

# Provider standard licence conditions

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Home building compensation  
regulation

January 2018

# Home building compensation provider licence

Issued pursuant to Division 1 of Part 6C of the *Home Building Act 1989*.

This licence is granted to [Click here to enter text. \(ABN\)](#) [Click here to enter text. \(the Licensee\)](#) for 20 years commencing at 4.00 pm on [Click here to enter text.. \(date DD/MM/YYYY\)](#) and ending at 4.00 pm on [Click here to enter text. \(date DD/MM/YYYY\)](#).

This licence is subject to:

- the conditions prescribed now and in the future by the Act and any regulations, and
- the following additional standard [and special] conditions.

## Definitions

In these licence conditions:

- **Act** refers to the *Home Building Act 1989*
- **ASIC** refers to **the** Australian Securities & Investments Commission
- **Authority** refers to the State Insurance Regulatory Authority and any successor
- **business day** refers to a day from Monday through to Friday, excluding public holidays
- **Foreign Shareholders** refer to a shareholder of a Licensee who is not ordinarily resident in Australia (if an individual) or is otherwise not domiciled in Australia
- **home building cover** refers to an arrangement for the provision of cover by means of an alternative indemnity product
- **Independent Director** refers to a non-executive director who is free from any business or other association (including any substantial shareholding, involvement in past management or as a supplier, customer or adviser) that could materially interfere with the exercise of their independent judgement
- **Insurance Guidelines** refers to Insurance Guidelines issued by SIRA under Division 4 of Part 6 of the Act and are current
- **Responsible Managers** refers to individuals who:
  - are of good reputation and character, and
  - have the competence, experience and expertise required to operate the scheme and protect the interests of its members and consumers.

References to legislation other than the Act include any amendments made from time to time.

## Conditions imposed by statute

1. The Licensee must comply with the conditions of the licence prescribed by the Act and any regulations made under the Act.

## Additional standard conditions

### 2. Conduct

2.1 The Licensee must:

- (i) do all things necessary to ensure that its home building compensation business is conducted efficiently, honestly and fairly
- (ii) observe proper standards of market conduct
- (iii) pay due regard to the interests of its customers and treat them fairly
- (iv) pay due regard to the information needs of its clients, and communicate information to them in a way which is clear, fair and not misleading, and
- (v) manage conflicts of interest fairly, both between itself and its customers and between a customer and another client.

2.2 The Licensee must not engage in conduct that is misleading or deceptive, or likely to mislead or deceive.

### 3. Compliance with laws

The Licensee must establish and maintain compliance measures to ensure that it complies at all times with its obligations under the Act and the regulations and Insurance Guidelines made under it.

### 4. Ownership and control

4.1 The Licensee must be a corporate trustee who will act as the operator of the fidelity fund scheme. *[Fidelity funds only]*

4.2 The fidelity fund scheme must be structured as a trust. *[Fidelity funds only]*

4.3 The Licensee must at all times be domiciled in Australia.

4.4 The Licensee must not, without the approval of the Authority, have or enter into any agreement or arrangement which would cause it to have, Foreign Shareholders with a combined interest of 50 per cent or more in the Licensee. *[ASX listed companies excluded]*

4.5 The Licensee must seek the Authority's approval to any proposed change to its corporate structure [of that of the fidelity fund scheme] before that change is effected. In such an event the continuity of the licence may be subject to review by the Authority.

### 5. Governance

5.1 The Licensee must at all times have a minimum of five directors, a majority of whom are ordinarily resident in Australia.

5.2 The Licensee must ensure that its board has a majority of Independent Directors at all times.

### 6. Constitution/ Trust deed

6.1 The Licensee must comply at all times with its constitution [trust deed].

6.2 The Licensee must seek the Authority's approval to any proposed change to its constitution [trust deed] before that change is effected. In such an event the continuity of the licence may be subject to review by the Authority.

## 7. Competency

7.1 The Licensee is to appoint responsible managers in roles which make the significant day-to-day decisions about the ongoing operations of the Licensee.

7.2 The Licensee must provide to the Authority a listing of its responsible managers by 30 September each year.

7.3 The Licensee must formally notify the Authority when a responsible manager ceases to act in that capacity including details of actions that will be taken by the Licensee to ensure that it maintains the competence to operate its home building compensation business.

## 8. Home building compensation business data

8.1 If requested by the Authority in a notice issued under this condition 8.1, the Licensee must give to the Authority: data, reports and information relating to the Licensee's home building cover business that are in the possession, custody or control of the Licensee:

- (i) as specified in the notice or any subsequent updates to the notice issued by the Authority, and
- (ii) at such intervals as may be specified in the notice, and otherwise when required by the notice, or any subsequent updates to the notice issued by the Authority.

8.2 If the Licensee becomes aware (whether in correspondence with the Authority or otherwise) that data, reports or information given to the Authority under condition 8.1 was not complete, accurate and up-to-date on the date it was so given, the Licensee must:

- (i) immediately notify the Authority; and
- (ii) provide complete, accurate and up-to-date data, reports or information within seven days of becoming so aware or within such other time period specified by the Authority for the purposes of this condition 8.1.

8.3 A notice issued under the condition 8.1 (or any subsequent update to the notice issued by the Authority) may specify intervals ongoing for an indefinite period.

## 9. Self-audits

9.1 **Eligibility determination self-audits:** The Licensee must provide to the Authority its eligibility determination self-audit results within a timeframe and in accordance with the requirements established and published by the Authority.

9.2 **Claims management self-audits:** The Licensee must provide to the Authority its claims management performance self-audit results within a timeframe and in accordance with requirements established and published by the Authority.

9.3 **Data quality self-audits:** The Licensee must provide to the Authority data quality self-audit results within a timeframe and in accordance with requirements established and published by the Authority.

## **10. Notifications**

- 10.1** The Licensee must formally notify the Authority of a significant matter within the timeframes and in accordance with requirements established and published by the Authority.

## **11. Information sharing**

- 11.1** The Licensee must continue to provide authority for information sharing between the Authority and APRA and between the Authority and ASIC pertaining to the Licensee's home building compensation business.

## **12. Ceasing to be a licensed provider**

- 12.1** The Licensee must provide at least three months formal notice to SIRA if it elects to cease providing new home building cover.

*End of standard licence conditions*

## **Specific licence conditions**

(if required to mitigate individual provider risks)

#### Disclaimer

This publication may contain information that relates to the regulation of workers compensation insurance, motor accident third party (CTP) insurance and home building compensation in NSW. It may include details of some of your obligations under the various schemes that the State Insurance Regulatory Authority (SIRA) administers.

However to ensure you comply with your legal obligations you must refer to the appropriate legislation as currently in force. Up to date legislation can be found at the NSW Legislation website [legislation.nsw.gov.au](http://legislation.nsw.gov.au)

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