed pursuant to the Minister's power in s.9(f), and a rationalisation of the leasing and licensing arrangements of the land tenure system in SA by way of legislative change in order to ensure efficiency and cost effectiveness.	No NCP reforms required. Removal of barriers to more cost efficient processes and repeal of superfluous provisions approved.  Cabinet approved the drafting of a <i>rewrite</i> of the <i>Crown Lands Act 1929</i> on the 20 January 2003. It is anticipated that the Draft Bill will be introduced into Parliament in September 2003.
Discharged Soldiers Settlement Act 1934	EH	Restricts market conduct.	Review completed in December 1999. Involved public consultation.	Cabinet approved the repeal of the <i>Discharged Soldiers Settlement Act 1934</i> on the 20 January 2003, to be introduced into Parliament in September 2003.

<b>Name of legislation</b>	<b>Agency</b>	<b>Major restrictions</b>	<b>Review activity</b>	<b>Reform activity</b>
Heritage Act 1993	EH	Restricts market conduct.	Review completed in 1999. Review involved consultation with stakeholders. No NCP reform recommended.	No reform required.
Irrigation (Land Tenure) Act 1930	EH	Restricts market conduct.	Review completed in December 1999. Reviewed with associated legislation. No major issues identified. Recommended that legislation be updated and consolidated.	Cabinet approved the repeal of the <i>Irrigation (Land Tenure) Act 1930</i> on the 20 January 2003, to be introduced into Parliament in September 2003.
National Parks and Wildlife Act 1972	EH	Restricts market conduct.	Review completed December 1999. Public consultation. Reform recommended.	Reform introduced via National Parks and Wildlife (Miscellaneous) Amendment Act 2000 (in operation 24 August 2000)
Prevention of Cruelty to Animals Act 1985	EH	Requires licences for teaching and research involving animals.	Review completed in 1999. Public consultation. Reforms recommended.	Reforms introduced via Prevention Of Cruelty To Animals (Miscellaneous) Amendment Act 1999 (in operation 1 February 2000).
Sandalwood Act 1930	EH	Caps the quantity of naturally-occurring sandalwood harvested from Crown and private land. Licensing harvesting.	Review completed in 1999. The review recommended repeal of the Act.	Act repealed (7 of 2001), effective 5/4/01.
War Service Land Settlement Agreement Act 1945	EH	Restricts market conduct.	Review completed in December 1999. Involved public consultation. No NCP reform recommended.	No reform required.
Wilderness Protection Act 1992	EH	Restricts market conduct.	Review completed in December 1999, recommending no reform.	No reform required.
Environment Protection Act 1993	EPA	Barrier to market entry and restricts market conduct.	Review completed in 1999. Public consultation. No NCP reform recommended.	No reform required.

<b>Name of legislation</b>	<b>Agency</b>	<b>Major restrictions</b>	<b>Review activity</b>	<b>Reform activity</b>
Radiation Protection and Control Act 1982	EPA	Creates barrier to market entry and restricts market conduct.	National review completed, with 19 recommendations (including to make provision for protection of the environment, make legislative coverage of non-ionising radiation, allow certification of third party (non-government) inspectors for x ray machines testing). ARPANSA consulted with jurisdictions on the recommendations.  A desktop review of provisions unique to the SA legislation (particularly regarding uranium mining) is in progress.	AHMAC has accepted the recommendations and an implementation plan. SA will adopt the recommendations according to timetable in implementation plan, which extends to June 2004.
Construction Industry Training Fund Act 1993	FEEST	Restricts market conduct.	Review completed in 1997. Involved public consultation. No NCP reform recommended. Act to be reviewed again in 2003.	No NCP reforms required.
Vocational Education, Employment and Training Act 1994	FEEST	Registers training providers and accredits training courses.	Review completed in April 2000. Concluded that public benefits of restrictions outweigh costs.	No NCP reforms required. Meets CPA obligations (6/01)
Children's Protection Act 1993	HS	Restricts market conduct - requires mandatory notification.	Review completed in 1999. Section 6 (1) restrictions unjustified and may limit the courts ability to appoint an officer best suited to needs of the child.	Cabinet approved drafting of amendments to the Act under the previous government. The 2002/3 Child Protection Review, undertaken by Robyn Layton, recommends further amendments to the Act. Competition Policy amendments will be progressed jointly with the Child Protection recommendations. It is anticipated that amendments to the Act will be finalized and tabled in Parliament in the second half of 2004.
Chiropodists Act 1950	HS	Entry, registration, title, practice, discipline, advertising, ownership, business licensing.	Review completed in January 1999, recommending removing ownership and advertising restrictions and limiting reserved practice.	Draft Bill prepared. Consultation with Podiatrists Board complete. Public consultation will occur, then Bill will be introduced into Parliament in second half of 2003.

<b>Name of legislation</b>	<i>Agency</i>	<i>Major restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>
Chiropractors Act 1991	HS	Entry, registration, title, practice, discipline, advertising, insurance, business licensing, ownership.	Review completed. Review recommended removing ownership restrictions and amending practice reservation and advertising codes.	Cabinet has approved drafting of amendments to the Act. Draft Bill prepared. Consultation with the Board finalized. Public consultation will occur and will be introduced into Parliament in second half of 2003.
Controlled Substances Act 1984	HS	Restricts market conduct.	Part of Galbally Review. Draft Review Report 11 September 2000. Final review report given to the Australian Health Ministers Conference in early 2001 and under consideration by the Australian Health Ministers Advisory Council.	Awaiting COAG's consideration of Galbally Review.
Dentists Act 1984	HS	Entry, registration, title, practice, discipline, ownership, advertising, business.	Review completed in February 1999. Recommendations included changing the disciplinary process, introducing paraprofessional registration and removing some areas of reserved practice. The review also recommended the removal of ownership restrictions.	Dental Practice Act 2001 repeals Dentists Act. Sections 1-3, 6(3), 89 & 91 and Sched. cls. 2(2), 4 & 7 came into operation 13 December 2001. The remainder of Act is not yet in operation.  Meets CPA obligations except for retention of ownership restrictions (8/02).  Regulations will be drafted March 2003; criteria for exemptions to ownership restrictions will be considered by Government prior to the Act and Regulations being proclaimed in June 2003.

<b>Name of legislation</b>	<b>Agency</b>	<b>Major restrictions</b>	<b>Review activity</b>	<b>Reform activity</b>
Family and Community Services Act 1972	HS	Barrier to market entry and restricts market conduct of foster care agencies.	Review completed in 1999. For profit sector prohibited from competing for grant allowances	Cabinet approved drafting of amendments to the Act. The Bill was rejected by the House of Assembly in 2001.  The Child Protection Review recommends a review of this Act and the Competition Policy Review amendments will be referred to this review. The Review will commence in 2003/4 and it is anticipated will conclude in 2004, with legislative amendments tabled in Parliament in the first half of 2005.
Food Act 1985	HS	Offence to manufacture or sell food that does not meet prescribed standard.	National review completed in 2000 (see NSW Food Act 1989). All Australian Governments agreed in November 2000 to adopt core provisions of the Model Food Bill by November 2001.	Food Act 2001 came into operation December 2002 except s. 86 which will come into operation on 1 September 2003. Reform completed.
Housing Improvement Act 1940	HS	Barriers to entry & restricts market conduct	Review completed in March 1999. Involved public consultation. Restrictions were assessed as trivial. One minor clarification to section 45 recommended.	Cabinet approved drafting on 26 June 2000. The amendment will be introduced into Parliament in 2003.
Medical Practitioners Act 1983	HS	Entry, registration, title, practice, discipline, advertising, business.	Review completed in 1999. Review recommended removing ownership restrictions, registering medical students, requiring declaration of commercial interests and requiring professional indemnity insurance.	New legislation introduced in May 2001 (second reading speech 5/7/01), not passed before the calling of the State election. Further consultation on Bill occurring under new Government, and some amendments being made (infection control, accountability and honesty). Consultation progressing with aim of introducing bill into Parliament in second half of 2003.

