

NORTHERN TERRITORY OF AUSTRALIA

BUILDING LEGISLATION AMENDMENT (FIDELITY FUND) ACT 2025

Act No. 37 of 2025

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NORTHERN TERRITORY OF AUSTRALIA

Act No. 37 of 2025

An Act to amend the *Building Act 1993* and the *Building (RBI and Fidelity Fund Schemes) Regulations 2012*

[Assented to 5 December 2025]
[Introduced 22 October 2025]

The Legislative Assembly of the Northern Territory enacts as follows:

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Building Legislation Amendment (Fidelity Fund) Act 2025*.

2 Commencement

This Act commences on the day after the day on which the Administrator's assent to this Act is declared.

Part 2 Amendment of Building Act 1993

3 Act amended

This Part amends the *Building Act 1993*.

4 Section 4 amended (Definitions)

(1) Section 4

insert

auditor:

(a) for Part 3 – see section 21A; or

(b) for Part 5A – for an approved scheme, means the auditor appointed for the scheme under section 54E(1)(a).

Minister's observer, for an approved scheme, means the Minister's observer appointed under section 54DFA(1).

(2) Section 4, definition **actuary**

omit

54E(1).

insert

54E(1)(b).

5 Section 54DB amended (Deciding application)

After section 54DB(4)

insert

- (5) If the Minister approves a fidelity fund scheme under subsection (3)(a), each trustee named in the application under section 54DA is taken to have been approved by the Minister under section 54DBA(2)(a).

Note for subsection (5)

The Minister's approval under section 54DBA(2)(a) is required for the appointment of subsequent trustees of an approved scheme.

6 Section 54DBA inserted

After section 54DB

insert

54DBA Approval of trustees

- (1) The trustees of an approved scheme must, as soon as practicable after appointing a trustee of the scheme, apply in writing to the Minister to approve the appointment.
- (2) The Minister must, by written notice to the trustees:
 - (a) if satisfied the person meets the eligibility criteria for the appointment as specified by regulation – approve the appointment; or
 - (b) otherwise – refuse to approve the appointment.
- (3) The appointment of the person as a trustee of the scheme takes effect only after the appointment has been approved under this section.
- (4) A regulation may prescribe matters relating to the appointment of a person as a trustee of an approved scheme, including any of the following:
 - (a) the application for approval of the person;
 - (b) the approval or refusal to approve;
 - (c) the revocation of approval;
 - (d) a person ceasing to be a trustee;
 - (e) giving notices relevant to the appointment.

7 Section 54DE amended (Powers of Minister)

Section 54DE(1)(b)

omit

scheme's ability to meet its liabilities and potential liabilities;

insert

operation and management of the scheme;

8 Section 54DFA inserted

After section 54DF, in Part 5A, Division 4

insert

54DFA Minister's observer

- (1) The Minister may, in writing, appoint a public sector employee to be the Minister's observer for an approved scheme.
- (2) The Minister's observer has the function of providing advice to the Minister on all matters relevant to the scheme's compliance with this Act, the Regulations and any conditions of approval of the scheme.
- (3) The trustees of an approved scheme must allow the Minister's observer:
 - (a) to be present at each meeting of the trustees; and
 - (b) to have access to all documents and information as to allow the observer to perform the function mentioned in subsection (2).

9 Part 24 inserted

After section 209

insert

Part 24 Transitional matter for Building Legislation Amendment (Fidelity Fund) Act 2025**210 Continuation of trustees of approved scheme**

The appointment of a trustee of an approved scheme that is in effect immediately before the commencement of the *Building Legislation Amendment (Fidelity Fund) Act 2025* is taken to be approved by the Minister under section 54DBA(2)(a).

Part 3 Amendment of Building (RBI and Fidelity Fund Schemes) Regulations 2012

10 Regulations amended

This Part amends the *Building (RBI and Fidelity Fund Schemes) Regulations 2012*.

11 Chapter 3, Part 3.2, Division 2 heading amended (Trustees and management of scheme)

Chapter 3, Part 3.2, Division 2, heading

omit

and management

12 Regulations 31A to 31C inserted

After regulation 31

insert

31A Application for approval of appointment

- (1) An application under section 54DBA(1) of the Act for approval of the appointment of a trustee of an approved scheme must include:
 - (a) information to satisfy the Minister that the person meets the eligibility criteria; and
 - (b) the terms of appointment.
- (2) The Minister may, by written notice, request the trustees of the scheme to provide additional information or documents to enable the Minister to make a decision about the approval.
- (3) If, under section 54DBA(2)(b) of the Act, the Minister gives the trustees of the scheme a notice refusing to approve the appointment, the notice must specify the way in which the person fails to meet the eligibility criteria.

31B Revocation of approval of appointment

- (1) The Minister may, by written notice, revoke the approval of a person's appointment as a trustee for an approved scheme if satisfied the person has contravened:
 - (a) the Act, a regulation or another law in force in the Territory in relation to the scheme; or

- (b) the prudential standards.
- (2) The revocation takes effect immediately.
- (3) The Minister must give the notice of revocation to the person whose approval is revoked and a copy of the notice to all other trustees of the scheme.
- (4) A notice under subregulation (3) must specify the reasons for the revocation.

31C Ceasing to be trustee

- (1) A person ceases to be a trustee of an approved scheme if:
 - (a) the approval of the person's appointment is revoked under regulation 31B; or
 - (b) the person resigns the appointment by written notice to the trustees of the scheme.
- (2) Within 14 days after the day on which a person ceases to be a trustee as mentioned in subregulation (1)(b), the trustees must give the Minister written notice of the cessation specifying:
 - (a) the date of cessation; and
 - (b) the reasons for, or circumstances of, the cessation.

13 Chapter 3, Part 3.2, Division 2A heading inserted

After regulation 32

insert

Division 2A Management of scheme

14 Chapter 3, Part 3.3, Division 3 heading replaced

Chapter 3, Part 3.3, Division 3, heading

omit, insert

Division 3 Requests from Minister

15 Regulation 61 amended (Minister may require information about financial position)

- (1) Regulation 61, heading

omit

financial position

insert

operation and management

- (2) Regulation 61(1)

omit

all words from "scheme's" to "intervals."

insert

operation and management of the scheme.

- (3) Regulation 61(3)(a)

omit

liabilities;

insert

liabilities at a particular date or time or at particular intervals;

- (4) Regulation 61(3)(d)

omit

scheme.

insert

scheme;

- (5) After regulation 61(3)(d)

insert

(e) applications for certificates received by the scheme;

(f) contracts or arrangements for services provided to the trustees of the scheme.

16 Regulation 64 amended (Application for approval of change)

Regulation 64, at the end

insert

Note for regulation 64

For approval to appoint a new trustee for the scheme see section 54DBA of the Act.

17 Regulation 69 amended (Eligibility for appointment and continuing eligibility)

(1) Regulation 69, heading

omit

Eligibility for appointment and continuing

insert

Continuing

(2) Regulation 69(1)

omit

(3) Regulation 69(2)

omit

(2)

Part 4 Repeal of Act**18 Repeal of Act**

This Act is repealed on the day after it commences.