<b>Name of legislation</b>	<i>Agency</i>	<i>Major restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>
Nurses Act 1984	HS	Entry, registration, title, practice, discipline, advertising.	Review completed in 1998. Recommendations that provide greater clarity and accountability and remove the power to restrict advertising.	New legislation, Nurses Act 1999, passed in line with recommendations. Meets CPA obligations (6/01)
Occupational Therapists Act 1974	HS	Entry, registration, title, practice, discipline.	Review completed in 1999. Review recommended maintaining registration requirements. NCC has requested reasons for retention in light of VEET report of 1933	Cabinet has approved drafting of amendments to the Act 21 August 2000. Draft Bill prepared. Consultation with Board has been completed and public consultation will soon occur. Will be introduced into Parliament in first half of 2004.
Optometrists Act 1920	HS	Entry, registration, title, practice, discipline, advertising.	Review completed in April 1999. Recommendations include extending coverage to include optical dispensers, removal of restriction on training providers and the introduction of a code of conduct.	Under consideration by Government. Cabinet papers to draft a new Bill are being prepared. Expected that the Bill will be available in second half 2003 and in Parliament in 2004.
Pharmacists Act 1991	HS	Entry, registration, title, practice, discipline, advertising, business, ownership, licensing.	National Review of Pharmacy Regulation (Wilkinson Review) completed in February 2000. The review recommended retaining registration, the protection of title, practice restrictions and disciplinary systems (although with minor changes to the registration systems recommended for individual jurisdictions). Further, the review recommended maintaining existing ownership restrictions, and removing business licensing restrictions. CoAG senior officials' working party reported to CoAG	Limits on FSMA pharmacies and advertising restrictions to be lifted. Consideration of ownership restrictions to be deferred til 2005.  New Bill under consideration by Government.  It is anticipated that the new Bill will be released for consultation by June 2003 and then introduced into Parliament in the second half of 2003 or first half of 2004.

<b>Name of legislation</b>	<b>Agency</b>	<b>Major restrictions</b>	<b>Review activity</b>	<b>Reform activity</b>
Physiotherapists Act 1991	HS	Entry, registration, title, practice, discipline, advertising, ownership.	Review completed in February 1999. Recommendations include publication of a code of conduct without advertising restrictions, amended definitions of areas of practice protected, removal of the requirement to register business names, removal of ownership restrictions, prohibition of undue influence, demonstration of continuing competence and removal of advertising and unprofessional conduct provisions from code of ethics prior to adoption of a code of conduct.	Cabinet approved drafting amendments 28 August 2000. Consultation with the Board has been completed and the Bill will be released for public consultation in second half of 2003. Will be introduced into Parliament in first half of 2004.
Psychological Practices Act 1973	HS	Entry, registration, title, practice, discipline, advertising	Review completed in 1999. Review recommended removing advertising and practice restrictions.	Cabinet approved drafting amendments to the Act on 23 April 2001. Consultation with the Board has been completed and the Bill will be released for public consultation in the second half of 2003. Will be introduced into Parliament in 2004.
Public & Environmental Health Act 1987	HS	Restricts market conduct.	Review completed. The review identified qualifications for authorised officers as an intermediate restriction, particularly as the qualifications approved administratively only includes 1 current SA course.	The Minister has endorsed the review. The requirement for qualifications for authorised officers will be addressed in a broad review of the Act.  A consultation draft Bill is scheduled for 2003. Discussions are occurring with educational bodies and the professional organization on alternative courses for approval.
South Australian Health Commission Act 1976	HS	Barrier to market entry and restricts market conduct of private hospitals.	Review completed in 1999. Final report awaiting outcome of Health Complaints Bill introduced into Parliament 29/3/01, then lapsed. Health & Community Services Complaints Bill introduced into Parliament in July 2002.	Amendments to SAHC Act will be undertaken following the passage of the Health & Community Services Complaints Bill, and the outcomes of the Generational Health Review.

<b>Name of legislation</b>	<i>Agency</i>	<i>Major restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>
South Australian Housing Trust Act 1995	HS	Restricts market conduct	Review completed in 1999. No reform recommended.	No reform required.
Supported Residential Facilities Act 1992	HS	Barrier to market entry and restricts market conduct.	Review completed in 1998. No reform recommended.	No reform required.
Tobacco Products Control Act 1986	HS	Restricts market conduct.		Repealed and replaced by the Tobacco Products Regulation Act 1997.
Building Work Contractors Act 1995	J	Licensing (building work contractors), registration (building work supervisors), entry requirements (for contractors: qualifications, experience, sufficient business knowledge and experience and financial resources, fit and proper, not bankrupt within last ten years; for supervisor: qualifications and experience), the reservation of practice, disciplinary processes, business conduct (written contracts, product or service standards, statutory warranty).	Review completed. Following collapse of HIH, Supplementary Issues Paper dealing with financial and insurance requirements released for public and industry comment. An Issues Paper was completed and circulated for consultation. However, this process has been overtaken by the commissioning and completion of a national review dealing with the same issues by Prof. Percy Allan. Work is now progressing on a package of nationally consistent reforms to building legislation aimed at reducing building disputes and indemnity insurance claims. It is likely that financial requirement restrictions on builders will be increased rather than decreased as a result of this process.	Recommendations of review relate to issues that are presently being considered with a view to nationally consistent reform. Any proposals for new restrictions will need to be justified as delivering a net public benefit.
Business Names Act 1996	J	Registration of business names	Desktop review completed in 1998. No reform recommended.	No reform required.
Carriers Act 1891 (The)	J	Restricts market conduct.	Review completed in 1999. Involved public consultation.	Act repealed 1999.

<b>Name of legislation</b>	<b>Agency</b>	<b>Major restrictions</b>	<b>Review activity</b>	<b>Reform activity</b>
Consumer Credit (South Australia) Act 1995	J	Barrier to market entry and restricts market conduct.	National review completed and endorsed by Ministerial Council for Consumer Affairs in September 2002. Review recommended no reform other than the adoption of two recommendations of the Post Implementation Review (PIR) of the Consumer Credit Code, namely the bringing of pay day lending, terms sale of land, conditional sale agreement, tiny terms contracts and solicitor lending within the scope of the Code and enhancing the disclosure provisions within Part 2 of the Code.	No reform required for NCP purposes.
Conveyancers Act 1994	J	Licensing, registration, entry requirements (qualifications, no convictions for offences of dishonesty), the reservation of practice, disciplinary processes, business conduct (professional indemnity insurance, trust accounts, ownership), business licensing.	Review completed in 1999. Review involved public consultation. Review recommendations included: changing entry requirements in relation to fitness and propriety; removing ownership restrictions (but introducing requirement that a director of an incorporated company must not unduly influence a registered conveyancer); and removing the requirement that the sole object of a conveyancing company is carrying on business as a conveyancer.	Cabinet approved retention in March 1999. Removal of ownership restrictions and prohibition of undue influence amendments introduced in Parliament in late 2000. Did not pass prior to calling of election. Consultation occurring under new Government.
Cremation Act 1891	J	Barrier to market entry and restricts market conduct.	Review completed in 1999.	Amending legislation passed and operational in February 2001 (52 of 2000). Amendments abolished licences and removed need for Health Commission approval prior to Development Act approval and funeral directors possible monopoly.
Financial Institutions (Application of Laws) Act 1992	J		No review as Act to be repealed.	Repealed by Financial Sector Reform (South Australia) Act 1999
Firearms Act 1977	J	Restriction of ownership of and dealing in firearms	Desktop review completed in July 1999. No reform recommended.	No reform required.

<b>Name of legislation</b>	<b>Agency</b>	<b>Major restrictions</b>	<b>Review activity</b>	<b>Reform activity</b>
Friendly Societies Act 1919	J	Restricts market conduct.	Review completed.	Repealed and replaced by Friendly Societies (SA) Act 1997, subsequently repealed by Financial Sector Reform (South Australia) Act 1999
Hairdressers Act 1988	J	Negative licensing, entry requirements (qualifications), reservation of practice (washing, cutting, colouring, setting, permanent waving or other treatment of a person's hair or the massaging or other treatment of a person's scalp for fee or reward).	Review completed in 1999. Review involved public consultation. Review recommended reducing the scope of work reserved for hairdressers and reviewing the Act in three years with view to its repeal.	Government endorsed review recommendations. Parliament passed legislative amendments in March 2001.  Meets CPA obligations (6/01)
Land Agents Act 1994	J	Licensing (agents, not sales representatives who are negatively licensed), registration, entry requirements, the reservation of practice, disciplinary processes, business conduct, business licensing.	Review completed in 1999. Review involved public consultation. Recommendation that Act be amended to lower entry criteria (prescribed offences - only indictable offences).  Supplementary Review (Legal qualifications/recommendations) completed March 2001.	Government endorsed review recommendation.  No need to amend Act. Commissioner for Consumer Affairs has implemented recommendations administratively (recommendations were matters within his discretion).  Meets CPA obligations (8/02).
Land and Business (Sale and Conveyancing) Act 1994	J	Business conduct of agents, conveyancers and vendors of property for sale of land or small business (information provision, cooling-off, subdivided land, relationship between agent and principal, preparation of conveyancing instruments, representations).	Review completed in 1999. Review involved public consultation. Review recommended no reform.	Government endorsed review recommendation.  Meets CPA obligations for auctioneers and conveyancers (6/01).

<b>Name of legislation</b>	<i>Agency</i>	<i>Major restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>
Land Valuers Act 1994	J	Negative licensing, entry requirements (qualifications or membership of various professional associations), the reservation of practice, disciplinary processes.	Review completed in 1999. Review concluded that the current qualification requirements are too onerous in relation to the postgraduate qualifications and that the Government should consider re-examining the current requirements and broadening the number and type of acceptable qualifications.	Government endorsed review recommendations. Awaiting a national training package to be approved - can be given effect administratively.
Landlord And Tenant Act 1936	J	Restricts market conduct.	Review completed in 1999.	Relevant provisions have been repealed.
Legal Practitioners Act 1981	J	Licensing, registration, entry requirements, disciplinary processes, reservation of title and practice, business conduct (including monopoly professional indemnity insurance).	Review completed. However, as a new initiative, SCAG may review the professional legal indemnity and the guarantee funds issues.	In July 2001 the Government adopted the review recommendations in full, including the recommendation to keep the issue of multi-disciplinary practices under review and that there be no change to the professional indemnity insurance provisions provided premiums remain competitive. However, the issue of multi-disciplinary practices is on the SCAG Agenda, and is being progressed as part of the project to devise national model laws for the legal profession. Other amendments have been incorporated into a draft Miscellaneous Amendment Bill for introduction in March 2003.

<b>Name of legislation</b>	<b>Agency</b>	<b>Major restrictions</b>	<b>Review activity</b>	<b>Reform activity</b>
Liquor Licensing Act 1985	J	Legislation contains a proof-of-need test requiring licence applicants to demonstrate that a consumer need exists for the grant of a licence; and a requirement that only hotels and retail liquor stores devoted to sale of liquor exclusively may sell liquor.	<p>Review completed in 1996 and recommended:</p> <p>(a) removal of several restrictions including a requirement that the licensing authorities take account of the impact of a new licensee on existing licence holders; (b) retention of restrictions proof of need test and requirement that liquor can only be sold from stores devoted entirely to liquor sales; and (c) further review of liquor licensing arrangements in 3 or 4 years (when impacts of less regulated approaches in other jurisdictions are clear).</p> <p>The Liquor Licensing Act 1997 retains the concept of "proof of need" to contain the number of outlets and also retains the requirement that liquor can only be sold from stores devoted entirely to liquor sales.</p>	Review in progress. Public submissions closed on 3 February 2003 and are currently being analysed. A draft Final Report is being prepared for further public comment in April 2003.
Plumbers, Gas Fitters and Electricians Act 1995	J	Licensing (contractors), registration (workers), entry requirements (for contractor: qualifications, experience, not undischarged bankrupt, fit and proper, sufficient business knowledge and experience and financial resources; for worker: qualifications and experience), the reservation of practice (for plumbing: water, sanitary or draining work or the installing or testing of backflow prevention devices), disciplinary processes.	Review complete. Review recommends retention of the present licensing and registration regimes for plumbing, gas fitting and electrical contractors and workers, respectively. However, the report recommended that consideration be given to exempting persons who subcontract only to licensed contractors from the requirement to meet the financial requirements for licensing and exempting persons who contract only for work on certain electrical infrastructure from the requirement to be licensed.	With the Minister for consideration.

<b>Name of legislation</b>	<i>Agency</i>	<i>Major restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>
Prices Act 1948	J	Restricts market conduct.	Review completed, recommending the removal of a number of restrictive provisions but the retention of price controls for infant foods, returns of unsold bread, towing, recovery, storage and quoting for repair of motor vehicles and the carriage of freight to Kangaroo Island.	Government enacted amendments in line with review recommendations in 2000.  Meets CPA obligations (6/01).
Public Trustee Act 1995	J	Statutory powers and duties not applicable to private trustees	Review completed in August 2000. Involved public consultation.	A Bill was introduced into Parliament and was before the Legislative Council in December 2001 when Parliament was prorogued on the calling of the last election. The review was based on the structural elements of the former Government's "corporatisation" proposal. The present Government has decided not to adopt the corporatisation proposal. A report is presently being written to identify restrictions on competition in the present Act that were identified in the previous review and those not examined because the earlier review was limited to the now rejected structural model.
Second-Hand Dealers and Pawnbrokers Act 1996	J	Negative licensing (pawnbrokers, second-hand dealers for all goods except cars), registration, entry requirements, the reservation of practice, disciplinary processes, business conduct.	Review completed in 1998. No reform recommended. Government endorsed review recommendation.	No reform required.  Meets CPA obligations (6/01).

<b>Name of legislation</b>	<b>Agency</b>	<b>Major restrictions</b>	<b>Review activity</b>	<b>Reform activity</b>
Second-Hand Vehicle Dealers Act 1995	J	Barrier to market entry, business conduct.	Review completed. Recommendation for audits; entitlement criteria for licensing distinction between summary and indictable offences for dishonesty.	Amendments passed by Parliament in October 2001. Persons convicted of a summary offence of dishonesty, will now be entitled to a licence 10 years from the date of conviction. Indictable offences of dishonesty will continue to permanently preclude a person from obtaining a licence. Meets CPA obligations (8/02).
Security and Investigation Agents Act 1995	J	Barrier to market entry (private inquiry agents, security providers), market conduct.	Review completed Jan 2003. Review recommends retention of licensing, however, also recommends a number of amendments, including to definition of security agent, introducing a two-tiered licensing system that distinguishes between contractors and employees, removal of business knowledge and financial resources requirements other than for collection agents and alarm providers and narrowing the local government exemption to apply only to enforcement and prosecution activities.	With the Minister for consideration.
Starr-Bowkett Societies Act 1975	J		Identified at national level.	Payments through these societies now completed. Last Starr Bowkett Society recently deregistered. It is proposed to repeal the Act as soon as possible.

<b>Name of legislation</b>	<i>Agency</i>	<i>Major restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>
Trade Measurement Act 1993	J	Restricts market conduct.	National review underway (Queensland is lead agency). Stage 1 Scoping Study completed by external consultant, with recommendation that restrictions on sale of non prepacked meat and certain prepacked goods be subject to public benefit test (PBT) (Stage 2). Examination of restriction on prepacked goods considered unnecessary by review committee due to impending amendment of these provisions. PBT completed re sale of meat with conclusion that restriction results in net public benefit and recommendation for clarification of definition of "meat" for purposes of restriction. Ministerial Council for Consumer Affairs has approved released of Stage 1 and 2 reports for public comment. Review reports released February 2003 for 6 week consultation period.	Consultation occurring nationally on review conclusions.
Trade Standards Act 1979	J	Restricts market conduct.	Review completed. No reforms recommended. Government endorsed recommendations.	No reform required.

<b>Name of legislation</b>	<i>Agency</i>	<i>Major restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>
Travel Agents Act 1986	J	Licensing and compulsory consumer compensation fund.	National review is complete (coordinated by Western Australia). A final review report by CIE was released in 2000. The Ministerial Council for Consumer Affairs expressed reservations about the conclusions of the CIE report and directed the preparation of a supplementary report. The supplementary report has been completed and publicly released. It recommended retention of compulsory membership of the Travel Compensation Fund (TCF) and directing the TCF to review its contribution arrangements with a view to establishing a risk based premium structure and review its prudential and reporting requirements. The report also recommended increasing the licence exemption threshold to \$50,000 and removing the exemption for Crown owned business entities.	Ministerial council has agreed to defer TCF review pending completion of existing joint industry working group to review the TCF (in light of effect of Ansett collapse) and to form national working party to implement remaining recommendations.
Trustee Companies Act 1988	J		To be reviewed under the Standing Committee of Attorneys-General, Parliamentary Counsel Committee with NSW as lead agency.  National group has released discussion paper. Time for submissions has closed. A Report on 'next steps' and on the discussion paper outcomes was presented to SCAG in March '02. However, the review is now waiting on a reply from the Prime Minister relating to the Commonwealth's position on APRA being the regulator. The Commonwealth's response appears to have been delayed pending consideration of the HIH Royal Commission's Report.	

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Emergency Powers Act 1941	P&C	Barrier to market entry and restricts market conduct in wartime	Desktop review completed in December 1998. Recommended repeal.	Cabinet approved repeal August 2002. Bill introduced into Parliament October 2002.
South Australian Film Corporation Act 1972	P&C	Restricts market conduct in granting sole and exclusive right to produce Government films.	Review completed in February 2000. Involved public consultation. No reform recommended.	No reform required.
South Australian Museum Act 1976	P&C	Restricts market conduct in relation to meteorites.	Desktop review completed in May 1997. No reform recommended.	No reform required.
Unauthorised Documents Act 1916	P&C	Restricts use of State insignia and official emblems	Desktop review completed in December 1998. Recommends no change.	No reform required.
Agricultural and Veterinary Chemicals (South Australia) Act 1994	PIR	Imports the Agricultural and Veterinary Chemicals Code (national registration scheme) into State jurisdiction (see Commonwealth Agricultural and Veterinary Chemicals Code Act 1994).	National review completed in 1999	Changes in the Commonwealth Agricultural and Veterinary Chemicals Code Act 1994 have been drafted and are due in federal parliament this year. This will require consequential changes in the South Australian Act. Since changes in definitions are involved, changes will also have to be made to the South Australian Agricultural and Veterinary Products (Control of Use) Act 2002, which references some of the affected definitions in the federal Act via the South Australian mirror legislation.

<b>Name of legislation</b>	<i>Agency</i>	<i>Major restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>
Agricultural Chemicals Act 1955	PIR	Chemicals must be sold with registered label. Use of chemicals must be as per label or Ministerial directions.	Review completed in 2000.	Repealed by the Agricultural and Veterinary Products (Control of Use) Act 2002, which was passed by Parliament in August 2002.  All proposed major Regulations have been the subject of public discussion and are ready for presentation to Cabinet for drafting. The Act and Regulations are expected to come into operation about July 2003.
Agricultural Holdings Act 1891 (The)	PIR	Restricts market conduct.	Review completed in 1999, recommending repeal.	Legislation passed April 2000 to repeal the Act.
Animal and Plant Control (Agricultural Protection and Other Purposes) Act 1986	PIR	Barrier to market entry and restricts market conduct.	Review, in conjunction with review of Soil Conservation and Land Care Act 1989, completed in 1997.	No NCP legislative amendments required. Some administrative reforms will be dealt with when the Act is amalgamated with the Soil Conservation and Land Care Act into a combined land management act in 2004-05.
Apiaries Act 1931	PIR	Barrier to market entry and restricts market conduct.	Desktop review completed in September 1998.	Act repealed by Schedule 2 Livestock Act 1997 and replaced by regulations under the Livestock Act 1997 and the Primary Industries Funding Schemes Act 1998.

<b>Name of legislation</b>	<i>Agency</i>	<i>Major restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>
Barley Marketing Act 1993	PIR	Established the former Australian Barley Board and conferred on it a monopoly over the marketing of South Australian barley and oats.	Independent review completed by the Centre for International Economics in 1998, jointly with Victoria. The review showed a net loss to the nation of \$8.5 million. It recommended that South Australia: <ul style="list-style-type: none"> <li>· remove the domestic barley marketing monopoly;</li> <li>· retain the export barley marketing monopoly for only the 'shortest possible transition period';</li> <li>· remove the oats marketing monopoly; and</li> <li>· restructure the Australian Barley Board as a private grower-owned company.</li> </ul> Further economic modeling showed a net benefit arising from the export single desk report.	Act amended in 1999 to remove monopoly on domestic barley from 1 July 1999; and export barley from 1 July 2001. The Board was transferred into grower ownership on 1 July 1999. It has no regulatory powers.  The Act was amended to retain the export monopoly beyond 1 July 2001 and to require a further review after two years (Dec 2002).  An NCP review of the export provisions by an independent panel is underway, to be provided to the Minister by 14 April 2003.
Branding of Pigs Act 1964	PIR	Barrier to market entry and restricts market conduct.	Desktop review completed June 2000.	Act will be repealed by Schedule 2 clause 1(c) Livestock Act 1997. Proclamation to occur prior to July 2003. The Act will be replaced by new regulations in the Livestock Act. The requirement to brand pigs will be retained for disease tracing purposes. Fire and paint brands may be retained although electronic devices and tags will replace these identification methods in the future for product integrity and disease tracing purposes.

<b>Name of legislation</b>	<i>Agency</i>	<i>Major restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>
Brands Act 1933	PIR	Barrier to market entry and restricts market conduct.	Desktop review completed Sept 1998.	Act will be repealed by Schedule 2 clause 1(c) Livestock Act 1997. Proclamation to occur prior to July 2003. The Act will be replaced by new regulations in the Livestock Act. The requirement to brand pigs will be retained for disease tracing purposes. Fire and paint brands may be retained although electronic devices and tags will replace these identification methods in the future for product integrity and disease tracing purposes.
Bulk Handling of Grain Act 1955	PIR	South Australian Co-operative Bulk Handling Limited granted sole right to receive and deliver grain.	Review completed in 1998, recommending repeal.	Act repealed in 1998. Meets CPA obligations (8/02).
Cattle Compensation Act 1939	PIR	Barrier to market entry and restricts market conduct.	Desktop review completed in September 1998.	Act repealed by Schedule 2 of the Livestock Act 1997 and replaced by regulations under the Livestock Act 1997 and the Primary Industries Funding Schemes Act 1998.
Citrus Industry Act 1991	PIR	Restricts market conduct.	The NCP review of the Act was completed in 2001. The review recommends repeal of the Act and public benefit functions to be undertaken by an industry association funded under the Primary Industries Funding Schemes Act 1998.  Cabinet is yet to consider the report.	A SA Citrus Industry Steering Committee has been established to develop options for future management of the industry. This process should be completed by June 2003. The implementation strategy will aim to complete the reform process by December 2003.
Cooper Basin (Ratification) Act 1975	PIR	Ratifies the contract for the supply of gas by Cooper Basin producers to AGL.	Review completed, finding substantial public benefits in continuing previously granted concessions and exemptions on grounds of sovereign risk.	Amendments to be introduced into Parliament in mid-2003.  Meets CPA obligations (6/97).

<b>Name of legislation</b>	<b>Agency</b>	<b>Major restrictions</b>	<b>Review activity</b>	<b>Reform activity</b>
Dairy Industry Act 1992	PIR	Vesting of milk in Dairy Authority of South Australia. Farmgate price-setting for market milk. Pooling of market milk returns. Licensing of farmers, processors and vendors.	Review of price-setting restrictions by officials completed in 1999. It recommended removal of these. Food safety provisions are subject of a proposal to develop a legislative framework which covers all Primary Industries food sectors.	SA passed Dairy Industry (Deregulation of Prices) Amendment Act 2000 on 1 June 2000, deregulating the industry from 1 July 2000. Milk marketing reform meets CPA obligations.  A Consultation Draft Bill for food safety legislation for the primary industry sector is expected to be released for public consultation in August 2003 and will include an NCP review.
Dairy Industry Assistance Act (Special Provisions) Act 1978	PIR		Review completed in 1999, recommending repeal of the Act.	Legislation passed in April 2000 repealing the Act.
Deer Keepers Act 1987	PIR	Barrier to market entry and restricts market conduct.	Desktop review completed.	Act repealed by Schedule 2 clause 1(e) Livestock Act 1997. Regulations under the Livestock Act and the Primary Industries Funding Schemes Act will be in place in 2002.
Dried Fruits Act 1993	PIR	Restricts market conduct.	Review completed. Recommends repeal of Act and voluntary industry development fund under Primary Industries Funding Schemes Act.	A series of alternate methods of delivering functions provided by the Act were identified in conjunction with industry. These alternate functions have all been put in place.  A Cabinet Submission seeking repeal of the Act is currently being prepared.
Electrical Products Act 1988	PIR	Restricts market conduct.	Review completed.	Electrical Products Act 2000 passed at end of 2000. Came into operation 1 October 2001. Regulations have also been passed.
Fisheries (Gulf St Vincent Prawn Fishery Rationalisation) Act 1987	PIR	Imposes on remaining licence holders the cost of compensating those who surrendered their licenses.	Review by officials completed in 1999. Act has achieved objective of reducing licence numbers.	To be repealed once settlement with remaining licence-holder finalised. Settlement is still not finalized.

<b>Name of legislation</b>	<b>Agency</b>	<b>Major restrictions</b>	<b>Review activity</b>	<b>Reform activity</b>
Fisheries (Southern Zone Rock Lobster Fishery Rationalisation) Act 1987	PIR	Licensees may not transfer their licenses. Imposes on remaining licence holders the cost of compensating those who surrender their licenses.	Review by officials completed. Act has achieved objective of reducing licence numbers.	Act repealed April 2001. Meets CPA obligations (8/02).
Fisheries Act 1982	PIR	Licensing of fishers and fish farmers. Registration of boats and fisher processors. Input controls on gear and fishing methods. Output controls such as catch limits, size limits and prohibitions on taking certain species.	Review by officials, including extensive consultation, completed. The recommendations arising from the NCP analysis (owner/operator, one person/one licence, corporate/foreign ownership) will be progressed in partnership with stakeholders during a full review of the Act that has commenced.	The timetable for the general review provides for the community to respond to a Green Paper (closing date for submissions is 28 February 2003), the drafting of a White Paper that will be subject of another round of consultation in May 2003 and the introduction of a Bill to amend or replace the current Fisheries Act during the Spring 2003 session of the South Australian Parliament. Regulations will then need to be reviewed. Changes arising from the general review could reasonably be expected to take effect on or after 1 July 2004.
Foot and Mouth Disease Eradication Fund Act 1958	PIR	Barrier to market entry and restricts market conduct.	Desktop review completed June 1998.	Act repealed by Livestock Act 1997 and replaced by new Part 5 of Livestock Act.
Fruit and Plant Protection Act 1992	PIR	Restricts market conduct.	Review completed. Recommends restrictions on competition should be retained on the basis of the bet public benefit.	The review will be presented to Cabinet by 30 March 2003.
Fruit and Vegetables (Grading) Act 1934	PIR	Product standard restricts market conduct.	Review completed, recommending repeal of the Act.	Act repealed.
Garden Produce (Regulation of Delivery) Act 1967	PIR	Restricts market conduct.	Review completed, recommending repeal of the Act.	Act repealed.
Gas Act 1997	PIR	Provides for separate licences to operate pipelines and to undertake gas retailing.	Review in 1999 found restrictions to be in the public interest	No reform planned. Meets CPA obligations (6/99)

<b>Name of legislation</b>	<i>Agency</i>	<i>Major restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>
Impounding Act 1920	PIR	Discretionary power for council to establish a pound.	Desktop review completed in December 2000. Recommends repeal of Act and replacement with modern scheme.	
Margarine Act 1939	PIR	Restricts market conduct.	Review completed, recommending repeal.	Act repealed.
Marginal Dairy Farms (Agreement) Act 1971	PIR	Restricts market conduct.	Review completed in 1999, recommending repeal of the Act.	Legislation repealing Act passed in April 2000.
Meat Hygiene Act 1994	PIR	Accreditation of meat processors. Meat inspectors and auditors must enter agreement with Minister.	Review completed in 2000. Recommended extension to cover rabbit meat and retail within the scope of the Act. Implementation progress was delayed due to the development of the new South Australian Food Act 2001 which impacts on the recommendations of the review, and came into operation in December 2002.	Recommendation to Government for response in 2002. Cabinet approved the drafting of amendments to the Act in response to the recommendations of the review on 10 February 2003.
Mines And Works Inspection Act 1920	PIR	Remainder of Act committed to responsibility of Minister for Mines. Creates barrier to market entry and restricts market conduct.	Review completed 2 Dec 2002. Recommended repeal of OHS&W provisions as they are duplicated under the OHSW Act. Remainder of Act (ie. those provisions not dealing with OHS&W) to be put under the Mining Act, 1971.	The repeal of the OHS&W provisions will be undertaken during the general review of the Mining Act, 1971. No reforms are required at this time.
Mining Act 1971	PIR	Creates barriers to market entry and restricts market conduct	Review completed Dec 2002. No NCP reforms recommended. The royalty matter will be dealt with under the general review of the Mining Act, 1971 currently in progress.	No reforms are required.
Natural Gas (Interim Supply) Act 1985	PIR		Review completed. Review recommended repeal of certain parts of the legislation restricting the use and production of gas amongst other things. Balance of Act can be repealed by proclamation.	Key restrictions repealed 1996. Meets CPA obligations (6/99)

<b>Name of legislation</b>	<b>Agency</b>	<b>Major restrictions</b>	<b>Review activity</b>	<b>Reform activity</b>
Natural Gas Pipelines Access Act 1995	PIR	Establishes access regime for access to natural gas pipelines in SA	Review completed.	Act repealed by s50 of the Gas Pipelines Access (SA) Act 1997. However, for transitional purposes, the Act continues until access arrangements are set under the National Gas Access Code and any continuing arbitration proceedings are finalised. Meets CPA obligations (6/99)
Noxious Insects Act 1934	PIR	Restricts market conduct.	Review completed in 2000, recommending no reform.	No reform required.
Opal Mining Act 1995	PIR	Creates barrier to market entry and restricts market conduct.	Review completed Dec 2002. Recommends repeal of restriction on corporations from access to major working area at Coober Pedy as there is no net public benefit.	Cabinet approved review recommendations. Legislation to repeal the provision is being drafted.
Petroleum (Submerged Lands) Act 1982	PIR	Regulates exploration for and development of undersea petroleum resources. This legislation forms part of a national scheme.	National review completed. Endorsed by ANZMEC Ministers. Amendments developed by Commonwealth and to be reflected in State and Territory legislation.	South Australia intends to amend the legislation to achieve 'harmonisation' with the Commonwealth Act after the completion of major amendments now being developed nationally for the creation of the National Offshore Petroleum Safety Authority (NOPSA). The timing of amendments of the South Australian Act will follow the Commonwealth's timelines for incorporating the NOPSA into the Commonwealth legislation.

<b>Name of legislation</b>	<b>Agency</b>	<b>Major restrictions</b>	<b>Review activity</b>	<b>Reform activity</b>
Petroleum Act 1940	PIR	Regulates onshore exploration for and development of petroleum reserves. Barrier to market entry and restricts market conduct.		Repealed and replaced by Petroleum Act 2000 and regulations. New Act incorporates principles proposed by the ANZMEC Petroleum sub-committee in regard to acreage management. The SA Government directed efforts at facilitating new explorers entering the Cooper Basin and to encourage the development of a voluntary access code for access to production facilities.  Meets CPA obligations (6/01)
Phylloxera and Grape Industry Act 1995	PIR	Restricts market conduct.	Review completed in June 2000. It recommended no reform.	No reform required.
Poultry Meat Industry Act 1969	PIR	Prohibits processing of chickens unless from approved farms.	Review completed in 1994, recommending that producers seek ACCC authorisation for collective bargaining with each processor, and that the Government repeal the Act.  Five year authorisation granted by ACCC to Inghams expired on 30 June 2002. New authorisation granted on 22 January 2003.	Existing Act meets CPA obligations (8/02)  Act to be repealed and replaced with Chicken Meat Industry Act. Bill introduced into Parliament in December 2002.
Roxby Downs (Indenture Ratification) Act 1982	PIR	Authorises behaviour contrary to TPA.	Desktop review completed in May 2000. No reform recommended	No reform required.
Rural Industry Adjustment (Ratification of Agreement) Act 1990	PIR		Review completed in December 1998, recommending repeal of the Act.	Repealed in April 2000.
Rural Industry Adjustment and Development Act 1985	PIR		Review completed in June 2000, recommending no reform.	No reform required.
Rural Industry Assistance Act 1985	PIR		Review completed in March 1999, recommending repeal of the Act.	Repealed in April 2000.

<b>Name of legislation</b>	<i>Agency</i>	<i>Major restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>
Santos Limited (Regulation of Shareholdings) Act 1989	PIR	Restricts market conduct.	Review completed July 2001.	No reform currently planned or required by NCC. Meets CPA obligations (8/02).
Seeds Act 1979	PIR	Restricts market conduct.	Review completed, recommending no reform.	No reform required.
Soil Conservation and Land Care Act 1989	PIR	Restricts market conduct.	Review with the Animal and Plant Control (Agricultural Protection and Other Purposes) Act 1986 completed.	No NCP legislative amendments required. Some administrative reforms will be dealt with when the Act is amalgamated with the Animal and Plant Control Act into a combined land management Act in 2004-05.
Stock Act 1990	PIR	Barrier to market entry and restricts market conduct.	Review completed in 1996.	Repealed by the Livestock Act 1997.
Stock Foods Act 1941	PIR	Stock foods must be sold with label or certificate specifying chemical analysis. Seed grain must not be fed to stock.	See Agricultural Chemicals Act 1955.	See Agricultural Chemicals Act 1955.
Stock Medicines Act 1939	PIR	Stock medicines to be registered.	See Agricultural Chemicals Act 1955.	See Agricultural Chemicals Act 1955.
Stony Point (Liquids Project) Ratification Act 1981	PIR	Authorises behaviour contrary to TPA.	Review completed 2000. No reform recommended	No reform required. Meets CPA obligations (8/02)
Swine Compensation Act 1936	PIR	Barrier to market entry and restricts market conduct.	Desktop review completed, recommending repeal.	Repealed by Schedule 2 of the Livestock Act 1997 and replaced by regulations under the Livestock Act 1997 and the Primary Industries Funding Schemes Act 1998.
Veterinary Surgeons Act 1985	PIR	Licensing of veterinary surgeons and hospitals, reservation of title, advertising restrictions, and controls on business names.	Review completed in 2000.	Act to be repealed and replaced by Veterinary Practice Act. Bill introduced into Parliament 4 Dec 2002.

<b>Name of legislation</b>	<i>Agency</i>	<i>Major restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>
Wheat Marketing Act 1989	PIR	Imports Commonwealth Act into State jurisdiction.	Desktop review of SA only provisions completed. No reform recommended.	No reform required.
Wine Grapes Industry Act 1991	PIR	Restricts market conduct - indicator price calculation, terms and conditions of payment & exclusion from subsequent harvests.	Review completed. Recommended some restrictions be removed. Those retained are justified by the net public benefit. Section 9 has the effect of excluding from the market for wine grapes processors who have not paid in full for fruit purchased in the immediately preceding vintage.	Alternatives to the exclusion provision are being explored, such as access to factoring finance. The intention is to complete an examination of these alternatives by 31 May 2003. Assuming that there are viable market-based alternatives that are acceptable to industry stakeholders, legislation to remove section 9 will be enacted before the commencement of the 2004 Vintage.
Australian Formula One Grand Prix Act 1984	T&F	The Board is not subject to the same laws as private sector competitors.	Renamed SA Motor Sport Act 1984. Review underway.	
Benefit Associations Act 1958	T&F	Restricts market conduct.	Desktop review completed in December 1999. The review found that the Act provided a net public benefit but recommended investigation of whether other existing legislation could be amended to encompass the consumer protection role provided by the Act (probably the Fair Trading Act). This investigation has taken place and Cabinet will consider recommendations shortly.	Meets NCP obligation.
Collections for Charitable Purposes Act 1939	T&F	Restricts market conduct by requiring collectors to be licensed	Desktop review completed in November 1999. The review found that the Act provided a net public benefit and thus no reforms were recommended.	No reform required.

<b>Name of legislation</b>	<i>Agency</i>	<i>Major restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>
Electricity Act 1996	T&F	Restricts market entry and market conduct	Review completed in September 2000. No reforms recommended as Act facilitates regulation of electricity supply in SA in conjunction with other national electricity market reforms.	No reform required.
Electricity Corporation Act 1994	T&F	Restricts market entry and market conduct	Review completed in September 2000. No reforms recommended as Act facilitates establishment of state owned corporations in SA in conjunction with other national electricity market reforms.	No reform required.
Government Financing Authority Act 1982	T&F	May restrict market conduct of government business enterprises.	Review completed in 1998. Although technically there may be a restriction on 'market conduct' of GBEs in being required to utilise SAFA's services, this is insignificant and there is no impact on private sector market conduct. The review found that there was a net public benefit and no reforms were recommended.	No reform required.
Loans for Fencing and Water Piping Act 1938	T&F	Restricts market conduct.	No review as Act is to be repealed.	Cabinet approved repeal August 2002. Bill introduced into Parliament October 2003.
Loans to Producers Act 1927	T&F	Restricts market conduct.	No review as Act is to be repealed.	Cabinet approved repeal August 2002. Bill introduced into Parliament October 2003.
Lottery and Gaming Act 1936	T&F	Barrier to market entry and restricts market conduct.	Omnibus review completed. All gambling legislation (except the Racing Act 1976), including Bills before the Parliament.	Cabinet approved review recommendations. The Government concurs with the Review finding that SA Lotteries meets NCP requirements  The Review report and Government's response has been made available to the NCC.

<b>Name of legislation</b>	<i>Agency</i>	<i>Major restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>
Motor Accident Commission Act 1992	T&F	No restrictions on competition – restrictions contained under Part 4 of the Motor Vehicles Act.	See Motor Vehicles Act review.	See Motor Vehicles Act review.
National Electricity (South Australia) Act 1996	T&F	Restricts market entry and market conduct	Review completed in September 2000. No reforms recommended as sole object is to implement a national electricity market. Review process: consultation with other jurisdictions.	No reform required.
Petroleum Products Regulation Act 1995	T&F	Barrier to market entry and restricts market conduct.	Review completed mid-2001.	Cabinet approved the review recommendations. Legislation giving effect to the recommendations is currently being drafted.
Public Corporations Act 1993	T&F	The Act technically “restricts” the market conduct of public corporations established under the Act in order to limit the Government’s ownership risks. However, these restrictions do not limit market entry or conduct of private sector participants. The Act is the preferred model of corporatisation and is consistent with the objectives of National Competition Policy and competitive neutrality principles.	Review completed in 1998. The review found that there was a net public benefit and no reforms were recommended.	No reform required.

<b>Name of legislation</b>	<i>Agency</i>	<i>Major restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>
Sewerage Act 1929	T&F	Barriers to market entry and restricts market conduct; product or service standards.	<p>Report on a review of the Waterworks Act 1932, Sewerage Act 1929 and the South Australian Water Corporation Act 1994 was completed in 2001 prior to the change in Government in February 2002.</p> <p>The report concluded that the primary restrictions appear to arise from the inherent monopoly of the infrastructure rather than the specific provisions of the legislation.</p> <p>The majority of the identified restrictions to competition were considered appropriate in the context of the Acts' objectives and that there are net public benefits from their retention. Although the report identified a number of trivial and intermediate restrictions in the Acts and consequently recommended some minor amendments to the Acts, the existing arrangements and administrative responses are considered to already adequately address the issues raised in the review report, and accordingly no legislative changes are proposed.</p>	With Government for consideration.
South Australian Ports Corporation Act 1994	T&F	Restricts market conduct.	No review undertaken because Act repealed. Parliament passed legislation for the lease/sale of the corporation in December 2000. Divestment of Ports Corporation occurred in Nov 2001. The South Australian Ports (Disposal of Maritime Assets) Act 2000 included a provision to enable the Governor to repeal the SA Ports Corporation Act 1994.	Act repealed 5 September 2002.

<b>Name of legislation</b>	<i>Agency</i>	<i>Major restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>
South Australian Water Corporation Act 1994	T&F	Barriers to market entry, and restricts market conduct.	Report on a review of the Waterworks Act 1932, Sewerage Act 1929 and the South Australian Water Corporation Act 1994 was completed in 2001 prior to the change in Government in February 2002. Refer to entry for Sewerage Act 1929 for details.	No reform required.
Southern State Superannuation Act 1994	T&F	Limits on choice of funds.	Desktop NCP review Restrictions trivial. No reform recommended.	No reform required.
State Lotteries Act 1966	T&F	Restricts market conduct.	Omnibus review completed. All gambling legislation (except the Racing Act 1976), including Bills before the Parliament.	Cabinet approved review recommendations.  The Review report and Government's response, which outline the public interest arguments for retention of restrictions, has been made available to the NCC.
Waterworks Act 1932	T&F	Barriers to market entry, and restricts market conduct, product/service standards.	Report on a review of the Waterworks Act 1932, Sewerage Act 1929 and the South Australian Water Corporation Act 1994 was completed in 2001 prior to the change in Government in February 2002. Refer to entry for Sewerage Act 1929 for details.	With Government for consideration.

<b>Name of legislation</b>	<i>Agency</i>	<i>Major restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>
Workers Rehabilitation and Compensation Act 1986	T&F	Mandatory insurance, monopoly insurer, centralised premium setting.	<p>Review completed in mid 2002 under the guidance of an inter-agency Steering Committee.</p> <p>The review identified a number of restrictions to competition in the Act but proposed only minor legislative changes. The majority of the identified restrictions were considered appropriate as they are consistent with the Act's objectives and there are net public benefits from their retention. The two most significant restrictions identified by the review are compulsory coverage and sole scheme administrator (statutory monopoly provider). The review found both to be of a net public benefit and recommended their retention.</p>	With the Government for consideration. In mid 2002, the Government announced two reviews relevant to the Act. They were completed in December 2002. As both of these reviews were expected to result in potentially significant legislative changes, it was considered more efficient to progress the NCP review recommendations in conjunction with any resultant outcomes for the two separate reviews. Progress on the outcome of these two Ministerial reviews, plus the NCP review is expected to occur over 2003.
Advances to Settlers Act 1930	T&F	Restricts market conduct.	No review as Act is to be repealed.	Cabinet approved repeal August 2002. Bill introduced into Parliament October 2003.
Architects Act 1939	TUP	Registration, entry requirements, reservation of title, disciplinary processes, business conduct (including advertising - accuracy), business licensing, advertising restrictions.	State review undertaken prior to national review by the Productivity Commission. PC review completed in August 2000 and recommended repeal of Act. A States and Territories working group prepared a report that has remained in draft form since 2001.	The Minister will be asked to endorse the State Review recommendations where they are critical to addressing competition policy. It is proposed that a Bill will be prepared by June 2003.
Commercial Vehicles (Hours of Driving) Act 1973	TUP		Review completed in 1997.	Act has been repealed.

<b>Name of legislation</b>	<b>Agency</b>	<b>Major restrictions</b>	<b>Review activity</b>	<b>Reform activity</b>
Development Act 1993	TUP	Controls the uses to which land may be put. Sets procedures for the issue of planning permits and approval.	Review completed in July 1999. Recommendations included: requiring Crown developments to be subject to building rules and fire safety requirements consistent with those for private buildings; allowing private certification of private development; and removing the obligation for planning authorities to obtain independent advice for non-complying developments.	Majority of recommendations implemented. Public interest justification provided where recommendations not accepted. Meets CPA obligations (8/02).
Enfield General Cemetery Act 1944	TUP	Restricts market conduct. Exemption from section 586 of Local Government Act.	Review completed in July 1999. Involved public consultation. Recommended certain sections of the Act were to be amended to remove the competitive advantage or disadvantage.	Review recommendations implemented through the Adelaide Cemeteries Authority Act 2001, which came into operation 1 January 2002.
Harbours and Navigation Act 1993	TUP	Governs harbour operations (market conduct).	Review completed in 1999. Intergovernmental agreement to develop nationally consistent legislation has been extended until 2005 at which time the national reform should be complete.	Possible amendments to the SA legislation to adopt nationally agreed standards will be progressively prepared as necessary.
Highways Act 1926	TUP	Restricts market entry.	Review completed in 1998.	Relevant provisions of the Act repealed 2000.
Local Government Act 1934	TUP	Restricts market conduct and product and service standards.	NCP review of Local Government Act 1999 (repealing most of Local Government Act 1934) completed and provided to NCC.  Provisions remaining in the Local Government Act 1934 are either progressively being repealed, or being considered as part of other legislation reviews (with the intent of being transferred to or being integrated into appropriate functional legislation).  NCP review of cemetery provisions completed in 2002.	Recommendation of NCP cemeteries review to repeal cemetery provisions included in Statutes Amendment and Repeal (National Competition Policy) Bill 2002, introduced into Parliament Oct 2002.

<b>Name of legislation</b>	<b>Agency</b>	<b>Major restrictions</b>	<b>Review activity</b>	<b>Reform activity</b>
Motor Vehicles Act 1959	TUP	Barrier to market entry and restricts market conduct. Mandatory insurance, monopoly insurer, centralised premium setting.	Review into tow truck operators, motor driving instructors and compulsory third party insurance completed.  In relation to CTP, review completed in 1998, recommending removing the monopoly and controls on premiums. Second review completed in 1999, rebutting previous review's recommendations. Government issued both reviews for public consultation, together with its indicative response, in early 2001.	Uniform national motor vehicle registration and driver licensing legislation implemented July 2001.  It is proposed that a draft Bill for amendments to the legislation to implement recommendations regarding tow truck operators and motor driving instructors will be prepared by 30 August 2003.  Government announced retention of mandatory insurance, the sole provision of insurance by the Motor Accident Commission and community rating. Statutes Amendment (Third Party Bodily Injury Insurance) Act 2002 implements the Government's response.
Outback Areas Community Development Trust Act 1978	TUP	Restricts market conduct.	Review completed. Crown Solicitor's Office found no restrictions to competition.	No reform necessary.
Passenger Transport Act 1994	TUP	Restrictions on taxi licence numbers (note, open entry to Small Passenger Vehicle (hire car) market).	Review completed November 2000. Review involved public consultation.	Review with the Government for consideration.
Road Traffic Act 1961	TUP	Barrier to market entry and restricts market conduct.	Desktop review completed February 2003. No reforms recommended.	National legislation implemented. No further reforms required.
Groundwater (Border Agreement) Act 1985	WLBC	Restricts market conduct.	Review completed in June 2000. No reforms recommended.	No reform required.
Irrigation Act 1994	WLBC	Restricts market conduct.	Review completed in August 2000. No competition issues identified.	No competition related action required

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Murray Darling Basin Act 1993	WLBC	Restricts market conduct.	Review completed. No reforms recommended.	Agreement in place to provide equitable sharing of the resource. Agreement regarded as preventing restrictions. Review noted by MDBC and presented to Minister.
Native Vegetation Act 1991	WLBC	Restricts market conduct.	Review completed December 1999. Public consultation. Reform recommended.	Reform implemented by the passage through Parliament in late 2002 of the Native Vegetation (Miscellaneous) Amendment Bill 2002.
Pastoral Land Management and Conservation Act 1989	WLBC	Restricts market conduct.	Review completed in December 1999. No major competition issues, but recommended that the Government review and develop a policy on access arrangements to pastoral lands in recognition of the growing importance of nature-based tourism.	Public Access Strategy Scoping Study Report (Katnich Report) released in May 2002. Endorsed by the Pastoral Board. Minister Hill opened 10 new Public Access Routes on pastoral leases in July 2002. The Pastoralist Public Access Working Group has finalised protocols for members of the public to seek consent to access pastoral leases and provide guidelines to pastoralists on how deal with enquiries.
Renmark Irrigation Trust Act 1936	WLBC	Restricts market conduct.	Review completed in August 2000, one insignificant competition issue identified.	No competition related action required
River Murray Waters Agreement Supplemental Agreement Act 1963	WLBC	Restricts market conduct.	Review completed in September 1998, no competition issues identified.	No competition related action required
South Eastern Water Conservation and Drainage Act 1992	WLBC	Restricts market conduct.	Review completed in July 1999. No reforms recommended.	No reforms required.
Water Conservation Act 1936	WLBC	Barriers to market entry, and restricts market conduct and products/service standards.	Review completed in September 2000, no competition issues identified.	No competition related action required
Water Resources Act 1990	WLBC	Restricts market conduct.	Review completed.	Repealed by the Water Resources Act 1997.

New Legislation (since July 1996) raised by the NCC

Maritime Services (Access) Act 2000	AIS	Provides regime for third party access to channels, defined common user berths, berths adjacent to grain handling facilities and grain handling facilities (belts). Provides for the regulation of prices in respect to certain essential maritime services provided by the private port operator.		.
SA Ports (Disposal of Maritime Assets) Act 2001	AIS			
Harbors and Navigation (Control of Harbors) Amendment Act 2001	TUP	Provision for marine safety, licensing and pilotage.	Desk top review completed in February 2002.	No new restrictions on competition have been identified – refer also to full review of Harbors and Navigation Act.
Ionizing Radiation Regulations 2000	EPA		.	
Tobacco Products Regulation Act 1997	HS			Replaced the Tobacco Products Control Act 1986. Subject to CPA clause 5(5) analysis before introduction.
Liquor Licensing Act 1997	J	Retains "proof of need" test requiring applicants to demonstrate a consumer need exists for the grant of a licence.  Retains restriction that only hotels and retail liquor stores devoted exclusively to the sale of liquor may sell liquor.	New Act following SA's review of its Liquor Licensing Act 1985. Review completed. Further review of proof of need test underway.	

Livestock Act 1997	PIR			New legislation that was subject to CPA clause 5(5) "gatekeeper" obligation prior to being made.
TAB Disposal Act 2000	T&F			
Casino Act 1997	T&F	Exclusive licence, controls on operations of licence holder	Review completed in anticipation of the sale of the Casino. While not an NCP review, it took into account social policy considerations. This review found that there were net public benefits associated with the probity and operational requirements of the Act. It also found that the single licence did not affect competition as it concluded the market would only support one operator.	Cabinet approved review recommendations.  The Review report and Government's response, which outline the public interest arguments for retention of restrictions, has been made available to the NCC.
Authorised Betting Operations Act 2000	T&F		Omnibus review completed. All gambling legislation (except the Racing Act 1976), including Bills before the Parliament, to be reviewed.	Cabinet approved review recommendations.  The Review report and Government's response, which outline the public interest arguments for retention of restrictions, has been made available to the NCC.